ACHARYA
CPA & CO.

Acharya CPA & Co.
acharyacpa.com

Guide · Real estate 9 min read

Real Estate Professional Status: Who Qualifies, and How to Prove It

By Akanchya Acharya, CPA

Updated November 15, 2026 · Written for landlords whose rental losses are being suspended

The short answer

Rental losses are passive by default, which means they sit unused until you have passive income or sell. Real estate professional status is the main way to release them against salary and business income. One person has to spend more than 750 hours a year, and more than half of all their working time, in real property businesses they take part in. Clearing that bar is only half the job: each rental is then tested separately for material participation unless you file an election to treat them all as one. Most of the cases taxpayers lose are lost on records, not on law.

What the status is actually worth

A rental loss that is passive can only offset passive income. There is a limited exception worth up to 25,000 dollars a year for active participants, and it phases out completely by 150,000 dollars of income, so high earners get nothing from it. The losses are not lost, they are suspended, and they wait until that property is sold.

If one spouse qualifies as a real estate professional and the rentals are treated as non-passive, those same losses come off ordinary income in the year they arise. For an owner with a large cost segregation deduction, the difference between the two outcomes is often the entire reason the study was worth paying for.

> Do not order a cost segregation study until you know whether the resulting loss can be used this year. The study is permanent, the tax benefit is not.

Test one: the two hour tests

> More than half of all personal services you perform in any trade or business during the year must be in real property trades or businesses in which you materially participate
>
> You must perform more than 750 hours of service in those real property trades or businesses

Real property trades or businesses include development, construction, acquisition, conversion, rental, operation, management, leasing and brokerage. Both tests have to be met by the same person. Spouses cannot add their hours together to clear this bar, which is why the test is usually built around whichever spouse does not have a demanding job elsewhere.

A full-time job outside real estate is usually fatal to the more-than-half test. Someone working 2,000 hours as a physician would need more than 2,000 hours in real estate to qualify. Hours worked as an employee of a real estate business do not count at all unless you own more than 5 percent of that business.

Test two: material participation, property by property

Clearing 750 hours makes your rentals eligible to be non-passive. It does not make them non-passive. Each rental activity is then tested separately for material participation, and the usual way to meet it is 500 hours on that activity, or more than 100 hours and more than anyone else including your property manager.

An owner with eight properties who spends 120 hours on each has 960 hours in total, clears the 750-hour test, and still fails on every single property. This is the trap.

The way out is the aggregation election under the regulations, which treats all of your rental real estate as one activity so the hours are counted together. It is made by attaching a statement to a timely filed return, and it binds you in later years until the facts change materially and you revoke it. Aggregating also has a cost: when you sell one property, suspended losses are generally not freed up, because the one activity has not been disposed of.

> Both spouses hours count toward material participation, even though only one can be used for the 750-hour test.

Which hours count, and which do not

Usually counts	Usually does not count
Showing units, screening tenants, signing leases	Reading books, listening to podcasts, attending seminars
Arranging and supervising repairs and turnovers	Studying financial statements as an investor
Collecting rent, handling tenant issues, bookkeeping for the properties	Travel time in many cases, and it is heavily contested
Negotiating purchases, financing and refinances	Time spent by a spouse who is not involved in management
Managing contractors on a rehab	Hours as an employee of a real estate firm you own 5 percent or less of

Investor-type activities are specifically excluded unless you are involved in the day-to-day management or operations. That exclusion removes a large share of the hours people instinctively count.

The records that hold up

The regulations say participation can be established by any reasonable means, and taxpayers read that as permission to reconstruct a log later. The Tax Court has repeatedly rejected calendars written after the fact, logs with round numbers on every line, and totals that land just above 750 hours. A log that is contemporaneous, specific and occasionally inconvenient is far more persuasive than one that is tidy.

- Record the date, the property, what you did and how long it took, on the day it happened
- Keep the hours that fall outside the pattern, including the ones that drop a week below average
- Keep the corroboration: texts with contractors, listing activity, mileage, invoices, dated photographs
- Keep the property manager contract, because the hours of whoever else works on the property are the comparison in the 100-hour test
- If you have a job outside real estate, keep a record of those hours too, because the more-than-half test needs both numbers

Short-term rentals do not need this

If the average guest stay is seven days or less, the property is not a rental activity under the passive loss rules at all. You only need material participation on that property, not the 750 hours and not the more-than-half test. That is why a short-term rental is often the faster route for someone with a demanding W-2 job, and why the two strategies should not be confused.

Frequently asked questions

Can my spouse and I combine hours to reach 750?

No. One spouse has to meet both the 750-hour test and the more-than-half test alone. Once one of you qualifies, both of your hours count toward material participation on the properties.

Does a full-time job disqualify me?

Almost always, because more than half of all your working hours would have to be in real estate. A 2,000-hour job would require more than 2,000 hours of real estate work.

What is the aggregation election?

A statement filed with your return treating all of your rental real estate as a single activity, so hours are counted across properties instead of property by property. It stays in force until revoked, and it changes how suspended losses are released when you sell one property.

Do hours managing my own property count if I use a property manager?

They can, but the manager becomes the comparison. Under the 100-hour test you must participate more than any other individual, including the manager.

Can I write the log at the end of the year?

You can, and it is the most common reason taxpayers lose these cases. Keep it as the work happens, with enough detail that a stranger could follow it.

General information based on federal law for tax year 2026, not tax advice for your situation. State rules vary.

Want this applied to your situation? Book a free 30-minute call with Akanchya Acharya, CPA at acharyacpa.com/contact or email akansha@acharyacpa.com.

The latest version of this guide: acharyacpa.com/resources/real-estate-professional-status-requirements · Updated November 15, 2026