

Instructions For Form 6395

2012 Alaska Passive Activity Limitation

WHAT'S NEW

Form 6395 is a new form, designed to compute federal-based credits from passive activities, available through Alaska's adoption of the Internal Revenue Code. Form 6395 accounts for changes in federal Form 8810.

GENERAL INSTRUCTIONS

Purpose of Form

Form 6390 limits federal-based credits from passive activities, and supports Form 6390 Alaska Federal-based Credits. This form is required if such credits are to be claimed on Form 611, 611SF, or 650. Under AS 43.20.021(d), where a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 18% of the amount of credit determined for federal income tax purposes and apportioned, if applicable.

Adoption Of The Internal Revenue Code

Under AS 43.20.021, Alaska adopts the Internal Revenue Code, Sections 1-1399 and 6001-7872, with full force and effect, unless excepted to or modified by provisions of Alaska law. In addition, AS 43.20.160 and AS 43.20.300 require the Department to apply, as far as practicable, the administrative and judicial interpretations of the federal income tax law.

Note that Alaska law does not adopt Internal Revenue Code Sections 1400—1400L, which grant tax benefits for activities in certain geographic zones, including those in "Enterprise Zones" and "Gulf Opportunity Zones." If the taxpayer qualifies for special federal treatment under these code sections, this may require that the taxpayer recompute some federal-based credits for Alaska purposes.

Other Related Forms

Form 6390 is required to claim credits reported on Form 6395. Both forms are required to be attached to Form 611, 611SF, or 650 to claim such federal-based credits.

If You Need Help

If you have questions, need additional information or require other assistance, see our web-site at www.tax.alaska.gov, or call:

Juneau: 907-465-2320

Anchorage: 907-269-6620

Form 6395 identifies potential federal credits from passive activities that are allowable for Alaska purposes. The allowable passive credits are subject to tax limitations, computed on an Alaska basis. The credits are calculated in the same manner as the federal credits. Alaska does not allow credits for backup withholding, credit for employer social security and Medicare taxes paid on certain employee tips, and other federal credits that are tax reimbursements. See 15 AAC 20.145(f). Also note that Alaska does not adopt Internal Revenue Code Sections 1400-1400L, which may affect allowable federal-based credits.

SPECIFIC INSTRUCTIONS

Line 2a: Alaska allows the federal investment credit only to the extent attributable to Alaska property. See AS 43.20.036(b). On line 2a enter the amount of federal investment credit, attributable to passive activities, that is not attributable to Alaska property.

Line 2b: Alaska does not allow credits for backup withholding, credit for employer social security and Medicare taxes paid on certain employee tips, and other federal credits that are tax reimbursements. See 15 AAC 20.145(f). Also note that Alaska does not adopt Internal Revenue Code Sections 1400-1400L, which may affect allowable federal-based credits.

Lines 5a-5c: These are federal "specified credits" from a passive activity that are not allowable for Alaska purposes. See instructions for Lines 2a and 2b above.

Line 8a: Enter the amount of federal investment credit from a passive activity that is not attributable to Alaska property, included in line 1a of Form 3800, Part III with box F checked. (Also see instructions for line 8d below.)

Line 8b: See instructions for line 2b above.

Line 8c: Alaska does not allow empowerment zone credits.

Line 8d: Enter the amount of federal investment credit from a passive activity that is not attributable to Alaska property, included in line 4a of Form 3800, Part III with box F checked. (Also see instructions for line 8a above.)

Line 8f: See instructions for line 2b above.

Line 10: This amount is the total potential federal-based credits, before 18% limitation and before apportionment, subject to the tax limitation.

Line 11: Enter the apportionment factor from the applicable Schedule I from Form 611 or 650.

Line 14: Enter the unallowed passive activity credits from the previous years, after the 18% limitation and post-apportionment (using the apportionment factor in the year generated). Attach a schedule of each credit, by year generated and used.

Line 15: This is the amount of federal-based credits (after 18% limitation and apportionment) subject to the Alaska tax limitation.

Line 16: Calculate the Alaska tax attributable to net passive income and net active income, by applying federal rules explained in the instructions for line 7 of the federal Form 8810, on an as-if Alaska basis. Use the Alaska income tax rates in AS 43.20.011, when calculating "tax attributable" amounts. In place of federal "income tax before credits," use the Alaska regular income tax (Schedule D, line 7 of Form 611, 611SF, or 650) less Alaska incentive credits allowed against regular tax (from Form 6390, line 12b).

Line 17: The amount of unallowed passive activity credits on line 17 must be allocated to the credit baskets (general business credits, "specified credits," and eligible small business credits). This is done for each credit basket, based on a ratio of credits before tax limitation. Complete Worksheets A and B below to allocate the credits. (The amount on line 17 is after 18% limitation and apportionment, if applicable.)

Line 18: The amount of allowed passive activity credits on line 18 must be allocated to the credit baskets (general business credits, "specified credits," and eligible small business credits). This is done for each credit basket, based on a ratio of credits before tax limitation. Complete Worksheets A and B below to allocate the credits. (The amount on line 18 is after 18% limitation and apportionment, if applicable.)

Line 19: The purpose of line 19 is to gross-up the credits on line 18 to an amount that is pre-18% and pre-apportionment, if applicable ("gross").

Line 20: Enter the amount of allowed passive general business credits (at "gross") from Worksheet B below, here and on Form 6390, line 4.

Line 21: Enter the amount of allowed passive "specified credits" and eligible small business credits (at "gross") from Worksheet B below, here and on Form 6390, line 26.

Instructions for Worksheet A below

The purpose of Worksheet A is to calculate the total potential passive federal-based credits, at "gross" (pre-apportionment and pre-18%).

Worksheet A to calculate total potential passive federal-based credits

	credit basket	from Form 6395	current year A	prior year unallowed B	total potential credits C
1	general business credits	line 3			
2	"specified credits"	line 6			
3	eligible small business credits	line 9			
4	totals				

Worksheet B to allocate allowed passive federal-based credits

	credit basket	total potential credits A	ratio B	unallowed credits C	allowed credits D	Form 6395 reporting
1	general business credits					line 20
2	"specified credits"					line 21
3	eligible small business credits					line 21
4	totals					

Column A: Complete column A using amounts from Form 6395, as indicated. These amounts are "gross" (pre-apportionment and pre-18%).

Column B: Enter amounts of previously unallowable passive federal-based credits, by basket, at "gross."

Column C: Add columns A and B. Carry these amounts to Worksheet B, column A.

Instructions for Worksheet B below

The purpose of Worksheet B is to allocate allowable and unallowable passive federal-based credits to each credit basket.

Column A: Enter the amounts from Worksheet A, column C, by basket.

Column B: Divide the amount of each of the credit baskets in column A by the total of all credits in Column A. The total of the ratios should equal 1.00.

Column C: Multiply line 17 of Form 6395 by the ratios in column B and enter the results in column C. These are the unallowed passive federal-based credits for 2012, and are on a "gross" basis. Keep a record of these amounts, so the credits can be carried to the next year.

Column D: Subtract column C from column A. These are the allowed credits for 2012, stated on a "gross" basis. Enter amounts in this column on Form 6395, as indicated.