

2016 Partner's Instructions for Schedule K-1 (565)

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 2015, and to the California Revenue and Taxation Code (R&TC).

General Information

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to ftb.ca.gov and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the instructions. Taxpayers should not consider the instructions as authoritative law.

California follows the revised federal instructions (with some exceptions) for reporting the sale, exchange or disposition of an asset for which an IRC Section 179 expense was claimed in a prior year by a partnership, limited liability company (LLC) or S corporation.

Partners should follow federal reporting requirements as detailed in federal Form 1065, U.S. Return of Partnership Income, and federal Form 4797, Sales of Business Property.

Single-Sales Factor Formula – For taxable years beginning on or after January 1, 2013, R&TC Section 25128.7 requires all business income of an apportioning trade or business, other than an apportioning trade or business under R&TC Section 25128(b), to apportion its business income to California using the single-sales factor formula. For more information, get Schedule R, Apportionment and Allocation of Income, or go to ftb.ca.gov and search for **single sales factor**.

Market Assignment – For taxable years beginning on or after January 1, 2013, R&TC Section 25136 requires **all** taxpayers to assign sales, other than sales of tangible personal property, using market assignment. For more information, get Schedule R, or go to ftb.ca.gov and search for **market assignment**.

A Purpose

The partnership uses Schedule K-1 (565) to report your distributive share of the partnership's income, deductions, credits, etc. Keep the Schedule K-1 (565) for your records. Information from the Schedule K-1 (565) should be used to complete your California tax return. However, **do not** file the schedule with your California tax return. The partnership has filed a copy with the FTB.

As a partner of the partnership, you are subject to tax on your distributive share of the partnership income, whether or not distributed.

The amount of loss and deduction you are allowed to claim on your California tax return may be less than the amount reported on Schedule K-1 (565). Generally, the amount of loss and deduction you are allowed to claim is limited to your basis in the partnership and the amount for which you are considered at-risk. If you have losses, deductions, or credits from a passive activity, you must also apply the passive activity loss and credit rules. It is the partner's responsibility to consider and apply any applicable limitations. See Instructions, Loss Limitations.

You should also read the federal Schedule K-1 (1065) instructions before completing your California tax return with this Schedule K-1 (565) information.

For more information on the treatment of partnership income, deductions, credits, etc., get the following federal publications:

- Publication 541, Partnerships
- Publication 535, Business Expenses

Any information returns required for federal purposes under IRC Sections 6038, 6038A, 6038B, and 6038D are also required for California purposes. Attach the information returns to your California tax return when filed. If the information returns are not provided, penalties may be imposed under R&TC Sections 19141.2 and 19141.5.

B Definitions

General Partner

An individual or entity owning an interest in a partnership who is personally liable for partnership debts and who is authorized to act on behalf of the partnership.

Limited Partner

An individual or entity owning an interest in a partnership whose potential personal liability for partnership debts is limited to the amount of money or other property that the partner contributed or is required to contribute to the partnership.

Nonrecourse Loans

Liabilities of the partnership for which none of the partners have assumed any personal liability.

Qualified Nonrecourse Financing

Any financing for which no one is personally liable for repayment that is borrowed for use in an activity of holding real property and that is loaned or guaranteed by a federal, state, or local government, or borrowed from a "qualified person."

California Business Situs

The place at which intangible personal property is employed as capital in California or the possession and control of the property is localized in connection with a business in California so that its substantial use and value attach to and become an asset of the business in California.

Apportionment

The process by which business income from a trade or business conducted in two or more states (an apportioning trade or business) is divided between taxing jurisdictions. Get Schedule R for more information.

Unitary

A method of taxation by which all of the activities comprising a single trade or business are viewed as a single unit, regardless of whether those activities are conducted by divisions of a single entity or by commonly owned or controlled entities. For more information about unitary business principles, get FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report.

Election

The choice of a particular accounting method for tax reporting purposes. Generally, the partnership decides how to compute taxable income from its operations. For example, it chooses the accounting method and depreciation methods it will use.

However, certain elections are made separately on your California return and not by the partnership. These elections are made under the following IRC Sections, to which the R&TC conforms:

- IRC Section 108(b)(5) (income from discharge of indebtedness)
- IRC Section 617 (deduction and recapture of certain mining exploration expenditures, paid or incurred)

Additional Definitions

For definitions of a partnership, general partnership, limited partnership, limited liability partnership, etc., see the instructions for Form 565, Partnership Return of Income, or the instructions for federal Form 1065, U.S. Return of Partnership Income.

C Reporting Information from Columns (d) and (e)

If the partnership derives income from activities conducted both within and outside California, the partnership is an apportioning partnership. All partnerships (apportioning and nonapportioning) should complete columns (c) and (d). Apportioning partnerships must also complete column (e). The apportioning partnership will determine which items of income constitute business or nonbusiness income and will use Schedule R to determine the partnership income from California sources. The partnership's business income apportioned to California are entered in column (e). Partnership nonbusiness income from real and tangible property will also be entered in column (e). Nonbusiness intangibles are sourced or allocated at the partner level and must be entered on Table 1 instead. For more information see General Information D, Nonbusiness Income, and General Information E, Unitary Partners. Resident partners will use only the information in column (c) and column (d) to report their share of the partnership's income or loss.

Nonresident, corporate, and other entity partners must report their distributive share of income, loss or credits apportioned or allocated to California as indicated on Schedule K-1 (565), column (e). Special rules apply if a partner and the partnership engage in a unitary business. See Cal. Code Regs., tit. 18 sections 17951 and 25137-1 for more information. Also see General Information E, Unitary Partners. Residents, part-year residents, and some nonresidents may qualify for a credit for taxes paid to other states on income that is apportioned or allocated to a state other than California. For more information get Form 540, Schedule S, Other State Tax Credit.

Nonapportioning partnerships do not need to fill out column (e) on Schedule K-1 (565) if the partner is a resident and the "Yes" box is checked on Question I. However, the final determination of residency is made at the partner level. If the partnership is uncertain as to the residency status of the partner, it should fill out column (e) for that partner.

Inconsistent Treatment of Items

Generally, partners must report tax items shown on their Schedule K-1s and any attached schedules, the same way the partnership treated the items on its tax return. If the treatment on a partner's original or amended tax return is inconsistent with the partnership's treatment, or if the partnership has not filed a tax return, the partner must attach a statement with its original or amended tax return to identify and explain any inconsistency or to note that a partnership tax return has not been filed. If a partner is required to attach this statement but fails to do so, the partner may be subject to an accuracy related penalty.

D Nonbusiness Income

The determination of whether partnership income is business income or nonbusiness income is made at the partnership level. Nonbusiness income from real or tangible personal property located in California, such as rents, royalties, gains, or losses is California source income (Cal. Code Regs., tit. 18 section 17951-3 and R&TC Sections 23040, 25124 and 25125). This information should be included on the appropriate line of column (e), as well as in Table 2, Part B, if the partnership believes it is unitary with the partner or if the partnership is uncertain whether it is unitary with the partner. Non-unitary partners should ignore the information in Table 2 and use column (e).

If the partnership has income from nonbusiness intangibles, the source of that nonbusiness intangible income will be determined at the partner level. In most cases, income from nonbusiness intangible property is sourced at the residence or commercial domicile of the partner. If the partner is an individual, estate, or trust, income from nonbusiness intangibles will have a California source if the intangible has acquired a California business situs. For example, a nonresident pledges stocks, bonds, or other intangible personal property in California. This pledge is security for the payment of debt, taxes, or other liabilities incurred for a business in the state. The pledged property will acquire a business situs in California. Another example is a nonresident who maintains an office and bank account in California for the business activities in this state. The bank account will acquire a business situs in California. See

Cal. Code Regs., tit. 18 section 17951-2 and R&TC Section 17952. If the intangible income is determined to have a business situs by the partnership, the intangible income will be included in column (e).

If the partner is a corporation or another business entity, Cal. Code Regs., tit. 18 sections 17951-4 and 25137-1 require that nonbusiness income from intangibles be allocated in accordance with the rules of R&TC Sections 25125 to 25127.

Because the source of intangible nonbusiness income is dependent upon the status of the individual partner, that income is not included in column (e) and is entered only in Table 1. The partner must determine the source of such income by applying the rules described above.

E Unitary Partners

The following rules apply to corporations, individuals and other entities that conduct a trade or business that is unitary with the partnership's trade or business (see Cal. Code Regs., tit. 18 section 17951, incorporating the provisions of section 25137 and regulations thereunder).

Unitary partners cannot use the California source information reflected in column (e). Such partners must use the information in Table 1 and Table 2 as described in the following instructions, and in the Line Instructions.

The partner's distributive share of partnership items is determined by applying the partnership rules in R&TC Sections 17851 through 17858. The determination of the portion of the distributive share of business and nonbusiness income that has its source in California or, that is includable in the partner's business income subject to apportionment is made in accordance with Cal. Code Regs., tit. 18 section 25137-1 if the partner, or the partnership, or both, have income from sources within and outside this state. The partner, in computing net income for its tax accounting period, must include its distributive share of partnership items referred to in this section for any partnership taxable year ending within or with the partner's tax accounting period.

Distributive Items of Business Income

Apportionment of Business Income – Unitary Business

If the partnership's activities and the partner's activities constitute a unitary business under established standards (other than ownership requirements), the combined business income of this single trade or business apportioned to California is determined by combining the partner's distributive share of the partnership's apportionment factors with the factors of the partner for any partnership year ending within the partner's tax accounting period. Combined business income is then apportioned by the sales factor. Use of a 3-factor formula depends upon whether combined gross business receipts (partner's share of the partnership's gross business receipts plus the partner's own gross business receipts) are more than 50% from agricultural, extractive, banking, or savings and loans and other financial business activities. For more information, get Schedule R.

If you are a partner that is unitary with the partnership, use Table 2 to compute your factors, applying the rules shown below (see Cal. Code Regs., tit. 18 sections 25129 to 25137 for examples). Partners that are unitary with the partnership should perform the following steps:

1. Combine your distributive share of the partnership's business income with your own business income to determine total business income.
2. If using the single-sales factor formula, compute the sales factor by combining your share of the partnership's sales factor from Table 2, Part C, with your own sales factor as explained in these instructions. If using the 3-factor formula, compute property, payroll, and sales factors by combining your share of the partnership's factors from Table 2, Part C, with your own factors as explained in these instructions.
3. Apply the apportionment factor determined in Step 2 to the total business income determined in Step 1 to arrive at business income apportioned to this state.

Unitary Partner's Computation of the Sales Factor

Compute the numerator and denominator of the sales factor in accordance with Cal. Code Regs., tit. 18 sections 25134 to 25136. Apply the following special rules:

- A. Include in the denominator of the sales factor your distributive share of the partnership's sales that give rise to business income. See Table 2, Part C.
- B. Include in the numerator of your sales factor the amount of such sales described in part A (above) attributable to California.
- C. Eliminate intercompany sales as one of the following:
 - Sales by the partner to the partnership to the extent of the partner's interest in the partnership.
 - Sales by the partnership to the partner not to exceed the partner's interest in all partnership sales. See Cal. Code Regs., tit. 18 section 25137-1(f)(3).

Unitary Partner's Computation of Property Factor

Use Schedule R to compute the numerator and the denominator of the property factor. Adjust factors in accordance with Cal. Code Regs., tit. 18 sections 25129, 25130, and 25131. Also apply the following special rules:

- A. Include in the denominator of your property factor your distributive share of the partnership's beginning and ending balances of real and tangible personal property owned (if rented, multiply net annual rents paid, by 8) and used during the tax accounting period in the regular course of business. See Table 2, Part C.
- B. Include in the numerator of your property factor the value of such property that is described in part A (above) that is located in California. See Table 2, Part C.
- C. See Cal. Code Regs., tit. 18 section 25137-1(f)(1)(B) for examples of how to avoid duplication of the value of property that is rented by the partner to the partnership or vice versa.

Unitary Partner's Computation of Payroll Factor

Use Schedule R to compute the numerator and the denominator of the payroll factor in accordance with Cal. Code Regs., tit. 18 sections 25132 and 25133. Apply the following special rules:

- A. Include in the denominator of your payroll factor your distributive share of the partnership's payroll used to produce business income. See Table 2, Part C.
- B. Include in the numerator any such payroll described in part A (above) that is applicable to California. See Table 2, Part C.

Apportionment of Business Income – Nonunitary Business

If the apportioning trade or business conducted by a partner is not unitary with the apportioning trade or business of the partnership, the partnership apportions its business income separately, using Schedules R, R-1, R-2, R-3, and R-4 only. The different items of business income as apportioned to CA are entered in column (e).

Distributive Items of Nonbusiness Income for a Unitary Partner

Income in Table 2, Part B, is from a California source under R&TC Sections 25124 and 25125. Unitary partners must make certain to separately include such items from Table 1 and 2 as California source Income. Unitary partners shall use Table 1 and 2 to report nonbusiness income instead of Schedule K-1 (565), column (e).

Instructions

Questions and Items

The partnership completes the questions and items on the Schedule K-1 (565) for all partners. For more information, see the instructions for federal Schedule K-1 (1065).

Schedule K-1 (565)

Important Note to Partners: If your Schedule K-1 (565) reports losses and/or deductions, you must first apply the basis, at-risk, and the passive activity loss limitations before such losses/deductions can be deducted on your California return. See Instructions, Loss Limitations. Also, see IRC Section 705(a) for information on how to compute basis.

If your return is ever examined, you may be required to provide your computations and the supporting documents for your partnership interest.

If you are an individual partner, the amounts in column (c), California adjustments, and column (d), Total amounts using California law, that are from nonpassive activities must be reported on the appropriate California form or schedule; such as, Schedule D (540), California Capital Gain or Loss Adjustment, Schedule D-1, Sales of Business Property, Schedule CA (540), California Adjustments — Residents, or Schedule CA (540NR), California Adjustments — Nonresidents or Part-Year Residents.

Amounts in column (e), California source amounts and credits, that are from passive activities must be reported on form FTB 3801, Passive Activity Loss Limitations, form FTB 3801-CR, Passive Activity Credit Limitations, or form FTB 3802, Corporate Passive Activity Loss and Credit Limitations. Use the related worksheets to figure any passive loss limitations. If the partnership knows that you are a California resident it may leave column (e) blank. California residents are subject to tax on their entire taxable income shown in column (d) (R&TC Section 17041).

If you are not an individual partner, report the amounts as instructed on your California return.

If you have losses, deductions, credits, etc., from a prior year that were not deductible or usable because of certain limitations, they may be taken into account in determining your net income, loss, etc., for this year. However, **do not** combine the prior-year amounts with any amounts shown on this Schedule K-1 (565) to get a net figure. Instead, report the amounts on an attached schedule, statement, or form on a year-by-year basis. See the instructions for federal Schedule K-1 (1065) for more information.

Loss Limitations

The amounts shown on line 1 through line 3 of your Schedule K-1 (565) reflect your distributive share of income or loss from the partnership's business or rental operations. If you have losses from the partnership, you should be aware that there are three potential limitations imposed on losses before you may deduct losses on your tax return. These limitations and the order in which they must be applied are:

- Basis limitations (IRC Section 704)
- At-risk limitations (IRC Section 465)
- Passive activity loss and credit limitations (IRC Section 469)

Each of these limitations is discussed separately in the following instructions.

Other limitations may apply to specific deductions such as the investment interest expense deduction. These limitations on specific deductions generally apply before the basis, at-risk, and passive loss limitations.

Basis Rules

Generally, California tax law conforms to federal tax law concerning basis limitations. You may not claim your share of a partnership loss (including a capital loss) that is greater than the adjusted basis of your partnership interest at the end of the partnership's taxable year.

The partnership is not responsible for keeping the information needed to compute the basis of your partnership interest. Although the partnership does provide you with an analysis of the changes to your capital account on your Schedule K-1 (565), Item J, that information is based on the partnership's books and records and should not be used to compute your basis.

You can compute the basis of your partnership interest by adding items that increase your basis and then subtracting items that decrease your basis.

Items that increase your basis may include the following:

- Money and the adjusted basis of property you contributed to the partnership.
- Your distributive share of the partnership's income.

- Your distributive share of the increase in the liabilities of the partnership (and/or your individual liabilities caused by your assumption of partnership liabilities).

Items that decrease your basis, but not below zero, may include the following:

- Money and the adjusted basis of property distributed to you.
- Your share of the partnership's losses.
- Your share of the decrease in the liabilities of the partnership (and/or your individual liabilities assumed by the partnership).

This is not a complete list of items and factors that determine basis. Get federal Publication 541 for a complete discussion of how to determine the basis of your partnership interest.

At-Risk Rules

The at-risk rules generally limit the amount of loss, (including loss on disposition of assets) and other deductions (such as IRC Section 179 deduction) that you can claim to the amount you could actually lose in the activity.

If you have: (1) a loss or other deduction from an activity carried on as a trade or business or for the production of income by the partnership; and (2) amounts in the activity for which you are not at-risk, you will have to complete federal Form 6198, At-Risk Limitations, to figure the allowable loss to report on your return. Complete federal Form 6198 **using California amounts**.

See the instructions for federal Schedule K-1 (1065), At-Risk Limitations, and federal Publication 925, Passive Activity and At-Risk Rules, for more information.

Passive Activity Loss and Credit Rules

IRC Section 469 limits the deduction of certain losses and credits. California law generally conforms to this federal provision. These rules apply to partners who have a passive activity loss or credit for the taxable year.

For California purposes, passive loss limitations apply to individuals, estates, trusts (other than grantor trusts), closely held corporations, and S corporations.

Even though the passive loss rules do not apply to grantor trusts, partnerships, and LLCs, they do apply to the owners of these entities.

A passive activity is generally a trade or business activity in which the partner does not materially participate or a rental real estate activity in which the partner does not actively participate. A partnership may have more than one activity. Each partner must apply the passive activity loss and credit limitations on an activity-by-activity basis.

Individuals, estates and trusts, and S corporations must complete form FTB 3801 to calculate the allowable passive losses, and form FTB 3801-CR to calculate the allowable passive credits. Corporations must complete form FTB 3802.

The amounts reported on Schedule K-1 (565), line 1 and line 15f are normally passive activity income (loss) or credits from the trade or business of the partnership if you are a limited partner, or if you are a general partner who did not materially participate in the trade or business activities of the partnership. The amounts reported on Schedule K-1 (565), line 2, line 3, line 15b, line 15c, and line 15d are from rental activities of the partnership and are passive activity income (loss) or credits to all partners. There is an exception to this rule for losses incurred by qualified investors in qualified low-income housing projects. The partnership will identify any of these qualified amounts on an attachment for line 2.

The passive loss rules apply separately to the items attributable to each publicly traded partnership (PTP) that is not treated as a corporation under IRC Section 7704. Thus, partners who do not materially participate in the operations of a PTP are allowed to deduct their share of the PTP's losses only to the extent of passive income from the same PTP or when the entire interest is sold (IRC Section 469(k)). See the instructions for form FTB 3801 and form FTB 3802 for the rules to calculate and report income, gains, and losses from passive activities that you held through each PTP you owned during the taxable year.

See the instructions for federal Schedule K-1 (1065), Passive Activity Limitations, and federal Publication 925 for more information.

Investment Partnership Income

If you are a nonresident individual, the amounts in column (e) will generally not be taxable by California (R&TC Section 17955). However, nonresident individuals will be taxed on their distributive share of California source income from an investment partnership if the income from the qualifying investment securities is interrelated with either of the following:

- Any other business activity of the nonresident partner.
- Any other entity in which the nonresident partner owns an interest that is separate and distinct from the investment activity of the partnership and that is conducted in California.

If you are a corporate partner, the amounts in column (e) will also generally not be taxable in California provided the income from the partnership is the corporation's only California source income. However, if the corporation does either of the following:

- Participates in the management of the investment activities of the partnership or is engaged in a unitary business with another corporation or partnership that participates in the management of the investment activities of the partnership.
- Has income attributable to sources within California other than income from the investment partnership.

Then the corporation will be taxable on its distributive share of California source income of the partnership. See R&TC Section 23040.1 for more information.

Line Instructions

Enter the difference between federal and California amounts from column (c) on Schedule CA (540), if you are a resident; or on Schedule CA (540NR), if you are a nonresident or part-year resident. Also, if you are a nonresident or part-year resident, enter California source amounts from the Schedule K-1 (565), column (e), on your Schedule CA (540NR), column E.

G(1) – If this box is checked, the partnership is a PTP as defined in IRC Section 469(k)(2). Follow the instructions for form FTB 3801 or form FTB 3802 for reporting income, gains, and losses from PTPs.

G(2) – If this box is checked, the partnership is an investment partnership as defined in R&TC Sections 17955 and 23040.1. If you are a nonresident individual, the amounts in column (e) will generally not be taxable in California.

Nonresident and Part-Year Resident Partners, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

Part-year resident partners must consider their period of residency and nonresidency in the computation of total California income. The line instructions below that instruct you to enter information from Schedule K-1 (565), column (d), on other forms, apply to resident partners. When the instructions make reference to column (d), nonresident members should take information from columns (c), (d), and (e) and apply the information to the appropriate line relating to computation of total income and income from California sources.

Income (Loss)

Line 1 – Ordinary Income (Loss) from Trade or Business Activities

The amount reported on line 1, column (d), is your share of the ordinary income (loss) from the trade or business activities of the partnership. For individual partners, where this amount is reported depends on whether or not this amount is a passive activity to you.

If, in addition to this passive activity income, you have a passive activity loss from this partnership or from any other source, report the income on form FTB 3801 or form FTB 3802. If a loss is reported on line 1, column (d), report the loss on the applicable line of form FTB 3801 or form FTB 3802 to determine how much of the loss is allowable.

If the partnership has income from activities both within and outside California, the amount nonresidents or corporate partners must report on their California returns is a function of the partnership's apportionment percentage and allocation of income. Reporting instructions are included in the information provided by the partnership. See Cal. Code Regs., tit. 18 sections 17951-4 and 25137-1 for more information. In addition, see General Information E, Unitary Partners.

Line 2 – Net Income (Loss) from Rental Real Estate Activities

Generally, the income (loss) reported on line 2, column (d), is a passive activity amount to all partners. However, the loss limitations of IRC Section 469 do not apply to qualified investors in qualified low-income housing projects. If applicable, the partnership will attach a schedule for line 2 to identify such amounts. If you have an amount on Schedule K-1 (565), line 2, column (c), report the California adjustment on Schedule CA (540 or 540NR), line 17, column B or column C, whichever is applicable.

Use the following instructions to determine where to enter the line 2 amount.

- If you have a loss on line 2, column (d) (other than a qualified low-income housing project loss), enter the loss on the applicable line of form FTB 3801 or form FTB 3802 to determine how much of the loss is allowable. Your share of the loss may be eligible for the special \$25,000 allowance for rental real estate losses. Get the instructions for form FTB 3801 or form FTB 3802 for more information.

See the federal Schedule K-1 (1065) Specific Instructions for box 2, item 1, and item 2 for more information.

Report any California adjustment amount from column (c) on Schedule CA (540 or 540NR) if you are a qualified investor reporting a qualified low-income housing project loss.

- If you have only income on line 2, column (d), and no other passive losses, enter any California adjustment amount from column (c) on Schedule CA (540 or 540NR). However, if in addition to this passive activity income, you have a passive activity loss from this partnership or from any other source, report the line 2, column (d), income on the applicable line of form FTB 3801 or form FTB 3802.

Line 3 – Net Income (Loss) from Other Rental Activities

The amount on line 3, column (d) is a passive activity amount for all partners.

- If line 3, column (d) is a loss, report the loss on the applicable line of form FTB 3801 or form FTB 3802.
- If only income is reported on line 3, column (d), and you have no other passive losses, report the California adjustment from column (c) on Schedule CA (540 or 540NR). However, if in addition to this passive activity income, you have a passive activity loss from this partnership or from any other source, report the line 3 income on the applicable line of form FTB 3801 or form FTB 3802.

Line 4 – Guaranteed Payments to Partners

Amounts on this line are not normally part of a passive activity. If there is an amount on Schedule K-1 (565), line 4, column (c), enter this amount on Schedule CA (540 or 540NR), line 21f, column B or line 21f, column C, whichever is applicable. If this is a passive activity for the partner, then the partner must also complete the passive activity form. Use federal Form 8582, Passive Activity Loss Limitations, for federal purposes and form FTB 3801 for California purposes.

Portfolio Income – Line 5 through Line 11a

Portfolio income (loss), referred to as "portfolio" income (loss) in these instructions, is generally not subject to the passive activity limitation rules of IRC Section 469. Portfolio income includes interest, dividend, royalty income and gain or loss on the sale of property held for investment. Generally, amounts reported on line 8, line 9, and line 11a are gains or losses attributable to the disposition of property held for investment and are, therefore, classified as portfolio income (loss). However, if an amount reported on line 8, line 9, or line 11a, column (d), is a passive activity amount, the partnership should identify the amount.

Line 5 – Interest Income

If you have an amount on Schedule K-1 (565) line 5, column (c), report this amount on Schedule CA (540 or 540NR), line 8, column B or column C, whichever is applicable.

Line 6 – Dividends

If you have an amount on Schedule K-1 (565) line 6, column (c), report this amount on Schedule CA (540 or 540NR), line 9, column B or column C, whichever is applicable.

Line 7 – Royalties

If you have an amount on Schedule K-1 (565), line 7, column (c), report this amount on Schedule CA (540 or 540NR), line 17, column B or column C, whichever is applicable.

Line 8 and Line 9 – Net Short-term and Net Long-term Capital Gain (Loss)

If you have an amount on Schedule K-1 (565), line 8 or line 9, column (d), report this amount on the Schedule D (540 or 540NR), line 2.

Line 10a and Line 10b – Total Gain and Total Loss under IRC Section 1231 (Other Than Due to Casualty or Theft)

If the amounts on line 10a and line 10b relate to rental activity, the IRC Section 1231 gain (loss) is a passive activity amount. If the amounts on line 10a and line 10b relate to a trade or business activity and you are a limited partner, the IRC Section 1231 gain (loss) is a passive activity amount.

- If the amount is not a passive activity amount report it on Schedule D-1, line 2, column (g).
- If a gain is reported on line 10a, column (d), and it is a passive activity amount report the gain on Schedule D-1, line 2, column (g).
- If a loss is reported on line 10b, column (d), and it is a passive activity amount, get form FTB 3801 to determine if your loss is limited.

Line 11a – Other Portfolio Income (Loss)

The partnership uses line 11a, column (d), to report portfolio income other than interest, dividend, royalty, and capital gain (loss) income. The partnership should attach a schedule to Schedule K-1 (565) to tell you what kind of portfolio income is reported on line 11a, column (d). An example of portfolio income that could be reported on line 11a, column (d), is from a real estate mortgage investment conduit (REMIC) in which the partnership is a residual interest holder.

If the partnership has a residual interest in a REMIC, it will report your share of REMIC taxable income (net loss) on the schedule. Report the adjustment amount from column (c) on Schedule CA (540 or 540NR). The partnership will also report your share of "excess inclusion" and your share of IRC Section 212 expenses. If you itemize your deductions on federal Schedule A (1040), Itemized Deductions, you may deduct these IRC Section 212 expenses as a miscellaneous deduction.

Line 11b and Line 11c – Total Other Income and Total Other Loss

Amounts reported on these lines are other items of income (loss) not included on line 1 through line 11a. The partnership should give you a description for each of these items.

Use the instructions below to:

- Report income or gain (not losses) from passive activities.
- Report income, gain, or losses from all other passive activities.

If you have losses from passive activities, or a combination of income, gains, and losses from passive activities, you must first complete form FTB 3801 or form FTB 3802 to determine if any of your losses are limited by the passive loss rules. Use the instructions below to report passive income and losses after the passive loss limitations have been computed.

Line 11b and line 11c items may include:

- Partnership gains from disposition of farm recapture property (get Schedule D-1) and other items to which IRC Section 1252 applies.
- Recoveries of bad debts, prior taxes, and delinquency amounts (IRC Section 111). Report the amounts from line 11b and line 11c, column (c), on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable.

- Gains and losses from wagering, IRC Section 165(d). Report the amounts from line 11b and line 11c, column (c), on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable.
- Any income, gain, or loss to the partnership under IRC Section 751. Report this amount on Schedule D-1, line 10.
- Specially allocated ordinary gain or loss. Report this amount on Schedule D-1, line 10.
- Net gain or loss from involuntary conversions due to casualty or theft. The partnership will give you a schedule that shows the California amounts to be entered on federal Form 4684, Casualties and Thefts, Section B, Part II, line 34, column (b)(i), column (b)(ii), and column (c).

Deductions

Line 12 – Expense Deduction for Recovery Property

For California the maximum amount of expense deduction for recovery property (IRC Section 179 deduction) that you can claim for all sources is \$25,000. The \$25,000 limit is reduced if the total cost of IRC Section 179 property placed in service during the year exceeds \$200,000.

California does not conform to the federal limitation amounts.

The partnership will provide information on your share of the IRC Section 179 deduction and of the cost of the partnership's IRC Section 179 property so that you can compute this limitation. Your IRC Section 179 deduction is also limited to your taxable income from all of your trades or businesses. Get form FTB 3885A, Depreciation and Amortization Adjustments, and get federal Publication 534, Depreciating Property Placed In Service Before 1987, and Publication 946, How To Depreciate Property, for more information.

If the IRC Section 179 deduction is a passive activity amount, report it on the applicable line of form FTB 3801. If it is not a passive activity amount and there is an amount on Schedule K-1 (565), line 12, column (c), enter this amount on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable.

Line 13a – Charitable Contributions

The partnership will provide a schedule that shows which contributions were subject to the 50%, 30%, and 20% limitations. See the instructions for federal Form 1040, U.S. Individual Income Tax Return, and federal Publication 526, Charitable Contributions, for more information.

California has not conformed to any of the provisions of the Katrina Emergency Disaster Relief Act of 2005.

If there is an amount on Schedule K-1 (565), line 13a, column (c), enter this amount on Schedule CA (540 or 540NR), line 41.

Line 13b – Investment Interest Expense

If the partnership paid or accrued interest debts it incurred to buy or hold investment property, the amount of interest you can deduct may be limited. For more information and the special provisions that apply to investment interest expense, get form FTB 3526, Investment Interest Expense Deduction, and federal Publication 550, Investment Income and Expenses.

Enter the amount from column (d) on form FTB 3526 along with your investment interest expense from any other sources. Form FTB 3526 will help you determine how much of your total investment interest is deductible.

Line 13c – IRC Section 59(e) Expenditures

If you have an amount on Schedule K-1 (565) line 13c, see the instructions for the federal Schedule K-1 (1065), box 13. The partnership should give you a description and the amount of your share for each item applicable to this category.

Line 13d – Deductions Related to Portfolio Income

Amounts entered on this line are the deductions that are clearly and directly allocable to portfolio income (other than investment interest expense and expenses from a REMIC). If you have an amount on Schedule K-1 (565), line 13d, column (c), enter this amount on Schedule CA (540 or 540NR), line 41. If any of the line 13d amount should not be reported on Schedule CA (540 or 540NR), the partnership should identify these amounts.

Line 13e – Other Deductions

Amounts on this line are deductions not included on lines 12, 13a through 13d. If there is an amount on Schedule K-1 (565), line 13e, column (c), enter this amount on the applicable line of Schedule CA (540 or 540NR).

See the instructions for federal Schedule K-1 (1065), box 13, for examples of other deductions. Also, get FTB Pub. 1001 for differences between federal and California tax law for certain deductions.

Line 14

The information reported in box 14 of the federal Schedule K-1(1065), does not apply to California and therefore there is no line 14.

Credits

If you have credits that are passive activity credits, complete form FTB 3801-CR (use form FTB 3802 for corporations) in addition to the credit forms referenced. Get the instructions for form FTB 3801-CR (or form FTB 3802) for more information.

Line 15a – Total Withholding

Total Withholding is the sum of your distributive share of taxes withheld from payments to the partnership by another entity (allocated to all partners according to their respective partnership interests) plus taxes withheld on you by the partnership, or back up withholding on you as a domestic or foreign nonresident partner. If there is a pass-through withholding credit from another entity or taxes were withheld on you by the partnership, the partnership must provide a completed Form 592-B, Resident and Nonresident Withholding Tax Statement. Attach Form 592-B to the front of your California tax return to claim the amount withheld. Schedule K-1 (565) may not be used to claim the withholding credit. If the partnership is not on a calendar year, the amount on line 15a may not match the amount on Form 592-B because of the difference in accounting periods. The amount shown on Form 592-B should be claimed on one of the following:

- Form 540, California Resident Income Tax Return, line 73.
- Form 540NR, California Nonresident or Part-year Resident Income Tax Return (Long), line 83.
- Form 541, California Fiduciary Income Tax Return, line 31.
- Form 109, California Exempt Organization Business Income Tax Return, line 17.
- Form 100, California Corporation Franchise or Income Tax Return, line 33.
- Form 100S, California S Corporation Franchise or Income Tax Return, line 32.

Get FTB Pub. 1017, Resident and Nonresident Withholding Guidelines, for more information.

Line 15b – Low-Income Housing Credit

For taxable years beginning on or after January 1, 2009, the farmworker housing credit has been consolidated into the low-income housing tax credit. For more information, get form FTB 3521 Low-Income Housing Credit.

Any allowable credit is entered on form FTB 3521. The passive activity credit limitations of IRC Section 469, however, may limit the amount of credit. Credits from passive activities are generally limited to tax attributable to passive activities.

You cannot claim the low-income housing credit on any qualified low-income housing project for which any person was allowed any benefit under Section 502 of the Tax Reform Act of 1986.

Line 15c – Other Credits Related to Rental Real Estate Activities

The information you need to compute credits related to rental real estate activities other than the low-income housing credit is provided on this line with an attached schedule. These credits may be limited due to passive activity limitation rules.

Line 15d – Credits Related to Other Rental Activities

Any information you need to compute credits related to rental activities other than rental real estate activities is provided on this line. These credits may be limited due to passive activity limitation rules.

Line 15e – Nonconsenting Nonresident Member's Tax Paid by LLC on Behalf of Your Partnership.

This line shows any income tax paid on your partnership's behalf by an LLC if the general partner in the partnership did not sign form FTB 3832, Limited Liability Company Nonresident Members' Consent, consenting to California's jurisdiction to tax the partnership's distributive share of the LLC income attributable to California sources.

You must attach a copy of the Schedule K-1 (568), Member's Share of Income, Deductions, Credits, etc., previously issued to your partnership by the LLC and the Schedule K-1 (565) issued to you by your partnership.

Line 15f – Other Credits

This line is used to report information you need to compute pass-through credits and other items that are not includable on line 15a through line 15d but are related to the trade or business activity. The partnership should provide a schedule and/or statement explaining any items.

Credits that may be reported on line 15f (depending on the type of activity they relate to) include:

- California Competes Tax Credit. Get form FTB 3531.
- California Motion Picture and Television Production Credit. Get form FTB 3541.
- College Access Tax Credit. Get form FTB 3592.
- Community Development Financial Institutions Investment Credit. Use credit code 209.
- Disabled Access Credit for Eligible Small Businesses. Get form FTB 3548.
- Donated Agricultural Products Transportation Credit. Get form FTB 3547.
- Donated Fresh Fruits or Vegetables Credit. Get form FTB 3811.
- Enhanced Oil Recovery Credit. Get form FTB 3546.
- Enterprise Zone (EZ) Hiring Credit. Get form FTB 3805Z.
- Environmental Tax Credit. Get form FTB 3511.
- Local Agency Military Base Recovery Area (LAMBRA) Hiring Credit. Get form FTB 3807.
- Manufacturing Enhancement Area (MEA) Hiring Credit. Get form FTB 3808.
- Natural Heritage Preservation Credit. Get form FTB 3503.
- New Advanced Strategic Aircraft Credit. Use credit code 236.
- New California Motion Picture and Television Production Credit. Get form FTB 3541.
- New Employment Credit. Get form FTB 3554.
- Prison Inmate Labor Credit. Get form FTB 3507.
- Research Credit. Get form FTB 3523.
- Targeted Tax Area (TTA) Hiring Credit. Get form FTB 3809.

The passive activity limitations of IRC Section 469 may limit the amount of credits on line 15b, line 15c, line 15d, and line 15f. Line 15b, line 15c, and line 15d credits are related to the rental activities of the partnership. Line 15f credits are related to the trade or business activities of the partnership. In general, passive activity credits from passive activities are limited to tax attributable to passive activities for California purposes (R&TC Section 17561). Credits that may be limited under the passive activity credit rules include the following:

- Research credit
- Low-income housing credit

You may be able to use the low-income housing credit, and other credits generated from rental activities, against tax on other income. Get form FTB 3801-CR for more information.

The partnership can include on line 15f your distributive share of net income taxes paid to other states by the partnership. Subject to the limitations of R&TC Section 18006, partners may claim a credit against their individual tax for net income taxes paid by the partnership to another state. The amount of tax paid is required to be supported by a copy of the return filed with the other state and evidence of the payment of the tax. Get Form 540, Schedule S for more information.

Line 16

The information reported in box 16 of the federal Schedule K-1 (1065), does not apply to California and therefore there is no line 16.

Alternative Minimum Tax (AMT) Items**Line 17a through Line 17f column (d)**

Use the information reported on line 17a through line 17f, column (d) as well as your adjustments and tax preference items from other sources to complete Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations. For more information, see the instructions for federal Schedule K-1 (1065), Alternative minimum tax (AMT) items box 17.

Tax-Exempt Income and Nondeductible expenses**Line 18a through Line 18c – Tax-exempt Income and Nondeductible Expenses**

See the instructions for federal Schedule K-1 (1065), box 18. The partnership should give you a description and the amount of your share for each item applicable to California in this category.

Distributions**Line 19a and Line 19b – Distributions**

See the instructions for federal Schedule K-1 (1065), box 19.

Other Information**Line 20a and Line 20b – Investment Income and Investment Expenses**

If the partnership paid or accrued interest on debts it incurred to buy or hold investment property, the amount of interest you can deduct may be limited.

For more information and the special provisions that apply to investment interest expense, get form FTB 3526, and federal Publication 550.

Use the column (d) amounts to determine the amount to enter on form FTB 3526, line 1.

The amounts shown on line 20a and line 20b include only investment income and expenses included on lines 5, 6, 7, 11, and 13d of this Schedule K-1 (565). The partnership should attach a schedule that shows the amount of any investment income and expenses included in any other lines of this Schedule K-1 (565). Use these amounts, if any, to adjust line 20a and line 20b to determine your total investment income and total investment expenses from this partnership.

Combine these totals with investment income and expenses from all other sources to determine the amount to enter on form FTB 3526, line 1.

Line 20c – Other Information

For credit recaptures attach a schedule that includes the credit recapture, names, and amounts.

The partnership will provide supplemental information required to be reported to you on this line. If the partnership is claiming tax benefits from an EZ, LAMBRA, MEA, or TTA it will give you the business income and business capital gains and losses apportioned to the EZ, LAMBRA, MEA, or TTA on this line. Get form FTB 3805Z, FTB 3807, FTB 3808, or FTB 3809 to claim any applicable credit.

The partnership may have provided a schedule with amounts showing your proportionate interest in the partnership's aggregate gross receipts, less returns and allowances. A qualified taxpayer may exclude income, positive and negative adjustments, and preference items attributable to any trade or business from alternative minimum taxable income. A "qualified taxpayer" means a taxpayer that meets both of the following:

- Is the owner of, or has an ownership interest in a trade or business.
- Has aggregate gross receipts, less returns and allowances, of less than \$1,000,000 during the taxable year from all trades or businesses in which the taxpayer is an owner or has an ownership interest. In the case of an ownership interest, you should include only your proportional share of aggregate gross receipts of any trade or business from a partnership, LLC, S corporation, regulated investment company (RIC), real estate investment trust (REIT), or real estate mortgage investment conduit (REMIC).

You need to add your share of the aggregate gross receipts from this partnership to your aggregate gross receipts from all other trades or businesses in which you hold an interest to determine if you are a qualified taxpayer.

For purposes of R&TC Section 17062(b)(4), "aggregate gross receipts, less returns and allowances" means the sum of the following:

- The gross receipts of the trades or businesses which the taxpayer owns.
- The proportionate interest of the gross receipts of the trades or businesses which the taxpayer owns.
- The proportional interest of pass-through entities gross receipts in which the taxpayer holds an interest.

Gross Receipts – For taxable years beginning on or after January 1, 2011, R&TC Section 25120 was amended to add the definition of gross receipts. "Gross receipts" means the gross amounts realized (the sum of money and the fair market value of other property or services received) on:

- The sale or exchange of property,
- The performance of services, or
- The use of property or capital (including rents, royalties, interest, and dividends) in a transaction that produces business income, in which the income, gain, or loss is recognized (or would be recognized if the transaction were in the United States) under the IRC.

Amounts realized on the sale or exchange of property shall not be reduced by the cost of goods sold or the basis of property sold.

For a complete definition of "gross receipts", refer to R&TC Section 25120(f) or go to fb.ca.gov and search for **25120**.

For purposes of this section, "pass-through entity" means a partnership (as defined by R&TC Section 17008), an S corporation, a RIC, a REIT, and a REMIC. See R&TC Section 17062 for more information.

The pro-rata share of gain or loss on property subject to the IRC Section 179 expense deduction recapture should be reported on Schedule K-1 (565) as other information. Follow the instructions on the federal Form 4797 and federal Schedule K-1 (1065) for the reporting requirements.

Get FTB Pub. 1001 for a listing of items of nonconformity for individuals.

Other Partner Information

Table 1 – Partner's Share of Nonbusiness Income from Intangibles (source of income is dependent on residence or commercial domicile of the partners)

The income data contained in Table 1 is not reflected in column (e) of Schedule K-1 (565) because the source of such income must be determined at the partner level. The partner must make a determination whether the nonbusiness intangible income item is from a California source. For more information, see General Information D, Nonbusiness Income, and General Information E, Unitary Partners.

Table 2 – Partner's Share of Distributive Items

The Partnership will complete Table 2, Parts A to C for unitary partners and Table 2 Part C for all non-unitary partners. Table 2 does not need to be completed for non-unitary individuals. The final determination of unity is made at the partner level.

If the partner and the partnership are engaged in a single unitary business or if the partnership is uncertain as to whether it is unitary with the partner, the partnership will furnish the information in Table 2.

The partner's share of the partnership's business income is entered on Table 2, Part A. The partner then adds that income to its own business income and apportions the combined business income using the revised factor described below.

Table 2, Part B reflects the partner's share of nonbusiness income from real and tangible property wholly sourced or allocable to California. This is added to apportioned business income and nonbusiness intangible income allocated to California and becomes a part of California taxable income. For more information, see R&TC Sections 25124 and 25125, and Cal. Code Regs., tit. 18 sections 17951-1, 17951-2, and 17951-3.

The partner's share of the partnership's property, payroll, and sales factors is in Table 2, Part C. The partner combines its apportionment factors with the apportionment factors of the partnership and uses the revised factor to compute its business income apportioned to California. For more information see General Information D, Nonbusiness Income, and General Information E, Unitary Partners.

The partnership will complete Table 2, Part C to report the partner's distributive share of property, payroll and sales **Total within California**.

Partners will use Table 2, Part C to determine if they meet threshold amounts of California property, payroll and sales.

R&TC Section 23101 provides that for taxable years beginning on or after January 1, 2011, a taxpayer is doing business if it actively engages in any transaction for the purpose of financial or pecuniary gain or profit in California or if any of the following conditions are satisfied:

- The taxpayer is organized or commercially domiciled in California.
- The sales as defined in subdivision (e) or (f) of R&TC Section 25120, of the taxpayer in California, including sales by the taxpayer's agents and independent contractors, exceed the lesser of \$547,711 or 25% of the taxpayer's total sales.
- The real property and tangible personal property of the taxpayer in California exceed the lesser of \$54,771 or 25% of the taxpayer's total real property and tangible personal property.
- The amount paid in California by the taxpayer for compensation, as defined in subdivision (c) of R&TC Section 25120, exceeds the lesser of \$54,771 or 25% of the total compensation paid by the taxpayer.

If the partner's distributive share of property, payroll, or sales in California, when combined with the partner's property, payroll, or sales in California from other pass-through entities or its own activities, exceeds the threshold amounts set forth in R&TC Section 23101, the partner is "doing business" in California and must file a return and pay all applicable taxes, including the minimum franchise tax if the partner is a corporation or the applicable annual tax if the partner is a business entity that is required to pay an annual tax.

For more information, see R&TC Section 23101 or go to fb.ca.gov and search for **doing business**.

Table 3 – Partner's share of cost of goods sold, deductions, and rental income.

Table 3 is completed for partners that are partnerships or LLCs taxed as partnerships. The information on Table 3 is used by LLCs that file Form 568, Limited Liability Company Return of Income, to determine their total income.

2016 Member's Instructions for Schedule K-1 (568)

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 2015, and to the California Revenue and Taxation Code (R&TC).

General Information

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to ftb.ca.gov and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the instructions. Taxpayers should not consider the instructions as authoritative law.

California follows the revised federal instructions (with some exceptions) for reporting the sale, exchange or disposition of an asset for which an IRC Section 179 expense was claimed in a prior year by a partnership, limited liability company (LLC), or S corporation.

Members should follow federal reporting requirements as detailed in federal Form 1065, U.S. Return of Partnership Income, and federal Form 4797, Sales of Business Property.

Single-Sales Factor Formula – For taxable years beginning on or after January 1, 2013, R&TC Section 25128.7 requires all business income of an apportioning trade or business, other than an apportioning trade or business under R&TC Section 25128(b), to apportion its business income to California using the single-sales factor formula. For more information, get Schedule R, Apportionment and Allocation of Income, or go to ftb.ca.gov and search for **single sales factor**.

Market Assignment – For taxable years beginning on or after January 1, 2013, R&TC Section 25136 requires **all** taxpayers to assign sales, other than sales of tangible personal property, using market assignment. For more information, get Schedule R or go to ftb.ca.gov and search for **market assignment**.

A Purpose

An LLC that has elected to be treated as a partnership for tax purposes uses Schedule K-1 (568) to report your distributive share of the LLC's income, deductions, credits, etc. Keep Schedule K-1 (568) for your records. Information from the Schedule K-1 (568) should be used to complete your California tax return. However, **do not** file the schedule with your California tax return. The LLC has filed a copy with the Franchise Tax Board (FTB).

As a member of the LLC, you are subject to tax on your distributive share of the LLC income, whether or not distributed.

The amount of loss and deduction you are allowed to claim on your California tax return may be less than the amount reported on Schedule K-1 (568). Generally, the amount of loss and deduction you are allowed to claim is limited to your basis in the LLC and the amount for which you are considered at-risk. If you have losses, deductions, or credits from a passive activity, you also must apply the passive activity loss and credit rules. It is the member's responsibility to consider and apply any applicable limitations. See Instructions, Loss Limitations.

You should also read the federal Schedule K-1 (1065) instructions before completing your California tax return with this Schedule K-1 (568) information.

For additional information on the treatment of LLC income, deductions, credits, etc., get the following federal publications:

- Publication 541, Partnerships
- Publication 535, Business Expenses

Any information returns required for federal purposes under IRC Sections 6038, 6038A, 6038B, and 6038D are also required for California purposes. Attach the information returns to your California return when filed. If the information returns are not provided, penalties may be imposed under R&TC Sections 19141.2 and 19141.5.

B Definitions

Member

An individual or entity owning an interest in the LLC whose potential personal liability for LLC debts is limited to the amount of money or other property that the member contributed or is required to contribute to the LLC.

Federal and California law allows spouses that are the sole owners of an eligible business entity (including an LLC) to be treated as two owners or one owner, for purposes of applying rules to determine the classification of that entity for tax purposes. If the spouses elect to be a single owner, the LLC could be disregarded as a separate entity but may not be classified as a partnership. Similarly, if the spouses elect to be two owners, the entity may be classified as a partnership but cannot be disregarded as a separate entity. This election is not available to RDPs. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

Nonrecourse Loans

Liabilities of the LLC for which none of the members have assumed any personal liability.

Qualified Nonrecourse Financing

Any financing for which no one is personally liable for repayment that is borrowed for use in an activity of holding real property and that is loaned or guaranteed by a federal, state, or local government, or borrowed from a "qualified person."

California Business Situs

The place at which intangible personal property is employed as capital in California or the possession and control of the property is localized in connection with a business in California so that its substantial use and value attach to and become an asset of the business in California.

Apportionment

The process by which business income from a trade or business is conducted in two or more states (an apportioning trade or business) is divided between taxing jurisdictions. Get Schedule R for more information.

Unitary

A method of taxation by which all of the activities comprising a single trade or business are viewed as a single unit, regardless of whether those activities are conducted by divisions of a single entity or by commonly owned or controlled entities. For more information about unitary business principles, get FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report.

Election

The ability to choose a particular accounting method for tax reporting purposes. Generally, the LLC decides how to compute taxable income from its operations. For example, it chooses the accounting method and depreciation methods it will use.

However, certain elections are made separately on your California tax return and not by the LLC. These elections are made under the following IRC Sections, to which the R&TC conforms:

- IRC Section 108(b)(5) (income from discharge of indebtedness).
- IRC Section 617 (deduction and recapture of certain mining exploration expenditures, paid or incurred).

C Reporting Information from Columns (d) and (e)

If the LLC derives income from activities conducted both within and outside California, the LLC is an apportioning LLC. All LLCs (apportioning and nonapportioning) should complete columns (c) and (d). Apportioning LLCs must also complete column (e). The apportioning LLC will determine which items of income constitute business or nonbusiness income and will use Schedule R to determine the LLC income from California sources. The LLC business income apportioned to California are entered in column (e). LLC nonbusiness income from real and tangible property will also be entered in column (e). Nonbusiness intangibles are sourced or allocated at the member level and must be entered on Table 1 instead. For more information see General Information D, Nonbusiness Income, and General Information E, Unitary Members. Resident members will use only the information in column (c) and column (d) to report their share of the LLC's income or loss.

Nonresident, corporate, and other entity members must report their distributive share of income, loss or credits apportioned or allocated to California as indicated on Schedule K-1 (568), column (e). Special rules apply if a member and the LLC are engaged in a unitary business. See Cal. Code Regs., tit. 18 sections 17951 and 25137-1 for more information. Also see General Information E, Unitary Members.

Residents, part-year residents, and some nonresidents may qualify for a credit for taxes paid to other states on income that is apportioned or allocated to a state other than California. For more information get Schedule S, Other State Tax Credit.

Nonapportioning LLCs do not need to fill out column (e) on Schedule K-1 (568) if the member is a resident and the "Yes" box is checked on Question H. However, the final determination of residency is made at the member level. If the LLC is uncertain as to the residency status of the member, it should fill out column (e) for that member.

Inconsistent Treatment of Items

Generally, members must report tax items shown on their Schedule K-1s and any attached schedules the same way the LLC treated the items on its tax return. If the treatment on a member's original or amended tax return is inconsistent with the LLC's treatment, or if the LLC has not filed a tax return, the member must attach a statement with its original or amended tax return to identify and explain any inconsistency or to note that a LLC tax return has not been filed. If a member is required to attach this statement but fails to do so, the member may be subject to an accuracy related penalty.

D Nonbusiness Income

The determination of whether LLC income is business income or nonbusiness income is made at the LLC level. Nonbusiness income from real or tangible personal property located in California, such as rents, royalties, gains, or losses is California source income (Cal. Code Regs., tit. 18 section 17951-3 and R&TC Sections 23040, 25124, and 25125). This information should be included on the appropriate line of column (e), as well as in Table 2, Part B, if the LLC believes it is unitary with the member or if the LLC is uncertain whether it is unitary with the member. Non-unitary members should ignore the information in Table 2 and use column (e).

If the LLC has income from nonbusiness intangibles, the source of that nonbusiness intangible income will be determined at the member level. In most cases, income from nonbusiness intangible property is sourced at the residence or commercial domicile of the member. If the member is an individual, estate, or trust, income from nonbusiness intangibles will have a California source if the intangible has acquired a California business situs. For example, a nonresident pledges stocks, bonds, or other intangible personal property in California. This pledge is security for the payment of debt, taxes, or other liabilities incurred for a business in this state. The pledged property will acquire a business situs in California. Another example is a nonresident who maintains an office and bank account in California for the business activities in this state. The

bank account will acquire a business situs in California. See Cal. Code Regs., tit. 18 section 17951-2 and R&TC Section 17952. If the intangible income is determined to have a business situs by the LLC, the intangible income will be included in column (e).

If the member is a corporation or another business entity, Cal. Code Regs., tit. 18 sections 17951-4 and 25137-1 require that nonbusiness income from intangibles be allocated in accordance with the rules of R&TC Sections 25125 to 25127.

Because the source of intangible nonbusiness income is dependent upon the status of the individual member, that income is not included in column (e) and is entered only in Table 1. The member must determine the source of such income by applying the rules described above.

E Unitary Members

The rules discussed below apply to corporations, individuals, and other entities that conduct a trade or business that is unitary with the LLC's trade or business (see Cal. Code Regs., tit. 18 section 17951, incorporating the provisions of R&TC Section 25137 and regulations thereunder).

Unitary members cannot use the California source information reflected in column (e). Such members must use the information in Table 1 and Table 2 as described in the instructions that follow, and in the Line Instructions.

The member's distributive share of LLC items is determined by applying the rules in R&TC Sections 17851 through 17858. The determination of the portion of the distributive share of business and nonbusiness income that has its source in California or that is includable in the member's business income subject to apportionment is made in accordance with Cal. Code Regs., tit. 18 section 25137-1 if the member, or the LLC, or both, have income from sources within and outside this state. The member, in computing net income for its tax accounting period, must include its distributive share of LLC items referred to above for any LLC taxable year ending within or with the member's tax accounting period.

Distributive Items of Business Income

Apportionment of Business Income – Unitary Business

If the LLC's activities and the member's activities constitute a unitary business under established standards (other than ownership requirements), the combined business income of this single trade or business apportioned to California is determined by combining the member's distributive share of the LLC's apportionment factors with the factors of the member for any LLC year ending within the member's tax accounting period. Combined business income is then apportioned by the sales factor. Use of a 3-factor formula depends upon whether combined gross business receipts (member's share of the LLC's gross business receipts plus the member's own gross business receipts) are more than 50% from agricultural, extractive, savings and loans, banking, or financial business activities. For more information, get Schedule R.

If you are a member that is unitary with the LLC, use Table 2 to compute your factors, applying the rules shown below (see Cal. Code Regs., tit. 18 sections 25129 to 25137 for examples). Members that are unitary with the LLC should perform the following steps:

1. Combine your distributive share of the LLC's business income with your own business income to determine total business income.
2. If using the single-sales factor formula, compute the sales factor by combining your share of the LLC's sales factor from Table 2, Part C, with your own sales factor as explained in these instructions. If using the 3-factor formula, compute property, payroll, and sales factors by combining your share of the LLC's factors from Table 2, Part C, with your own factors as explained in these instructions.
3. Apply the apportionment factor determined in Step 2 to the total business income determined in Step 1 to arrive at business income apportioned to this state.

Unitary Member's Computation of the Sales Factor

Compute the numerator and denominator of the sales factor in accordance with Cal. Code Regs., tit. 18 sections 25134 to 25136. Apply the following special rules:

- A. Include in the denominator of the sales factor your distributive share of the LLC's sales that give rise to business income. See Table 2, Part C.
- B. Include in the numerator of your sales factor the amount of such sales described in part A attributable to California.
- C. Eliminate intercompany sales as one of the following:
 - Sales by the member to the LLC to the extent of the member's interest in the LLC.
 - Sales by the LLC to the member not to exceed the member's interest in all LLC sales. See Cal. Code Regs., tit. 18 section 25137-1(f)(3).

Unitary Member's Computation of Property Factor

Use Schedule R to compute the numerator and the denominator of the property factor. Adjust factors in accordance with Cal. Code Regs., tit. 18 sections 25129, 25130, and 25131. Also apply the following special rules:

- A. Include in the denominator of your property factor your distributive share of the LLC's beginning and ending balances of real and tangible personal property owned (if rented, multiply net annual rents paid, by 8) and used during the tax accounting period in the regular course of business. See Table 2, Part C.
- B. Include in the numerator of your property factor the value of such property that is described in part A (above) that is located in California. See Table 2, Part C.
- C. See Cal. Code Regs., tit. 18 section 25137-1(f)(1)(B) for examples of how to avoid duplication of the value of property that is rented by the member to the LLC or vice versa.

Unitary Member's Computation of Payroll Factor

Use Schedule R to compute the numerator and the denominator of the payroll factor in accordance with Cal. Code Regs., tit. 18 sections 25132 and 25133. Apply the following special rules:

- A. Include in the denominator of your payroll factor your distributive share of the LLC's payroll used to produce business income. See Table 2, Part C.
- B. Include in the numerator any such payroll described in part A (above) that is applicable to California. See Table 2, Part C.

Apportionment of Business Income – Nonunitary Business

If the apportioning trade or business conducted by a partner is not unitary with the apportioning trade or business of the partnership, the partnership apportions its business income separately, using Schedules R, R-1, R-2, R-3, and R-4 only. The different items of business income as apportioned to CA are entered in column (e).

Distributive Items of Nonbusiness Income for a Unitary Member

Income in Table 2, Part B, is from a California source under R&TC Sections 25124 and 25125. Unitary members must make certain to separately include such items from Table 1 and 2 as California source income. Unitary members shall use Table 1 and 2 to report nonbusiness income instead of Schedule K-1 (568), column (e).

Instructions

Questions and Items

The LLC completes the questions and items on each Schedule K-1 (568) for all its members. For more information, see the instructions for federal Schedule K-1 (1065).

Schedule K-1 (568)

If your Schedule K-1 (568) reports losses and/or deductions, you must first apply the basis, at-risk, and passive activity limitations before such losses/deductions can be deducted on your California tax return. See Instructions, Loss Limitations. Also, see IRC Section 705(a) for information on how to compute basis.

If your return is ever examined, you may be required to provide your computations and the supporting documents for your membership interest.

If you are an individual member, the amounts in column (c), California adjustments, and column (d), Total amounts using California law, that are from nonpassive activities must be reported on the appropriate California form or schedule; such as, Schedule D (540), California Capital Gain or Loss Adjustment, Schedule D-1, Sales of Business Property, Schedule CA (540), California Adjustments – Residents, or Schedule CA (540NR), California Adjustments – Nonresidents or Part-Year Residents.

Amounts in column (e), California source amounts and credits, that are from passive activities must be reported on form FTB 3801, Passive Activity Loss Limitations, form FTB 3801-CR, Passive Activity Credit Limitations, or form FTB 3802, Corporate Passive Activity Loss and Credit Limitations. Use the related worksheets to figure any passive loss limitations. If the LLC knows that you are a California resident, it may leave column (e) blank. California residents are subject to tax on their entire taxable income shown in column (d) (R&TC Section 17041).

If you are not an individual member, report the amounts as instructed on your California tax return.

If you have losses, deductions, credits, etc., from a prior year that were not deductible or usable because of certain limitations they may be taken into account in determining your net income, loss, etc., for this year. However, **do not** combine the prior-year amounts with any amounts shown on this Schedule K-1 (568) to get a net figure. Instead, report the amounts on an attached schedule, statement, or form on a year-by-year basis. See the instructions for federal Schedule K-1 (1065) for more information.

Loss Limitations

The amounts shown on line 1 through line 3 of your Schedule K-1 (568) reflect your distributive share of income or loss from the LLC's business or rental operations. If you have losses from the LLC, there are three potential limitations imposed on losses before you may deduct them on your return. These limitations and the order in which they must be applied are:

- Basis limitations (IRC Section 704)
- At-risk limitations (IRC Section 465)
- Passive activity loss and credit limitations (IRC Section 469)

Each of these limitations is discussed separately in the following instructions.

Other limitations may apply to specific deductions such as the investment interest expense deduction. These limitations on specific deductions generally apply before the basis, at-risk, and passive loss limitations.

Basis Rules

Generally, California tax law conforms to federal tax law concerning basis limitation. You may not claim your share of an LLC loss (including a capital loss) that is greater than the adjusted basis of your LLC interest at the end of the LLC's taxable year.

The LLC is not responsible for keeping the information needed to compute the basis of your LLC interest. Although the LLC does provide you with an analysis of the changes to your capital account on your Schedule K-1 (568), Item I, that information is based on the LLC's books and records and should not be used to compute your basis.

You can compute the basis of your LLC interest by adding items that increase your basis and then subtracting items that decrease your basis.

Items that increase your basis may include the following:

- Money and the adjusted basis of property you contributed to the LLC.
- Your distributive share of the LLC's income.
- Your distributive share of the increase in the liabilities of the LLC (and/or your individual liabilities caused by your assumption of LLC liabilities).

Items that decrease your basis, but not below zero, may include the following:

- Money and the adjusted basis of property distributed to you.
- Your share of the LLC's losses.
- Your share of the decrease in the liabilities of the LLC (and/or your individual liabilities assumed by the LLC).

This is not a complete list of items and factors that determine basis. Get federal Publication 541, for a complete discussion of how to determine the basis of your LLC interest.

At-Risk Rules

The at-risk rules limit the amount of loss (including loss on disposition of assets) and other deductions (such as IRC Section 179) that you can claim to the amount you could actually lose in the activity.

If you have: (1) a loss or other deduction from an activity carried on as a trade or business or for the production of income by the LLC; and (2) amounts in the activity for which you are not at-risk, you will have to complete federal Form 6198, At-Risk Limitations, to figure the allowable loss to report on your return. Complete federal Form 6198 using California amounts.

See the instructions for federal Schedule K-1 (1065), At-Risk Limitations, and federal Publication 925, Passive Activity and At-Risk Rules, for more information.

Passive Activity Loss and Credit Rules

IRC Section 469 limits the deduction of certain losses and credits. California law generally conforms to this federal provision. These rules apply to members who have a passive activity loss or credit for the taxable year.

For California purposes, passive loss limitations apply to individuals, estates, trusts (other than grantor trusts), closely held corporations, and S corporations.

Even though the passive loss rules do not apply to grantor trusts, partnerships, and LLCs, they do apply to the owners of these entities.

A passive activity is generally a trade or business activity in which the member does not materially participate or a rental real estate activity in which the member does not actively participate. An LLC may have more than one activity. Each member must apply the passive activity loss and credit limitations on an activity-by-activity basis.

Individuals, estates, trusts, and S corporations must complete form FTB 3801 to calculate the allowable passive losses and form FTB 3801-CR to calculate the allowable passive credits. Corporations must complete form FTB 3802.

The amounts reported on Schedule K-1 (568), line 1 and line 15f, are normally passive activity income (loss) or credits from the trade or business of the LLC if you are a member who did not materially participate in the trade or business activities of the LLC. The amounts reported on Schedule K-1 (568), line 2, line 3, line 15b, line 15c, and line 15d are from rental activities of the LLC and are passive activity income (loss) or credits to all members. There is an exception to this rule for losses incurred by qualified investors in qualified low-income housing projects. The LLC will identify any of these qualified amounts on an attachment for line 2.

The passive loss rules apply to the items attributable to each publicly traded partnership (PTP) that is not treated as a corporation under IRC Section 7704. Thus, members who do not materially participate in the operations of a PTP are allowed to deduct their share of the PTP's losses only to the extent of passive income from the same PTP or when the entire interest is sold (IRC Section 469(k)). See the instructions for form FTB 3801 and form FTB 3802 for rules to calculate and report income,

gains, and losses from passive activities that you held through each PTP you owned during the taxable year.

See the instructions for federal Schedule K-1 (1065), Passive Activity Limitations, and federal Publication 925, for more information.

Investment Partnership Income

If you are a nonresident individual, the amounts in column (e) will generally not be taxable by California (R&TC Section 17955). However, nonresident individuals will be taxed on their distributive share of California source income from an LLC that is an investment partnership if the income from the qualifying investment securities is interrelated with:

- Any other business activity of the nonresident member.
- Any other entity in which the nonresident member owns an interest that is separate and distinct from the investment activity of the LLC and that is conducted in California.

If you are a corporate member, the amounts in column (e) will generally not be taxable in California provided the income from the LLC is the corporation's only California source income. However, if the corporation does either of the following:

- Participates in the management of the investment activities of the LLC or is engaged in a unitary business with another corporation or partnership that participates in the management of the investment activities of the LLC.
- Has income attributable to sources within California other than income from the investment partnership.

Then the corporation will be taxable on its distributive share of California source income of the LLC. See R&TC Section 23040.1 for more information.

Line Instructions

Enter the difference between federal and California amounts from column (c) on Schedule CA (540) if you are a resident or on Schedule CA (540NR) if you are a nonresident or part-year resident. Also, if you are a nonresident or part-year resident, enter California source amounts from the Schedule K-1 (568), column (e), on your Schedule CA (540NR), column E.

F(1) – If this box is checked, the LLC is a PTP as defined in IRC Section 469(k)(2). Follow the instructions for form FTB 3801 or form FTB 3802 for reporting income, gains, and losses from PTPs.

F(2) – If this box is checked, the LLC qualifies as an investment partnership as defined in R&TC Sections 17955 and 23040.1. If you are a nonresident individual, the amounts in column (e) will generally not be taxable in California.

Nonresident and Part-Year Resident Members, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

Part-year resident members must consider their period of residency and nonresidency in the computation of total California income.

The line instructions below that instruct you to enter information from Schedule K-1 (568), column (d), on other forms, apply to resident members. When the instructions make reference to column (d), nonresident members should take information from columns (c), (d), and (e) and apply the information to the appropriate line relating to computation of total income and income from California sources.

Income (Loss)

Line 1 – Ordinary Income (Loss) from Trade or Business Activities

The amount reported on line 1, column (d), is your share of the ordinary income (loss) from the trade or business activities of the LLC. For individual members, where this amount is reported depends on whether or not this amount is a passive activity.

If, in addition to this passive activity income, you have a passive activity loss from this LLC or from any other source, report the income on form FTB 3801 or form FTB 3802. If a loss is reported on line 1, column (d), report the loss on the applicable line of form FTB 3801 or form FTB 3802 to determine how much of the loss is allowable.

If the LLC income is from activities both within and outside California, the amount nonresidents or corporate members must report on their California return is a function of the LLC's apportionment percentage and allocation of income. Reporting instructions are included in the information provided by the LLC. See Cal. Code Regs., tit. 18 sections 17951-4 and 25137-1 for more information. In addition, see General Information E, Unitary Members.

Line 2 – Net Income (Loss) from Rental Real Estate Activities

Generally, the income (loss) reported on line 2, column (d), is a passive activity amount to all members. However, the loss limitations of IRC Section 469 do not apply to qualified investors in qualified low-income housing projects. If applicable, the LLC will attach a schedule for line 2 to identify such amounts. If you have an amount on Schedule K-1 (568), line 2, column (c), report this amount on Schedule CA (540 or 540NR), line 17, column B or column C, whichever is applicable.

Use the following instructions to determine where to enter the line 2 amount.

- If you have a loss on line 2, column (d) (other than a qualified low-income housing project loss), enter the loss on the applicable line of form FTB 3801 or form FTB 3802 to determine how much of the loss is allowable. Your share of the loss may be eligible for the special \$25,000 allowance for rental real estate losses. Get the instructions for form FTB 3801 or form FTB 3802 for more information.

See the federal Schedule K-1 (1065) Specific Instructions for box 2, item 1 and item 2, for more information.

Report any California adjustment amount from column (c) on Schedule CA (540 or 540NR) if you are a qualified investor reporting a qualified low-income housing project loss.

- If you have only income on line 2, column (d), and no other passive losses, enter any California adjustment amount from column (c) on Schedule CA (540 or 540NR). However, if in addition to this passive activity income, you have a passive activity loss from this LLC or from any other source, report the line 2, column (d), income on the applicable line of form FTB 3801 or form FTB 3802.

Line 3 – Net Income (Loss) from Other Rental Activities

The amount on line 3, column (d) is a passive activity amount for all members.

- If line 3, column (d) is a loss, report the loss on the applicable line of form FTB 3801 or form FTB 3802.
- If only income is reported on line 3, column (d), and you have no other passive losses, report the California adjustment from column (c) on Schedule CA (540 or 540NR). However, if in addition to this passive activity income, you have a passive activity loss from this LLC or from any other source, report the line 3 income on the applicable line of form FTB 3801 or form FTB 3802.

Line 4 – Guaranteed Payments to Members

Amounts on this line are not normally part of a passive activity. If there is an amount on Schedule K-1 (568), line 4, column (c), enter this amount on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable. If this is a passive activity for the member, then the member must also complete the passive activity form. Use federal Form 8582, Passive Activity Loss Limitations, for federal purposes and form FTB 3801 for California purposes.

Portfolio Income – Line 5 through Line 11a

Portfolio income (loss), referred to as "portfolio" income (loss) in these instructions, is generally not subject to the passive activity limitations of IRC Section 469. Portfolio income includes interest, dividend, royalty income and gain or loss on the sale of property held for investment.

Generally, amounts reported on line 8, line 9, and line 11a, are gains or losses attributable to the disposition of property held for investment and are, therefore, classified as portfolio income (loss). However, if an amount reported on line 8, line 9, or line 11a, column (d), is a passive activity amount, the LLC should identify the amount.

Line 5 – Interest Income

If you have an amount on Schedule K-1 (568) line 5, column (c), report this amount on Schedule CA (540 or 540NR), line 8, column B or column C, whichever is applicable.

Line 6 – Dividends

If you have an amount on Schedule K-1 (568) line 6, column (c), report this amount on Schedule CA (540 or 540NR), line 9, column B or column C, whichever is applicable.

Line 7 – Royalties

If you have an amount reported on Schedule K-1 (568) line 7, column (c), report this amount on Schedule CA (540 or 540NR), line 17, column B or column C, whichever is applicable.

Line 8 and Line 9 – Net Short-term and Net Long-term Capital Gains (Loss)

If you have an amount on Schedule K-1 (568), line 8 or line 9, column (d), report this amount on Schedule D (540 or 540NR), line 2.

Line 10a and Line 10b – Total Gain and Total Loss under IRC Section 1231 (Other Than Due to Casualty or Theft)

If the amounts on line 10a and line 10b relate to rental activity, the IRC Section 1231 gain (loss) is a passive activity amount. If the amounts on line 10a and line 10b relate to a trade or business activity and you are a limited partner, the IRC Section 1231 gain (loss) is a passive activity amount.

- If the amount is not a passive activity amount report it on Schedule D-1, line 2, column (g).
- If a gain is reported on line 10a, column (d), and it is a passive activity amount report the gain on Schedule D-1, line 2, column (g).
- If a loss is reported on line 10b, column (d), and it is a passive activity amount, get form FTB 3801 to determine if your loss is limited.

Line 11a – Other Portfolio Income (Loss)

The LLC uses line 11a, column (d), to report portfolio income other than interest, dividend, royalty, and capital gain (loss) income. The LLC should attach a schedule to Schedule K-1 (568) to tell you what kind of portfolio income is reported on line 11a, column (d). An example of portfolio income that could be reported on line 11a, column (d), is from a real estate mortgage investment conduit (REMIC) in which the LLC is a residual interest holder.

If the LLC has a residual interest in a REMIC, it will report your share of REMIC taxable income (net loss) on the schedule. Report the adjustment amount from column (c) on Schedule CA (540 or 540NR). The LLC will also report your share of "excess inclusion" and your share of IRC Section 212 expenses. If you itemize your deductions on federal Schedule A (1040), Itemized Deductions, you may deduct these IRC Section 212 expenses as a miscellaneous deduction.

Line 11b and Line 11c – Total Other Income and Total Other Loss

Amounts reported on these lines are other items of income (loss) not included on line 1 through line 11a. The LLC should give you a description for each of these items.

Use the following instructions to:

- Report income or gain (not losses) from passive activities.
- Report income, gain, or losses from all other passive activities.

If you have losses from passive activities, or a combination of income, gains, and losses from passive activities, you must first complete form FTB 3801 or form FTB 3802 to determine if any of your losses are limited by the passive loss rules. Use the instructions below to report passive income and losses after the passive loss limitations have been computed.

Line 11b and line 11c items may include:

- LLC gains from disposition of farm recapture property (get Schedule D-1) and other items to which IRC Section 1252 applies.
- Recoveries of bad debts, prior taxes, and delinquency amounts (IRC Section 111). Report the amounts from line 11b and line 11c, column (c), on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable.
- Gains and losses from wagering (IRC Section 165(d)). Report the amounts from line 11b and line 11c, column (c), on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable.
- Any income, gain, or loss to the LLC under IRC Section 751. Report this amount on Schedule D-1, line 10.
- Specially allocated ordinary gain or loss. Report this amount on Schedule D-1, line 10.
- Net gain or loss from involuntary conversions due to casualty or theft. The LLC will provide a schedule that shows the California amounts to be entered on federal Form 4684, Casualties and Thefts, Section B, Part II, line 34, column (b)(i), column (b)(ii), and column (c).
- Other income (loss) including involuntary conversions, IRC Section 1256 contracts & straddles, and Mining exploration costs.

Deductions

Line 12 – Expense Deduction for Recovery Property

For California, the maximum amount of expense deduction for recovery property (IRC Section 179 deduction) that you can claim for all sources is \$25,000. The \$25,000 limit is reduced if the total cost of IRC Section 179 property placed in service during the year exceeds \$200,000.

California does not conform to the federal limitation amounts.

The LLC will provide information on your share of the IRC Section 179 deduction and of the cost of the LLC's IRC Section 179 property so that you can compute this limitation. Your IRC Section 179 deduction is also limited to your taxable income from all of your trades or businesses. Get form FTB 3885A, Depreciation and Amortization Adjustments, and get federal Publication 534, Depreciating Property Placed In Service Before 1987, and Publication 946, How to Depreciate Property, for more information.

If the IRC Section 179 deduction is a passive activity amount, report it on the applicable line of form FTB 3801. If it is not a passive activity amount and there is an amount on Schedule K-1 (568), line 12, column (c), enter this amount on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable.

Line 13a – Charitable Contributions

The LLC will provide a schedule that shows which contributions were subject to the 50%, 30%, and 20% limitations. See the instructions for federal Form 1040, U.S. Individual Income Tax Return, and federal Publication 526, Charitable Contributions, for more information.

California has not conformed to any of the provisions of the Katrina Emergency Relief Act of 2005.

If there is an amount on Schedule K-1 (568), line 13a, column (c), enter this amount on Schedule CA (540 or 540NR), line 41.

Line 13b – Investment Interest Expense

If the LLC paid or accrued interest debts it incurred to buy or hold investment property, the amount of interest you can deduct may be limited. For more information and the special provisions that apply to investment interest expense, get form FTB 3526, Investment Interest Expense Deduction, and federal Publication 550, Investment Income and Expenses.

Enter the amount from column (d) on form FTB 3526 along with your investment interest expense from any other sources. Form FTB 3526 will help you determine how much of your total investment interest is deductible.

Line 13c – IRC Section 59(e) Expenditures

If you have an amount on Schedule K-1 (568) line 13c, see the instructions for the federal Schedule K-1 (1065), box 13. The LLC should give you a description and the amount of your share for each item applicable to California in this category.

Line 13d – Deductions Related to Portfolio Income

Amounts entered on this line are the deductions that are clearly and directly allocable to portfolio income (other than investment interest expense and expenses from a REMIC). If you have an amount on Schedule K-1 (568), line 13d, column (c), enter this amount on Schedule CA (540 or 540NR), line 41. If any of the line 13d amounts should not be reported on Schedule CA (540 or 540NR), the LLC should identify these amounts.

Line 13e – Other Deductions

Amounts on this line are deductions not included on lines 12, 13a through 13d. If there is an amount on Schedule K-1 (568), line 13e, column (c), enter this amount on the applicable line of Schedule CA (540 or 540NR).

See the instructions for federal Schedule K-1 (1065), box 13, for examples of other deductions. Also get FTB Pub. 1001, for differences between federal and state tax law for certain deductions.

Line 14

The information reported in box 14 of the federal Schedule K-1 (1065), does not apply to California and therefore there is no line 14.

Credits

If you have credits that are passive activity credits, complete form FTB 3801-CR (corporations use form FTB 3802), in addition to the credit forms referenced. Get the instructions for form FTB 3801-CR (or form FTB 3802) for more information.

Line 15a – Total Withholding

Total Withholding is the sum of your distributive share of withholding on payments to the LLC by another entity, (allocated to all members according to their respective LLC interests), taxes withheld on you by the LLC, or backup withholding on you as a domestic or foreign nonresident member. If taxes were allocated to you or withheld on you by the LLC, the LLC must provide a completed Form 592-B, Resident and Nonresident Withholding Tax Statement. Attach Form 592-B to the front of your California return to claim the amount withheld.

Schedule K-1 (568) may not be used to claim the withholding credit. If the LLC is not on a calendar year, the amount on line 15a may not match the amount on Form 592-B because of the difference in accounting periods. The amount shown on Form 592-B should be claimed on one of the following:

- Form 540, California Resident Income Tax Return, line 73.
- Form 540NR, California Nonresident or Part-year Resident Income Tax Return (Long), line 83.
- Form 541, California Fiduciary Income Tax Return, line 31.
- Form 109, California Exempt Organization Business Income Tax Return, line 17.
- Form 100, California Corporation Franchise or Income Tax Return, line 33.

- Form 100S, California S Corporation Franchise or Income Tax Return, line 32.

Get FTB Pub. 1017, Resident and Nonresident Withholding Guidelines, for more information.

Line 15b – Low-Income Housing Credit

For taxable years beginning on or after January 1, 2009, the farmworker housing credit has been consolidated into the low-income housing tax credit. For more information, get form FTB 3521, Low-Income Housing Credit.

Any allowable credit is entered on form FTB 3521. However, the passive activity credit limitations of IRC Section 469 may limit the amount of credit. Credits from passive activities are generally limited to tax attributable to passive activities.

You cannot claim the low-income housing credit on any qualified low-income housing project for which any person was allowed any benefit under Section 502 of the Tax Reform Act of 1986.

Line 15c – Other Credits Related to Rental Real Estate Activities

The information you need to compute credits related to rental real estate activities other than the low-income housing credit is provided with an attached schedule. These credits may be limited due to passive activity limitation rules.

Line 15d – Credits Related to Other Rental Activities

Any information you need to compute credits related to rental activities other than rental real estate activities is provided on this line with an attached schedule. These credits may be limited due to passive activity limitation rules.

Line 15e – Nonconsenting Nonresident Member's Tax Paid by LLC

This line shows any income tax paid on your behalf by the LLC if, as a nonresident member, you did not sign form FTB 3832, Limited Liability Company Nonresident Members' Consent, consenting to California's jurisdiction to tax your distributive share of the LLC income attributable to California sources.

This line also shows any income tax paid on behalf of your LLC by another LLC of which your LLC is a member. This applies if form FTB 3832 is not signed on behalf of your LLC. This means that your LLC is not consenting to California's jurisdiction to tax your LLC's distributive share of another LLC's income attributable to California sources.

You must attach a copy of Schedule K-1 (568) to your California tax return to claim the tax paid by the LLC on your behalf. The LLC's return must be filed before an individual member's account can be credited.

For taxable years beginning on or after January 1, 2005, the tax may be reduced by the amount of tax previously withheld and paid by the LLC with respect to each nonconsenting, nonresident member.

If there was income tax paid on behalf of your LLC, you must attach a copy of the following to your California tax return to claim your share of the tax paid by another LLC on behalf of your LLC:

- The Schedule K-1 (568) issued to your LLC by another LLC.
- The Schedule K-1 (568) issued by your LLC.

Line 15f – Other Credits

This line is used to report information you need to compute pass-through credits and other items that are not includable on line 15a through line 15d but are related to the trade or business activity. The LLC should provide a schedule and/or statement explaining any items.

Credits that may be reported on line 15f (depending on the type of activity they relate to) include:

- California Competes Tax Credit. Get form FTB 3531.
- California Motion Picture and Television Production Credit. Get form FTB 3541.
- College Access Tax Credit. Get form FTB 3592.
- Community Development Financial Institutions Investment Credit. Use credit code 209.

- Disabled Access Credit for Eligible Small Businesses. Get form FTB 3548.
- Donated Agricultural Products Transportation Credit. Get form FTB 3547.
- Donated Fresh Fruits or Vegetables Credit. Get form FTB 3811.
- Enhanced Oil Recovery Credit. Get form FTB 3546.
- Enterprise Zone (EZ) Hiring Credit. Get form FTB 3805Z.
- Environmental Tax Credit. Get form FTB 3511.
- Local Agency Military Base Recovery Area (LAMBRA) Hiring Tax Credit. Get form FTB 3807.
- Manufacturing Enhancement Area (MEA) Hiring Credit. Get form FTB 3808.
- Natural Heritage Preservation Tax Credit. Get form FTB 3503.
- New Advanced Strategic Aircraft Credit. Use credit code 236.
- New California Motion Picture and Television Production Credit. Get form FTB 3541.
- New Employment Credit. Get form FTB 3554.
- Prison Inmate Labor Credit. Get form FTB 3507.
- Research Credit. Get form FTB 3523.
- Targeted Tax Area (TTA) Hiring Credit. Get form FTB 3809.

The passive activity limitations of IRC Section 469 may limit the amount of credits on line 15b, line 15c, line 15d, and line 15f. Line 15b, line 15c, and line 15d credits are related to the rental activities of the LLC.

Line 15f credits are related to the trade or business activities of the LLC. In general, passive activity credits from passive activities are limited to tax attributable to passive activities for California purposes (R&TC Section 17561). Credits that may be limited under the passive activity credit rules include the following:

- Research credit
- Low-income housing credit

You may be able to use the low-income housing credit, and other credits generated from rental activities, against tax on other income. Get form FTB 3801-CR for more information.

The LLC can include on line 15f your distributive share of net income taxes paid to other states by the LLC. Subject to the limitations of R&TC Section 18006, members may claim a credit against their individual tax for net income taxes paid by the LLC to another state. The amount of tax paid is required to be supported by a copy of the return filed with the other state and evidence of the payment of the tax. Get Schedule S for more information.

Line 16

The information reported in box 16 of the federal Schedule K-1 (1065), does not apply to California and therefore there is no line 16.

Alternative Minimum Tax (AMT) Items

Line 17a through Line 17f, column (d)

Use the information reported on line 17a through line 17f, column (d) as well as your adjustments and tax preference items from other sources to complete Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations. For more information, see the instructions for federal Schedule K-1 (1065), Alternative minimum tax (AMT) items box 17.

Tax-Exempt Income and Nondeductible expenses

Line 18a through Line 18c – Tax-exempt income and Nondeductible Expenses

See the instructions for federal Schedule K-1 (1065), box 18. The LLC should give you a description and the amount of your share for each item applicable to California in this category.

Distributions

Line 19a and Line 19b – Distributions

See the instructions for federal Schedule K-1 (1065), box 19.

Other Information

Line 20a and Line 20b – Investment Income and Investment Expenses

If the LLC paid or accrued interest on debts it incurred to buy or hold investment property, the amount of interest you can deduct may be limited.

For more information and the special provisions that apply to investment interest expense, get form FTB 3526, and federal Publication 550.

Use the column (d) amounts to determine the amount to enter on form FTB 3526, line 1.

The amounts shown include only investment income and expenses included on lines 5, 6, 7, 11a, and 13d of this Schedule K-1 (568). The LLC should attach a schedule that shows the amount of any investment income and expenses included in any other lines of this Schedule K-1 (568). Use these amounts, if any, to adjust line 20a and line 20b to determine your total investment income and total investment expenses from this LLC.

Combine these totals with investment income and expenses from all other sources to determine the amount to enter on form FTB 3526, line 1.

Line 20c – Other Information

For credit recaptures attach a schedule including credit recapture names and amounts.

The LLC will provide supplemental information required to be reported to you on this line. If the LLC is claiming tax benefits from an EZ, LAMBRA, MEA, or TTA, it will give you the business income, and business capital gains and losses, apportioned to the EZ, LAMBRA, MEA, or TTA, on this line. Get form FTB 3805Z, FTB 3807, FTB 3808, or FTB 3809 to claim any applicable credit.

The LLC may have provided a schedule with amounts showing your proportionate interest in the LLC's aggregate gross receipts, less returns and allowances. A qualified taxpayer may exclude income, positive and negative adjustments, and preference items attributable to any trade or business from alternative minimum taxable income. A "qualified taxpayer" is defined as an individual, estate, or trust that meets both of the following:

- Is the owner of, or has an ownership interest in a trade or business.
- Has aggregate gross receipts, less returns and allowances, of less than \$1,000,000 during the taxable year from all trades or businesses in which the taxpayer is an owner or has an ownership interest. In the case of an ownership interest, you should include only your proportional share of aggregate gross receipts of any trade or business from a partnership, LLC, S corporation, regulated investment company (RIC), real estate investment trust (REIT), or real estate mortgage investment conduit (REMIC).

You need to add your share of the aggregate gross receipts from this LLC to your aggregate gross receipts from all other trades or businesses in which you hold an interest to determine if you are a qualified taxpayer.

For purposes of R&TC Section 17062(b)(4), "aggregate gross receipts, less returns and allowances" means the sum of the following:

- The gross receipts of the trades or businesses which the taxpayer owns.
- The proportionate interest of the gross receipts of the trades or businesses which the taxpayer owns.
- The proportionate interest of pass-through entities gross receipts in which the taxpayer holds an interest.

Gross Receipts – For taxable years beginning on or after January 1, 2011, R&TC Section 25120 was amended to add the definition of gross receipts. "Gross receipts" means the gross amounts realized (the sum of money and the fair market value of other property or services received) on:

- The sale or exchange of property,
- The performance of services, or
- The use of property or capital (including rents, royalties, interest, and dividends) in a transaction that produces business income, in which the income, gain, or loss is recognized (or would be recognized if the transaction were in the United States) under the IRC.

Amounts realized on the sale or exchange of property shall not be reduced by the cost of goods sold or the basis of property sold.

For a complete definition of "gross receipts", refer to R&TC Section 25120(f) or go to ftb.ca.gov and search for **25120**.

For purposes of this section "pass-through entity" means a partnership (as defined by R&TC Section 17008), an S corporation, a RIC, a REIT, and a REMIC. See R&TC Section 17062 for more information.

Get FTB Pub. 1001, for a listing of items of nonconformity for individuals.

The pro-rata share of gain or loss on property subject to the IRC Section 179 expense deduction recapture should be reported on Schedule K-1(568) as other information. Follow the instructions on the federal Form 4797 and federal Schedule K-1 (1065) for the reporting requirements.

Other Member Information

Table 1 – Member's Share of Nonbusiness Income from Intangibles (source of income is dependent on residence or commercial domicile of the member)

The income data contained in Table 1 is not reflected in column (e) of Schedule K-1 (568) because the source of such income must be determined at the member level. The member must make a determination whether the nonbusiness intangible income is from a California source. For more information, see General Information D, Nonbusiness Income, and General Information E, Unitary Members.

Table 2 – Member's Share of Distributive Items

The LLC will complete Table 2, Parts A to C for unitary members and Table 2 Part C for all non-unitary members. Table 2 does not need to be completed for non-unitary individuals. The final determination of unity is made at the member level.

If the member and the LLC are engaged in a single unitary business, or if the LLC is uncertain as to whether it is unitary with the member, the LLC will furnish the information on Table 2.

The member's share of the LLC's business income is entered on Table 2, Part A. The member then adds that income to its own business income and apportions the combined business income using the revised factor described below.

Table 2, Part B, reflects the member's share of nonbusiness income from real and tangible property wholly sourced or allocable to California. This is added to apportioned business income and nonbusiness intangible income allocated to California and becomes a part of California taxable income. For more information, see R&TC Sections 25124 and 25125, and Cal. Code Regs., tit. 18 sections 17951-1, 17951-2, and 17951-3.

The member's share of the LLC's property, payroll, and sales factors is in Table 2, Part C. The member combines its apportionment factors with the apportionment factors of the LLC and uses the revised factor to compute its business income apportioned to California. For more information, see General Information D, Nonbusiness Income, and General Information E, Unitary Members.

The LLC will complete Table 2, Part C to report the member's distributive share of property, payroll and sales **Total within California**.

Members will use Table 2, Part C to determine if they meet threshold amounts of California property, payroll and sales.

R&TC Section 23101 provides that for taxable years beginning on or after January 1, 2011, a taxpayer is doing business if it actively engages in any transaction for the purpose of financial or pecuniary gain or profit in California or if any of the following conditions are satisfied:

- The taxpayer is organized or commercially domiciled in California.
- The sales as defined in subdivision (e) or (f) of R&TC Section 25120, of the taxpayer in California, including sales by the taxpayer's agents and independent contractors, exceed the lesser of \$547,711 or 25% of the taxpayer's total sales.
- The real property and tangible personal property of the taxpayer in California exceed the lesser of \$54,771 or 25% of the taxpayer's total real property and tangible personal property.
- The amount paid in California by the taxpayer for compensation, as defined in subdivision (c) of R&TC Section 25120, exceeds the lesser of \$54,771 or 25% of the total compensation paid by the taxpayer.

If the member's distributive share of property, payroll, or sales in California, when combined with the member's property, payroll, or sales in California from other pass-through entities or its own activities, exceeds the threshold amounts set forth in R&TC Section 23101, the member is "doing business" in California and must file a return and pay all applicable taxes, including the minimum franchise tax if the member is a corporation or the applicable annual tax if the member is a business entity that is required to pay an annual tax.

For more information, see R&TC Section 23101 or go to ftb.ca.gov and search for **doing business**.

2016 Beneficiary's Instructions for Schedule K-1 (541)

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 2015, and to the California Revenue and Taxation Code (R&TC).

General Information

Conformity

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to fb.ca.gov and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the instructions. Taxpayers should not consider the instructions as authoritative law.

Purpose

The estate or trust uses Schedule K-1 (541), Beneficiary's Share of Income, Deductions, Credits, etc., to report your share of the estate's or trust's income, deductions, credits, etc. Your name, address, and tax identification number, as well as the estate's or trust's name, address, and tax identification number, should be entered on the Schedule K-1 (541). Keep Schedule K-1 (541) for your records. **Do not** file it with your tax return. The estate or trust has filed a copy with the Franchise Tax Board (FTB).

You are subject to tax on your share of the estate's or trust's income, and you must include your share on your individual tax return.

Schedule K-1 (541), column (b) shows amounts from your federal Schedule K-1 (Form 1041), Beneficiary's Share of Income, Deductions, Credits, etc. Column (c) shows the difference between federal and California amounts. Column (d) shows your total amounts using California law by combining column (b) and column (c). Column (e) shows your income and loss from California sources.

Generally, the amount of loss and deduction you may claim on your tax return is limited to your share of the estate or trust and the amount for which you are considered at-risk. If you have losses, deductions, or credits from a passive activity, you must also apply the passive activity rules. It is the beneficiary's responsibility to consider and apply any applicable limitations.

California law is generally the same as federal law with regard to income, the character of income, allocation of deductions, gifts, and bequests, and past years. Follow the instructions for federal Schedule K-1 (Form 1041) for these items.

Generally, you must report items shown on your Schedule K-1 (541) (and any attached schedules) the same way that the estate or trust treated the items on its tax return. If the treatment on your original or amended tax return is inconsistent with the estate's or trust's treatment, or if the estate or trust was required to but has not filed a tax return, you must attach a statement identifying the inconsistency. Beneficiaries may be liable for negligence penalties and penalties relating to mathematical errors if they cannot demonstrate that their treatment is consistent with the estate or trust.

Beneficiaries of estates and trusts include in their gross income their distributive share of the fiduciary's income distribution deduction for the taxable year. Amounts that are distributed by an estate or trust and that are not deductible in computing the entity's taxable income (i.e., distributions of corpus or tax-exempt income) usually are not taxable to the beneficiary.

Resident beneficiaries are taxed on income distributed or distributable from all sources. Nonresident beneficiaries are taxed only on income distributed or distributable that is derived from sources within California (R&TC Section 17953).

For purposes of this section, the nonresident beneficiary is deemed the owner of intangible personal property from which the income of the estate or trust is derived. Therefore, such income is taxed at the beneficiary's domicile.

The estate or trust will attach a schedule of intangible income, such as income from stocks, bonds, bank accounts, and notes, whose source is dependent upon the residence or commercial domicile of the taxpayer. The income on this schedule is not income from California sources for nonresidents but is income sourced at the beneficiary's state of residence or commercial domicile.

Specific Line Instructions

If you are a nonresident beneficiary, the California source amounts in column (e) will help you identify the California source adjusted gross income that must be reported on your Schedule CA (540NR), California Adjustments — Nonresidents or Part-Year Residents, column E. Part-year residents may be required to calculate their IRC Section 652 or 662 income in a manner that produces a different result than the amounts shown in column (e) of this form. For more information, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

Line 3 through Line 12

You must report the amounts in column (c), adjustments, that are from **nonpassive** activities on the appropriate California form or schedule as explained in these instructions.

Report the amounts in column (d), total amounts using California law, that are from **passive** activities on the appropriate California form or schedule. Get form FTB 3801, Passive Activity Loss Limitations, to transfer those amounts and

to figure the amount of your passive activity loss limitation. Carry the passive activity amounts to the California form or schedule to figure your California adjustment amount. Enter this adjustment amount on the corresponding line on Schedule CA (540 or 540NR) only if there is a federal/California difference.

If there is no California form or schedule on which to compute your passive activity loss adjustment amount (i.e., rental loss from passive activities), you may figure the adjustment amount on the California Adjustment Worksheets in the instructions for form FTB 3801. Enter the total of your adjustments from these worksheets from all passive activities on Schedule CA (540 or 540NR), line 17, column B or line 17, column C, whichever is appropriate.

Line 1 – Interest

If you have an amount on Schedule K-1 (541), line 1, column (c), report this amount on Schedule CA (540 or 540NR), line 8, column B or column C, whichever is applicable.

Line 2 – Dividends

If you have an amount on Schedule K-1 (541), line 2, column (c), report this amount on Schedule CA (540 or 540NR), line 9, column B or column C, whichever is applicable.

Line 3 – Net capital gain or (loss)

If you have an amount on Schedule K-1 (541), line 3, column (d), report this amount on Schedule D (540 or 540NR), California Capital Gain or Loss Adjustment, line 2, column (d) or column (e), whichever is applicable.

If there is an attachment to Schedule K-1 (541) that reports the disposition of a passive activity, get form FTB 3801 for more information.

Line 5 – Other portfolio and nonbusiness income

If you have an amount on Schedule K-1 (541), line 5, column (c), report this amount on Schedule CA (540 or 540NR), line 17, column B or column C, whichever is applicable.

Line 6 through Line 8 – Ordinary business, net rental real estate, and other rental income

Read the instructions below before including any amounts shown on Schedule K-1 (541), line 6, on Schedule CA (540 or 540NR), line 17.

Passive activities: The deductions on line 6 may be subject to the passive loss limitation rules. In general, losses from passive activities are allowed only to the extent of income from passive activities.

If your passive activity deductions exceed your passive activity income, or you have passive activity losses from any other source, you must use form FTB 3801 to figure your losses allowed from all passive activities.

Line 9a through Line 9c – Depreciation, depletion, and amortization

Any directly apportionable deduction, such as depreciation, is treated by the beneficiary as having been incurred in the same activity as incurred by the estate or trust. The estate or trust should provide you with a schedule showing your share of directly apportionable deductions derived from each activity reported on line 5 through line 8.

Line 11a – Excess deductions on termination

If you have an amount on Schedule K-1 (541), line 11a, column (c), report this amount on Schedule CA (540 or 540NR), Part II, line 41 as a positive or a negative amount, whichever is applicable.

Line 11b – Capital loss carryover

If you have an amount on Schedule K-1 (541), line 11b, column (c) report the amount on Schedule D (540 or 540NR), line 6.

Line 11c and Line 11d – Net operating loss (NOL) carryover

Upon termination of a trust or decedent's estate, a beneficiary succeeding to its property is allowed to deduct any unused NOL (and any Alternative Minimum Tax (AMT) NOL) carryover for regular and AMT purposes if the carryover would be allowable to the estate or trust in a later tax year but for the termination.

For taxable years beginning on or after January 1, 2002, the NOL carryover computation for the California taxable income of a nonresident or part-year resident is no longer limited by the amount of net operating loss from all sources.

Line 12a – Adjustment for alternative minimum tax purposes

If you have an amount on Schedule K-1 (541), line 12, column (d), report this amount on Schedule P (540), Alternative Minimum Tax and Credit Limitations — Residents, or Schedule P (540NR), Alternative Minimum Tax and Credit Limitations — Nonresidents or Part-Year Residents, Part I, line 12, whichever is applicable.

Line 12b through Line 12d

- **Schedule P (540) filers:** Include any column (d) amount on Schedule P (540), Part I, line 12.
- **Schedule P (540NR) filers:** Include column (d) amounts on Schedule P (540NR), Part I, line 12. and report column (e) amounts in Part II, line 29 (f).

Line 12e – Exclusion items

Include any column (d) or column (e) amount on form FTB 3510, Credit for Prior Year Alternative Minimum Tax — Individuals or Fiduciaries, line 2.

Line 13a – Trust payments of estimated tax credited to you

Include on Form 540, California Resident Income Tax Return, line 72 or Long Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, line 82, any estimated tax payments paid by the trust on your behalf.

Line 13b – Total withholding

Total withholding is the sum of your distributive share of taxes withheld from payments to the estate or trust by another entity (allocated to all beneficiaries according to their respective estate or trust interests) plus taxes withheld-at-source on you as a domestic or foreign nonresident beneficiary. If there is a pass-through withholding credit from another entity or taxes were withheld on you by the estate or trust, the estate or trust must provide you with a completed 2016 Form 592-B, Resident and Nonresident Withholding Tax Statement. Attach Form 592-B to the front of your California income tax return

to claim the amount withheld. The amount shown on Form 592-B should be reported on one of the following:

- Form 540, California Resident Income Tax Return, line 73.
- Long Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, line 83.
- Form 541, California Fiduciary Income Tax Return, line 31.
- Form 109, California Exempt Organization Business Income Tax Return, line 17.
- Form 100, California Corporation Franchise or Income Tax Return, line 33.
- Form 100S, California S Corporation Franchise or Income Tax Return, line 32.

Schedule K-1 (541) is not used to claim the withholding credit. If the estate or trust is not on a calendar year, the amount on line 13b may not match the amount on Form 592-B because of the difference in accounting periods.

Line 13c – Taxes paid to other states

You may claim a credit against your individual income tax on your share of the net income tax paid to other states by the estate or trust. Get Schedule S, Other State Tax Credit.

Line 13d – Other credits

If applicable, the estate or trust will use this line, through an attached statement, to give you the information you need to compute credits related to a trade or business activity.

Credits that may be reported include the following:

- California Competes Tax Credit. Get form FTB 3531.
- California Motion Picture and Television Production Credit. Get form FTB 3541.
- College Access Tax Credit. Get form FTB 3592.
- Community Development Financial Institutions Investment Credit. Use credit code 209.
- Disabled Access Credit for Eligible Small Businesses. Get form FTB 3548.
- Donated Agricultural Products Transportation Credit. Get form FTB 3547.
- Donated Fresh Fruits or Vegetables Credit. Get form FTB 3811.
- Enhanced Oil Recovery Credit. Get form FTB 3546.
- Enterprise Zone Hiring Credit. Get form FTB 3805Z.
- Environmental Tax Credit. Get form FTB 3511.
- Local Agency Military Base Recovery Area Hiring Credit. Get form FTB 3807.
- Low Income Housing Credit. Get form FTB 3521.
- Manufacturing Enhancement Area Hiring Credit. Get form FTB 3808.
- Natural Heritage Preservation Credit. Get form FTB 3503.
- New Advanced Strategic Aircraft Credit. Use credit code 236.
- New California Motion Picture and Television Production Credit. Get form FTB 3541.
- New Employment Credit. Get form FTB 3554.
- Prison Inmate Labor Credit. Get form FTB 3507.
- Research Credit. Get form FTB 3523.
- Targeted Tax Area Hiring Credit. Get form FTB 3809.

The passive activity limitations of IRC Section 469 may limit the amount of credits you may claim. Get form FTB 3801-CR, Passive Activity Credit Limitations.

Line 14a – Tax-exempt interest

Include any column (c) amount on Schedule CA (540 or 540NR), line 8, column B or column C, whichever is appropriate.

Line 14d – Other information

Report any column (c) amount on Schedule CA (540 or 540NR), line 17, column B or column C, whichever is appropriate.

If the estate or trust is claiming tax benefits from a former Enterprise Zone (EZ), Local Agency Military Base Recovery Area (LAMBRA), Manufacturing Enhancement Area (MEA), or Targeted Tax Area (TTA), it will give the beneficiaries their distributive share of the business income, and business capital gains and losses included in business income, apportioned to the EZ, LAMBRA, MEA, or TTA on this line. Get form FTB 3805Z, Enterprise Zone Deduction and Credit Summary; form FTB 3807, Local Agency Military Base Recovery Area Deduction and Credit Summary; form FTB 3808, Manufacturing Enhancement Area Credit Summary; or form FTB 3809, Targeted Tax Area Deduction and Credit Summary to claim any applicable credit.

2016 Shareholder's Instructions for Schedule K-1 (100S)

For S Corporation Shareholder's Use Only

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

General Information

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to ftb.ca.gov and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the instructions. Taxpayers should not consider the instructions as authoritative law.

The California Schedule K-1 (100S), Shareholder's Share of Income, Deductions, Credits, etc. line items are formatted similar to the federal Schedule K-1 (Form 1120S), Shareholder's Share of Income, Deductions, Credits, etc. For more information, get the Schedule K Federal/State Line References chart included in the Form 100S, S Corporation Tax Booklet.

A corporation with a valid federal S corporation election is considered an S corporation for California purposes and is deemed to make the California S election on the same date as the federal election.

California conforms to the federal provision that affects discharge of indebtedness of an S corporation. IRC Section 108 provides that income from the discharge of indebtedness of an S corporation that is excluded from the S corporation's income is not taken into account as an item of income by any shareholder and thus does not increase the basis of any shareholder's stock in the corporation. This provision applies, for California purposes, to discharges of indebtedness incurred in taxable years ending after December 31, 2001.

California law has not conformed to federal law regarding additional first-year depreciation of certain qualified property placed in service after October 3, 2008, and the election to claim additional research and minimum tax credits in lieu of claiming the bonus depreciation.

California follows federal instructions **(with some exceptions)** for reporting the sale, exchange, or disposition of an asset for which an IRC Section 179 expense deduction was claimed in prior years by a partnership, limited liability company, or S corporation.

Shareholders should follow federal reporting requirements as detailed in federal Form 1120S, U.S. Income Tax Return for an S Corporation, and federal Form 4797, Sales of Business Property.

California conforms to the federal qualification requirements for S corporations and their shareholders.

A Purpose

The S corporation uses Schedule K-1 (100S) to report the shareholder's share of the S corporation's income, deductions, credits, etc. Information from the Schedule K-1 (100S) is used to complete your California tax return. Keep a copy of Schedule K-1 for your records. However, **do not** file the schedule with your California tax return.

Although the S corporation is subject to various taxes, you are liable for the income tax on your share of the S corporation's income, whether or not distributed, and you must include your share on your California tax return.

The amount of losses and deductions that you may claim on your tax return may be less than the amount reported on Schedule K-1 (100S). Generally, the amount of losses and deductions you may claim is limited to your basis in the S corporation stock, debt owed to you by the S corporation, and the amount for which you are considered at-risk. Also, if the S corporation has losses, deductions, or credits from a passive activity, you must apply the passive activity rules. It is your responsibility to consider and apply any applicable limitations. See General Information C, Limitations on Losses, Deductions, and Credits. Use these instructions to help you report the items shown on Schedule K-1 (100S) on your California tax return.

For the line items where "attach schedule" appears, the S corporation should provide additional information applicable to that line.

B Reporting Information from Columns (c), (d), and (e)

Inconsistent treatment of items

Generally, shareholders must report IRC subchapter S items shown on their Schedule K-1 (100S), and any attached schedules, the same way the corporation treated the items on its tax return. If the treatment on a shareholder's original or amended tax return is inconsistent with the corporation's treatment, or if the corporation has not filed a tax return, you must attach a statement with your original or amended tax return to identify and explain any inconsistency or to note that a corporate tax return has not been filed. If a shareholder is required to attach this statement but fails to do so, the shareholder may be subject to an accuracy related penalty.

Line 1 through Line 18

If you are an individual shareholder, take the amounts in column (c) that are from nonpassive activities and enter these amounts on the appropriate California form or schedule as explained in these instructions.

Report the amounts in column (d) or column (e) that are from passive activities on the California form or schedule where they are normally reported. Bring the total amounts figured on the appropriate California form or schedule to form FTB 3801, Passive Activity Loss Limitations, to figure the amount of your passive activity loss limitation. Then transfer the passive activity loss back to the form or schedule it is normally reported on to figure your California adjustment amount. Enter this adjustment amount on the corresponding line of Schedule CA (540 or 540NR), California Adjustments, or Form 541, California Fiduciary Income Tax Return.

If there is no California schedule or form to figure your passive activity loss adjustment amount on (i.e., rental loss from passive activities), you may figure the adjustment amount on the California Worksheets on Side 2 of form FTB 3801. Enter the total of your adjustments from all passive activities from the worksheets on Schedule CA (540 or 540NR), as applicable.

If you have losses, deductions, credits, etc., from a prior year that were not deductible or usable because of certain limitations, such as the at-risk rules, these carryforward losses, deductions, and credits may be taken into account in determining your net income, loss, etc., for this taxable year. However, do not combine the prior year amounts with any amounts shown on this Schedule K-1 (100S) to get a net figure to report on any supporting schedules, statements, or forms attached to your tax return. Instead, report the amounts on an attached schedule, statement, or form on a year-by-year basis.

C Limitations on Losses, Deductions, and Credits

The amounts shown on line 1 through line 3 reflect your share of income or loss from the S corporation's business or rental operations without reference to your limitations on losses or adjustments that may be required because of the following:

- The adjusted basis of your S corporation ownership interest per IRC Section 1366(d).
- The amount for which you are at-risk as determined under IRC Section 465.
- The passive activity limitations of IRC Section 469.

Get the instructions for federal Schedule K-1 (Form 1120S), box 1 through box 3 for more information.

Basis rules

Generally, you may not claim your share of the S corporation loss (including capital loss) that is greater than the adjusted basis of your shareholder interest at the end of the S corporation's taxable year.

Basis is increased by:

1. All income (including tax-exempt income) reported on Schedule K-1 (100S).
2. Money and adjusted basis of property contributed to the corporation.
3. The excess of the deduction for depletion over the adjusted basis of the property subject to depletion.

Basis is decreased by:

1. Fair market value of property distributions (including cash) made by the S corporation (excluding dividend distributions reported on Form 1099-DIV, Dividends and Distributions, and distributions in excess of basis) reported on Schedule K-1 (100S), line 16d.
2. All losses and deductions (including nondeductible expenses) reported on Schedule K-1 (100S).

These items are not a complete list of factors that determine basis. For examples, see Treas. Reg. Section 1.1367-1.

At-risk rules

Generally, if you have: (1) a loss or other deduction from an activity carried on as a trade or business or for the production of income by the corporation; and (2) amounts in the activity for which you are not at-risk, you will have to complete federal Form 6198, At-Risk Limitations, to figure the allowable loss to report on your tax return. For California purposes, you must complete federal Form 6198 using California amounts.

The at-risk rules generally limit the amount of loss (including loss on disposition of assets) and other deductions (such as IRC Section 179) that you may claim to the amount you could actually lose in the activity. Get the instructions for federal Schedule K-1 (Form 1120S), for more information about at-risk limitations.

Passive activity limitations

Generally, California tax law conforms to federal IRC Section 469 rules that limit the deduction of certain losses and credits.

These rules apply to shareholders who meet both of the following:

- Are individuals, estates, or trusts.
- Have a loss or credit from a passive activity.

A passive activity is generally a rental activity or a trade or business activity in which the shareholder does not materially participate.

If you have a loss or deductions from a passive activity, you will need to complete form FTB 3801 to figure the allowable amounts to report on your individual tax return. You will also need to complete form FTB 3801, if you have passive activity income from this S corporation and passive activity loss or deduction from another source.

The amounts reported on Schedule K-1 (100S), line 2 and line 3 are from rental activities of the S corporation and are generally passive activity income (loss) to all shareholders.

There is an exception to this rule for losses incurred by qualified investors in qualified low-income housing projects. The S corporation will identify any of these qualified amounts on an attachment for line 2.

Passive activity credits are also limited to passive income. See the instructions for line 13d.

California **does not** conform to the passive activity loss provisions of the IRC relating to real estate professionals.

D California Adjustment – Column (c)

Use this column to account for your proportionate share of the differences in the computation of federal and California income.

The most common adjustment items are as follows:

- California minimum franchise tax.
- Depreciation expense due to different basis of the assets or depreciation method used.
- Gain or loss on sale of assets due to the effects of different depreciation methods or basis.
- Government bond interest income:
 - a) U.S. bond interest is taxable for federal purposes but not for California purposes.
 - b) State bond interest (other than from California bonds) is taxable for California purposes but not for federal purposes.

E Total Amounts Using California Law – Column (d) and California Source Amounts and Credits – Column (e)

Shareholders who are California residents will use amounts shown in column (d) because California resident individuals are subject to personal income tax on all income from whatever source derived (R&TC Section 17041). Nonresident shareholders who do not conduct a trade or business that is unitary with the S corporation should use the amounts in column (c), column (d) (for total income purposes), column (e) (for California source income purposes), and Table 1. If the nonresident shareholder conducts a unitary business with the S corporation, data in column (e) should not be used. Instead, the shareholder must combine its share of the S corporation's income with the income from its trade or business and apportion that income using an apportionment percentage consisting of a combination of the factors from its trade or business and the shareholder's share of the factors from the S corporation from Table 2. Amounts in Table 1 should be sourced to the residence or commercial domicile of the shareholder.

Specific Line Instructions

If the shareholder is not an individual, the shareholder may report the amounts as instructed on their California income tax return.

Income (Loss)

Line 1 – Ordinary business income (loss)

The amount reported on line 1, column (d) or column (e) is your share of the ordinary income (loss) from the trade or business activities of the S corporation. Generally, where you report this amount on Form 540, California Resident Income Tax Return; Long Form 540NR, California Nonresident or Part-Year Resident Income Tax Return; or Form 541, depends on whether or not the amount is from an activity that is a passive activity to you.

If, in addition to this passive activity income, you have a passive activity loss from this S corporation or from any other source, report the line 1, column (d) or column (e) income on form FTB 3801.

If a loss is reported on line 1, column (d) or column (e), report the loss on the applicable line of form FTB 3801 to determine how much of the loss is allowable.

Line 2 – Net rental real estate income (loss)

Generally, the income (loss) reported on line 2, column (d) or column (e), is a passive activity amount to all shareholders. However, there is an exception for losses from a qualified low-income housing project. The loss limitations do not apply to qualified investors in a qualified low-income housing project. The

S corporation will have attached a schedule for line 2 to identify such amounts, if applicable. Enter the California adjustment amount from column (c) on Schedule CA (540 or 540NR), as applicable.

Use the following instructions to determine where to enter a line 2 amount.

- If you have a loss on line 2, column (d) or column (e) (other than a qualified low-income housing project loss), enter this passive activity loss on the applicable line of form FTB 3801 to determine how much of the loss is allowable.

If you are a qualified investor reporting a qualified low-income housing project loss, enter the California adjustment amount from column (c) directly on Schedule CA (540 or 540NR), as applicable.

- If you have income on line 2, column (d) or column (e) and no passive losses, enter the California adjustment from column (c) on Schedule CA (540 or 540NR), as applicable.

Line 3 – Other net rental income (loss)

The amount on line 3, column (d) or column (e) is a passive activity amount for all shareholders.

- If line 3, column (d) or column (e) is a loss, enter the loss on the applicable line of form FTB 3801.
- If income is reported on line 3, column (d) or column (e) and you have no passive losses, enter the California adjustment from column (c) on Schedule CA (540 or 540NR), as applicable.

Line 4 through Line 8 and Line 10a – Portfolio income (loss)

Income (loss) referred to as “portfolio” income (loss) in these instructions is not part of a passive activity subject to the rules of IRC Section 469. Portfolio income includes income not derived in the ordinary course of a trade or business from interest, dividends, annuities, or royalties and gain (loss) on the sale of property that produces these types of income or is held for investment. If you have amounts on Schedule K-1 (100S), line 4 through line 8 and line 10a, report these amounts as follows:

- Enter line 4, column (c) and/or column (e) on Schedule CA (540), Part I, or Schedule CA (540NR), Part II, line 8, whichever column is applicable.
- Enter line 5, column (c) and/or column (e) on Schedule CA (540), Part I, or Schedule CA (540NR), Part II, line 9, whichever column is applicable.
- Enter line 6, column (c) and/or column (e) on Schedule CA (540), Part I, or Schedule CA (540NR), Part II, line 17, whichever column is applicable.
- Enter line 7 and line 8, column (d) or column (e) on Schedule D (540 or 540NR), line 2.
- Enter line 10a, column (d) or column (e) on the applicable schedule.

Generally, amounts reported on line 7 and line 8 are gains or losses attributable to the disposition of property held for investment and are therefore classified as portfolio income (loss). If, however, an amount reported on line 7 or line 8, column (d) or column (e), is a passive activity amount, the S corporation should identify the amount.

The S corporation uses line 10a, column (d) or column (e), to report portfolio income other than interest, dividend, royalty, and capital gain (loss) income. A statement will be attached to tell you what kind of portfolio income is reported on line 10a, column (d) or column (e).

Line 9 – Net IRC Section 1231 gain (loss)

If the amount on line 9 relates to a rental activity, the IRC Section 1231 gain (loss) is a passive activity amount.

- If the amount is not a passive activity amount to you, report it on Schedule D-1, Sales of Business Property, line 2, column (g). You do not have to complete the information called for in column (b) through column (f). Write “From Schedule K-1 (100S)” across these columns.
- If a gain is reported on line 9, column (d) or column (e), and it is a passive activity amount to you, report the gain on Schedule D-1, line 2, column (g), and refer to “Passive Loss Limitations” in the instructions for Schedule D-1.
- If a loss is reported on line 9, column (d) or column (e) and it is a passive activity amount to you, report the loss on Schedule D-1, line 2, column (g), and refer to “Passive Loss Limitations” in the instructions for Schedule D-1. You will need to use form FTB 3801 to determine how much of the loss is allowed on Schedule D-1.

Line 10b – Other income (loss)

Amounts on this line are other items of income, gain, or loss not included on line 1 through line 10a. The S corporation should give you a description of your share for each of these items.

Report income or gain items that are passive activity amounts to you as instructed below. If, in addition to this passive activity income or gain, you have passive activity losses from any other source, also report the passive activity income or gain on form FTB 3801.

Line 10b items may include the following:

- S corporation gains from the disposition of farm recapture property (refer to Schedule D-1) and other items to which IRC Section 1252 applies.
- Recovery of bad debts, prior taxes, and delinquency amounts (IRC Section 111). Report the amount from line 10b, column (c), on Schedule CA (540 or 540NR), line 21, whichever column is applicable.
- Gains and losses from gambling, IRC Section 165(d).

- Any income, gain, or loss to the S corporation under IRC Section 751(b) from a partnership. Report this amount on Schedule D-1, line 10.
- Specially allocated ordinary gain (loss) from a partnership. Report this amount on Schedule D-1, line 10.
- Net gain (loss) from involuntary conversions due to casualty or theft. The S corporation will give you a schedule that shows the California amounts to be entered on federal Form 4684, Casualties and Thefts, line 34, column (b)(i), column (b)(ii), and column (c).
- Net short-term capital gain or loss, net long-term capital gain or loss, gain or loss from Schedule D (100S) that is **not** portfolio income (e.g., gain or loss from the disposition of nondepreciable personal property used in a trade or business activity of the S corporation).
- Any new gain or loss from IRC Section 1256 contracts.
- Gain (loss) from the disposition of an interest in oil, gas, geothermal, or other mineral properties.

Deductions

Line 11 – Expense deduction for recovery property

The maximum amount of expense deduction for recovery property (IRC Section 179 deduction) that you may claim from all sources is \$25,000. The S corporation will give you information on your share of the cost of the S corporation’s IRC Section 179 property so that you can compute this limitation. Your IRC Section 179 deduction is also limited to your taxable income from all your trades or businesses. Get form FTB 3885A, Depreciation and Amortization Adjustments, federal Publication 534, Depreciating Property Placed in Service Before 1987, and federal Publication 946, How to Depreciate Property, for more information.

Line 12a – Charitable contributions

The S corporation will give you a schedule that shows which contributions were subject to the 50%, 30%, and 20% limitations. Get the federal instructions for Form 1040, U.S. Individual Income Tax Return, for more information.

If there is an amount on Schedule K-1 (100S), line 12a, column (c), enter this amount on Schedule CA (540 or 540NR), line 41.

Line 12b – Investment interest expense

If the S corporation paid or accrued interest on debts it incurred to buy or hold investment property, the amount of interest you can deduct may be limited.

For more information and the special provisions that apply to investment interest expense, get form FTB 3526, Investment Interest Expense Deduction, and federal Publication 550, Investment Income and Expenses.

Enter the amount from column (d) or column (e) on form FTB 3526 along with your investment interest expense from other sources. Form FTB 3526 will help you determine how much of your total investment interest is deductible.

Line 12c1 – IRC Section 59(e)(2) expenditures

Amounts on line 12(c)(1) may not necessarily be California source amounts. Get the instructions for federal Schedule K-1 (Form 1120S).

Line 12d – Deductions-portfolio

Amounts entered on this line are the expenses (other than investment interest expense and expenses from a real estate mortgage investment conduit (REMIC)) paid or incurred to produce portfolio income. If you have an amount on Schedule K-1 (100S), line 12d, column (c), enter this amount on the applicable line of Schedule CA (540 or 540NR). However, if any of the line 12d amount should not be reported on Schedule CA (540 or 540NR), the S corporation will identify that amount for you.

Line 12e – Other deductions

Amounts on this line are other deductions not included on line 11, and line 12a through line 12d. If there is an amount on Schedule K-1 (100S), line 12e, column (c), enter this amount on the applicable line of Schedule CA (540 or 540NR).

Credits

The S corporation must provide the information you need to compute a credit allowable on your tax return.

Line 13a – Low-income housing credit

Your share of the S corporation's low-income housing credit is shown on line 13a, column (d) or column (e). Any available credit is entered on form FTB 3521, Low-Income Housing Credit. To claim this credit, attach a copy of form FTB 3521 to your tax return.

You may not claim the low-income housing credit on any qualified low-income housing project for which any person was allowed any benefit under Section 502 of the federal Tax Reform Act of 1986. Also, the passive activity credit limitations of IRC Section 469 may limit the amount of credit you may claim. Get form FTB 3801-CR, Passive Activity Credit Limitations, to figure the amount of credit that may be limited under the passive activity rules.

For more information, see the instructions for line 13d.

Line 13b – Credits related to rental real estate activities

If applicable, the S corporation may use this line, through an attached schedule, to give you the information you need to compute credits related to rental real estate activities other than the low-income housing credit.

For more information, see the instructions for line 13d.

Line 13c – Credits related to other rental activities

If applicable, the S corporation will use this line, through an attached schedule, to give you the information you need to compute credits related to rental activities other than rental real estate activities.

For more information, see the instructions for line 13d.

Line 13d – Other credits

If applicable, the S corporation will use this line, through an attached schedule, to give you the information you need to compute credits related to a trade or business activity.

Credits that may be reported on line 13c or line 13d depend on the type of activity they relate to.

For a complete list of credits, refer to the Credit Table in the applicable tax booklet.

The pass-through rules of IRC Section 1366, the at-risk limitations of IRC Section 465, and the passive activity limitations of IRC Section 469 may limit the amount of credits that you may take. Credits on line 13d may be passive activity credits to shareholders who do not materially participate in the activities of the S corporation.

Passive activity credits are limited to tax attributable to passive activities income. If you do not materially participate in the activity of the S corporation, get form FTB 3801-CR, to determine the amount of the credit you may take.

Line 14 – Total withholding

Line 14 includes withholding from payments made to the S corporation allocated to all shareholders based on their stock ownership, payments withheld on nonresident shareholders, and backup withholding. S corporation shareholders must attach Form 592-B, Resident and Nonresident Withholding Tax Statement, to the front of their California tax return to claim the withholding credit. **Do not** use Schedule K-1 (100S) to claim the withholding credit.

Report the total withholding credit entered on Schedule K-1 (100S), line 14, under the Payments Section of Form 540, or Long Form 540NR. See instructions for Form 540, or Long Form 540NR for more information.

Alternative Minimum Tax (AMT) Items

Line 15a through Line 15e

Use the information reported on line 15a through line 15e (as well as adjustments and tax preference items from other sources) to prepare Schedule P (540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations.

For more information about AMT items, get the instructions for federal Schedule K-1 (Form 1120S).

Items Affecting Shareholder Basis

Amounts on line 16a through line 16e may not necessarily be California source amounts. However, enter the same amount in column (e) as entered in column (d).

Line 16a through Line 16c

Get the instructions for federal Schedule K-1 (Form 1120S).

Line 16d – Total property distributions (including cash)

Reduce your basis in stock of the S corporation by the fair market value of the distributions on line 16d. If these distributions exceed your basis in stock, the excess is treated as gain from the sale or exchange of property and is reported on Schedule D (540 or 540NR).

Line 16e – Repayment of loans from shareholders

If the line 16e payments are made on indebtedness with a reduced basis, the repayments result in income to you to the extent the repayments are more than the adjusted basis of the loan. See IRC Section 1367(b)(2) for information on reduction in basis of a loan and restoration of basis of a loan with a reduced basis. See federal Revenue Ruling 68-537, 1968-2 C.B. 372, for more information.

Other Information

Line 17a and Line 17b – Investment income and investment expenses

If the S corporation paid or accrued interest on debts it incurred to buy or hold investment property, the amount of interest you can deduct may be limited.

For more information and the special provisions that apply to investment interest expense, get form FTB 3526, and federal Publication 550.

Use the column (d) or column (e) amounts on these lines to determine the amount to enter on form FTB 3526, line 4a and line 5.

The amounts shown on line 17a and line 17b include only investment income and expenses included on line 4 through line 6, line 10a, and line 12d of this Schedule K-1 (100S). The S corporation should attach a schedule that shows you the amount of any investment income and expenses included in any other lines of your Schedule K-1 (100S). Use these amounts, if any, to adjust line 17a and line 17b to determine your total investment income and total investment expenses from this S corporation. Combine these totals with investment income and expenses from all other sources to determine the amount to enter on form FTB 3526, line 4a and line 5.

Line 17c – Total taxable dividend distributions

The S corporation must issue a federal Form 1099-DIV to you for this distribution. Report this amount as a taxable dividend on your tax return.

Line 17d – Other information

The S corporation will provide supplemental information required to be reported to you on this line. If the S corporation is claiming tax benefits from a former Enterprise Zone (EZ), Local Agency Military Base Recovery Area (LAMBRA), Manufacturing Enhancement Area (MEA), or Targeted Tax Area (TTA), the S corporation will give you your pro-rata share of (1) business income apportioned to the EZ, LAMBRA, MEA, or TTA, and (2) business capital gains and losses included in (1) on this line. Get form FTB 3805Z, Enterprise Zone Deduction and Credit Summary; form FTB 3807, Local Agency Military Base Recovery Area Deduction and Credit Summary; form FTB 3808, Manufacturing Enhancement Area Credit Summary; or form FTB 3809, Targeted Tax Area Deduction and Credit Summary, to claim any applicable credit.

The S corporation may have provided an amount showing your proportionate interest in the S corporation's aggregate gross receipts, less returns and allowances on Schedule K-1 (100S), line 17d. A qualified taxpayer is allowed to exclude from alternative minimum taxable income adjustments and items of tax preference attributable to any trade or business. A "qualified taxpayer" is defined as an individual, estate, or trust that meets both of the following:

- Is the owner of, or has an ownership interest in a trade or business.
- Has aggregate gross receipts, less returns and allowances, of less than \$1,000,000 from **all** trades or businesses that the taxpayer is an owner of, or has an ownership interest in, or in the amount of that taxpayer's proportionate interest in each trade or business.

"Aggregate gross receipts, less returns and allowances" means the sum of the gross receipts of the trades or businesses which you own and the proportionate interest of the gross receipts of the trades or businesses which you own and of pass-through entities in which you hold an interest.

"Proportionate interest" is defined as follows:

- In the case of a pass-through entity which reports a profit for the taxable year, your profit interest in the entity at the end of your taxable year.
- In the case of a pass-through entity which reports a loss for the taxable year, your loss interest in the entity at the end of your taxable year.
- In the case of a pass-through entity which is sold or liquidates during the taxable year, your capital account interest in the entity at the time of the sale or liquidation.

"Proportionate interest" includes an interest in a pass-through entity including a partnership, S corporation, regulated investment company, real estate investment trust, or real estate mortgage investment conduit.

For purposes of R&TC Section 17062(b)(4), "gross receipts" means the sum of gross receipts from the production of business income, within the meaning of subdivisions (a) and (c) of R&TC Section 25120, and the gross receipts from the production of nonbusiness income, within the meaning of subdivision (d) of R&TC Section 25120. "Proportionate interest" includes an interest in a pass-through entity. See R&TC Section 17062 for more information.

The pro-rata share of gain or loss on property subject to the IRC Section 179 expense deduction recapture should be reported on the Schedule K-1 (100S) as other information. Follow the instructions on the federal Form 4797 and federal Schedule K-1 (Form 1120S) for the reporting requirements.

If the S corporation listed any credit recapture on line 17d, see your tax booklet for information on how to report the credit recapture.

Other State Taxes

Line 18a through Line 18e

You may claim a credit against your individual tax for your share of net income taxes paid by the S corporation to certain other states which either impose a tax on the S corporation or do not recognize S corporation status.

For purposes of this credit, net income taxes include your share of taxes on, according to, or measured by income.

Residents are taxed on their pro-rata share of all income and generally receive a credit for taxes paid to other states. Nonresidents and part-year residents use column (e) for your pro-rata share of California source pass-through income.

For more information, get California Schedule S, Other State Tax Credit.

Other Shareholder Information

Table 1

The income data contained in Table 1 is not reflected in column (e) because the source of such income must be determined at the shareholder level. The shareholder must make a determination whether the nonbusiness intangible income item is from a California source.

Net nonbusiness income is computed by subtracting related nonbusiness expenses from the nonbusiness income.

Table 2

The S corporation will complete Schedule K-1(100S), Table 2, Items A through C to report the shareholder's distributive share of property, payroll and sales total within California.

The shareholders will use Schedule K-1(100S), Table 2, Item C to determine if they meet threshold amounts of California property, payroll, and sales.

If the shareholder and S corporation are engaged in a single unitary business, the shareholder's share of the S corporation's business income is entered on Table 2, Item A. The shareholder will then add that income to its own business income and apportion the combined business income.

The shareholder's share of the S corporation's payroll, property, and sales data is in Table 2, Item C. The business income in Table 2, Item A is combined with the shareholder's other business income from the unitary business. The apportionment numerator and denominator data are added to the appropriate numerator and denominator of the shareholder's payroll, property, and sales factors.

R&TC Section 23101 provides that for taxable years beginning on or after January 1, 2011, a taxpayer is doing business if it actively engages in any transaction for the purpose of financial or pecuniary gain or profit in California or if any of the following conditions are satisfied:

- The taxpayer is organized or commercially domiciled in California.
- The sales as defined in subdivision (e) or (f) of R&TC Section 25120, of the taxpayer in California, including sales by the taxpayer's agents and independent contractors, exceed the lesser of \$547,711 or 25% of the taxpayer's total sales.
- The real property and tangible personal property of the taxpayer in California exceed the lesser of \$54,771 or 25% of the taxpayer's total real property and tangible personal property.
- The amount paid in California by the taxpayer for compensation, as defined in subdivision (c) of R&TC Section 25120, exceeds the lesser of \$54,771 or 25% of the total compensation paid by the taxpayer.

If the shareholder's distributive share of property, payroll, or sales in California, when combined with the shareholder's property, payroll, or sales in California from other pass-through entities or its own activities, exceeds the threshold amounts set forth in R&TC Section 23101, the shareholder is "doing business" in California and must file a return and pay all applicable taxes, including the minimum franchise tax if the member is a corporation or the applicable annual tax if the member is a business entity that is required to pay an annual tax.

For more information, see R&TC Section 23101 or go to fb.ca.gov and search for **doing business**.