

Thank you for the opportunity to comment. My question is: how do the new transferability rules in section 6418 interact with the passive activity limitations of section 469?

For example, say an individual taxpayer has a rental real estate activity subject to the passive activity limitations, and this taxpayer installs a solar panel system on the roof of the rented property. The year of the solar panel system installation, the rental real estate activity generates a loss, and the taxpayer has no other passive activities. May the taxpayer avoid the limitation on claiming credits from passive activities by transferring their section 48 credit? Would this be an "excessive credit transfer"?

As a second example, say a real estate partnership with mostly limited partners installs a solar panel system on the roof of the rented property. The limited partners do not materially participate in the real estate partnership and are not real estate professionals for the purpose of the passive activity rules. Do the partners avoid the passive activity limitations if the partnership transfers their section 48 credit? If the partnership transfers the credit, do the partners have passive income due to section 6418(c)(1)(A)?