

Passive Activity Losses – General Rules

Material Participation:

An individual engaged in a trade or business is not subject to passive loss rules if material participation requirements are met. Most individuals can meet material participation requirements by satisfying one of the seven criteria listed below:

- 1) The individual spends more the 500 hours participating in the activity during the year.
- 2) The individual is the only one who substantially participates in the activity.
- 3) The individual spends more the 100 hours participating and no one else spends more hours.
- 4) The activity qualifies as a “significant participation activity” (greater than 100 hours), and aggregate participation by the individual for all significant participation activities exceeds 500 hours for the year.
- 5) The individual meets material participation requirements for any five of the last ten years.
- 6) The activity is a personal service activity and the individual materially participated for any three prior taxable years (consecutive or not). A personal service activity is defined as performance of personal services in health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting or any other trade or business where capital is not an income-producing factor.
- 7) Facts and circumstances that determine the individual participates in the activity on a regular, continuous and substantial basis during the year, and participates more than 100 hours. Certain management activities do not qualify for this test. See Regulation Sections 1.469-5T (b)(2)(ii) for more information.

Certain activities are not considered participation:

- Work of a type not customarily performed by owners.
- Attempts to avoid passive activity rules.
- Investor participation, unless the individual is directly involved in the day-to-day management of the operation.

I have read the eligibility requirements to be considered as meeting Passive Activities rules under IRC section 469. I hereby verify to Business By Design, Inc., that (I am)

(I’m not) meeting the Passive Activities rules under the Internal Revenue Code.

Signature

Date

*This information should be used as a guideline. Specific questions regarding this “Biz Facts” should be directed to a Business by Design tax professional.