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Almost every form and publication also has its own easily accessible information page on IRS.gov. For example, the Form 1040 page is at IRS.gov/form1040; the Form W-2 page is at IRS.gov/w2; the Publication 17 page is at IRS.gov/pub17; the Form W-4 page is at IRS.gov/w4; the Form 8863 page is at IRS.gov/form8863; and the Schedule A (Form 1040) page is at IRS.gov/schedulea. If typing in the links above instead of clicking on them: type the link into the address bar of your browser, not in a Search box; the text after the slash must be lowercase; and your browser may require the link to begin with “www.”. Note that these are shortcut links that will automatically go to the actual link for the page.

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2016

Instructions for Form 4797

Department of the Treasury
Internal Revenue Service

Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))

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Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 4797 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form4797*.

General Instructions

Purpose of Form

Use Form 4797 to report:

- The sale or exchange of:

1. Real property used in your trade or business;

2. Depreciable and amortizable tangible property used in your trade or business (however, see *Disposition of Depreciable Property Not Used in Trade or Business*, later);

3. Oil, gas, geothermal, or other mineral properties; and

4. Section 126 property.

- The involuntary conversion (from other than casualty or theft) of property used in your trade or business and capital assets held for more than 1 year in connection with a trade or business or a transaction entered into for profit (however, see *Disposition of Depreciable Property Not Used in Trade or Business*, later).
- The disposition of noncapital assets (other than inventory or property held primarily for sale to customers in the ordinary course of your trade or business).
- The disposition of capital assets not reported on Schedule D.
- The gain or loss (including any related recapture) for partners and S corporation shareholders from certain section 179 property dispositions by partnerships (other than electing large partnerships) and S corporations.
- The computation of recapture amounts under sections 179 and 280F(b)(2) when the business use of section 179 or listed property decreases to 50% or less.
- Gains or losses treated as ordinary gains or losses, if you are a trader in securities or commodities and made a mark-to-market election under section 475(f).

Other Forms You May Have To File

- Use Form 4684, Casualties and Thefts, to report involuntary conversions from casualties and thefts.
- Use Form 6252, Installment Sale Income, to report the sale of property under the installment method.
- Use Form 8824, Like-Kind Exchanges, to report exchanges of qualifying business or investment property for property of a like kind. For exchanges of property used in a trade or business (and other noncapital assets), enter the gain or (loss) from Form 8824, if any, on Form 4797, line 5 or line 16.
- If you sold property on which you claimed investment credit, see Form 4255, Recapture of Investment Credit, to find out if you must recapture some or all of the credit.
- Use Form 8949, Sales and Other Dispositions of Capital Assets, to report the sale or exchange of capital assets not reported on another form or schedule; gains from involuntary conversions (other than casualty or theft) of capital assets not used in your trade or business; and nonbusiness bad debts. However, see *Disposition of*

Where To Make First Entry for Certain Items Reported on This Form

	(a) Type of property	(b) Held 1 year or less	(c) Held more than 1 year
1	**Depreciable tangible trade or business property:**		
	a Sold or exchanged at a gain	Part II	Part III (1245)
	b Sold or exchanged at a loss	Part II	Part I
2	**Depreciable real trade or business property:**		
	a Sold or exchanged at a gain	Part II	Part III (1250)
	b Sold or exchanged at a loss	Part II	Part I
3	**Farmland held less than 10 years upon which soil, water, or land clearing expenses were deducted:**		
	a Sold at a gain	Part II	Part III (1252)
	b Sold at a loss	Part II	Part I
4	**All other farmland used in a trade or business**	Part II	Part I
5	**Disposition of cost-sharing payment property described in section 126**	Part II	Part III (1255)
6	**Cattle and horses used in a trade or business for draft, breeding, dairy, or sporting purposes:**	**Held less than 24 months**	**Held 24 months or more**
	a Sold at a gain	Part II	Part III (1245)
	b Sold at a loss	Part II	Part I
	c Raised cattle and horses sold at a gain	Part II	Part I
7	**Livestock other than cattle and horses used in a trade or business for draft, breeding, dairy, or sporting purposes:**	**Held less than 12 months**	**Held 12 months or more**
	a Sold at a gain	Part II	Part III (1245)
	b Sold at a loss	Part II	Part I
	c Raised livestock sold at a gain	Part II	Part I

Depreciable Property Not Used in Trade or Business, later.

- Use the applicable Schedule D, Capital Gains and Losses, for the return you are filing to figure the overall gain or loss from transactions reported on Form 8949 and to report transactions you don't have to report on Form 8949. See the Instructions for Form 8949 and the instructions for the applicable Schedule D.

Additional information. See Pub. 544, Sales and Other Dispositions of Assets. Also see Pub. 550, Investment Income and Expenses (Including Capital Gains and Losses).

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Special Rules

At-Risk Rules

If you report a loss on an asset used in an activity for which you are not at risk, in whole or in part, see the Instructions for Form 6198, At-Risk Limitations. Also, see Pub. 925, Passive Activity and At-Risk Rules. Losses from passive activities are subject first to the at-risk rules and then to the passive activity rules.

Depreciable Property and Other Property Disposed of in the Same Transaction

If you disposed of both depreciable property and other property (for example, a building and land) in the same transaction and realized a gain, you must allocate the amount realized between the two types of property based on their respective fair market values (FMVs) to figure the part of the gain to be recaptured as ordinary income because of depreciation. The disposition of each type of property is reported separately in the appropriate part of Form 4797 (for example, for property held more than 1 year, report the sale of a building in Part III and land in Part I).

Disposition of Depreciable Property Not Used in Trade or Business

Generally, gain from the sale or exchange of depreciable property not used in a trade or business but held for investment or for use in a not-for-profit activity is capital gain. Generally, the gain is reported on Form 8949 and Schedule D. However, part of the gain on the sale or exchange of the depreciable property may have to be recaptured as ordinary income on Form 4797. Use Part III of Form 4797 to figure the amount of ordinary income recapture. The recapture amount is included on line 31 (and line 13) of Form 4797. See the instructions for Form 4797, Part III. If the total gain for the depreciable property is more than the recapture amount, the excess is reported on Form 8949. On Form 8949, enter "From Form 4797" in column (a) of Part I (if the transaction is short term) or Part II (if the transaction is long term), and skip columns (b) and (c). In column (d), enter the excess of the total gain over the recapture amount. Leave columns (e) through (g) blank. Complete column (h).

Generally, loss from the sale or exchange of depreciable property not used in a trade or business but held for investment or for use in a not-for-profit activity is a capital loss. Report the loss on Form 8949 in Part I (if the transaction is short term) or Part II (if the transaction is long term). If your capital losses are more than your capital gains, you can deduct the difference as a capital loss deduction even if you don't have ordinary income to offset it. The yearly limit on the amount of the capital loss you can deduct is $3,000 ($1,500 if you are married and file a separate return). See the Instructions for Form 8949 and the Instructions for Schedule D (Form 1040).

Disposition of Assets That Constitute a Trade or Business

If you sell a group of assets that make up a trade or business and the buyer's bases in the assets are determined wholly by the amount paid for the assets, both you and the buyer generally must allocate the total sales price to the assets transferred. File Form 8594, Asset Acquisition Statement, to report the sale. See Pub. 544 for more details on the sale of business assets.

Installment Sales

If you sold property at a gain and you will receive a payment in a tax year after the year of sale, you generally must report the sale on the installment method unless you elect not to do so.

Use Form 6252 to report the sale on the installment method. Also use Form 6252 to report any payment received during your 2016 tax year from a sale made in an earlier year that you reported on the installment method.

To elect out of the installment method, report the full amount of the gain on a timely filed return (including extensions). If you timely filed your tax return without making the election, you can still make the election by filing an amended return within 6 months of the due date of your return (excluding extensions). Write "Filed pursuant to section 301.9100-2" at the top of the amended return.

For a detailed discussion of installment sales, see Pub. 537, Installment Sales.

Traders Who Made a Mark-To-Market Election

A trader in securities or commodities may elect under section 475(f) to use the mark-to-market method to account for securities or commodities held in connection with a trading business. Under this method of accounting, any security or commodity held at the end of the tax year is treated as sold (and reacquired) at its FMV on the last business day of that year.

Unless you are a new taxpayer, the election must be made by the due date (not including extensions) of the tax return for the year prior to the year for which the election becomes effective.

If you are a trader in securities or commodities with a mark-to-market election under section 475(f) in effect for the tax year, the following special rules apply.

- Gains and losses from all securities or commodities held in connection with your trading business (including those marked to market) are treated as ordinary income and losses, instead of capital gains and losses. As a result, the lower capital gain tax rates and the limitation on capital losses don't apply.
- The gain or loss from each security or commodity held in connection with your trading business (including those marked to market) is reported on Form 4797, Part II, line 10. See the instructions for line 10.
- The wash sale rule does not apply to securities or commodities held in connection with your trading business.

For details on the mark-to-market election and how to make it, see sections 475(e) and 475(f). Also see Pub. 550.

Sale of Home Used for Business

If you sold property that was your home and you also used it for business, you may need to use Form 4797 to report the sale of the part used for business (or the sale of the entire property if used entirely for business). Gain or loss on the sale of the home may be a capital gain or loss or an ordinary gain or loss.

Any gain on the personal part of the property is a capital gain. You cannot deduct a loss on the personal part. Any gain or loss on the part of the home used for business is an ordinary gain or loss, as applicable, reportable on Form 4797. Any gain or loss on the part producing income for which the underlying activity does not rise to the level of a trade or business is a capital gain or loss, as applicable. See *Disposition of Depreciable Property Not Used in Trade or Business*, earlier. For more details, see Pub. 544. Also, see Pub. 523, Selling Your Home.

Exclusion of gain on sale of home used for business. You may be able to exclude part or all of the gain figured on Form 4797 if the property sold was used for business and was also owned and used as your principal residence during the 5-year period ending on the date of the sale. During that 5-year period, you must have owned and used the property as your personal residence for 2 or more years. However, the exclusion may not apply to the part of the gain that is allocated to any period after December 31, 2008, during which the property was not used as your principal residence.

If the property was held more than 1 year after you converted it to business use, complete Part III to figure the amount of the gain. Do not take the exclusion into account when figuring the gain on line 24. If line 22 includes depreciation for periods after May 6, 1997, you cannot exclude gain to the extent of that depreciation. On Part I, line 2, write “Section 121 exclusion,” and enter the amount of the exclusion as a (loss) in column (g).

If the property was held for 1 year or less after you converted it to business use, report the sale and the amount of the exclusion, if any, in a similar manner on Part II, line 10.

For details and exceptions including how to figure gain on the sale of a home used for business and the amount of the exclusion, see section 121 and Pub. 523.

Involuntary Conversion of Property

You may not have to pay tax on a gain from an involuntary or compulsory conversion of property. See Pub. 544 for details.

Passive Loss Limitations

If you have an overall loss from passive activities and you report a loss on an asset used in a passive activity, use Form 8582, Passive Activity Loss Limitations, or Form 8810, Corporate Passive Activity Loss and Credit Limitations, as applicable, to see how much loss is allowed before entering it on Form 4797.

You cannot claim unused passive activity credits when you dispose of your interest in an activity. However, if you dispose of your entire interest in an activity, you may elect to increase the basis of the credit property by the original basis reduction of the property to the extent that the credit has not been allowed because of the passive activity rules. Make the election on Form 8582-CR, Passive Activity Credit Limitations, or Form 8810, as applicable. No basis adjustment may be elected on a partial disposition of your interest in an activity.

Recapture of Preproductive Expenses

If you elect not to use the uniform capitalization rules of section 263A, any plant that you produce is treated as section 1245 property. For dispositions of plants reportable on Form 4797, enter the recapture amount taxed as ordinary income on Part III, line 22. See *Disposition of plants* in chapter 9 of Pub. 225, Farmer's Tax Guide, for details.

Section 197(f)(9)(B)(ii) Election

If you made the election under section 197(f)(9)(B)(ii) to recognize gain on the disposition of a section 197 intangible and to pay a tax on that gain at the highest tax rate, include the additional tax on Form 1040, line 44 (or the appropriate line of other income tax returns). Check box c and enter “197” and the tax in the space next to that box. The additional tax is the amount that, when added to any other income tax on the gain, equals the gain multiplied by the highest tax rate.

Rollover of Gain From Sale of Empowerment Zone Assets

If you sold a qualified empowerment zone asset that you held for more than 1 year, you may be able to elect to postpone part or all of the gain that you would otherwise include on Form 4797, Part I. If you make the election, you generally recognize gain on the sale only to the extent, if any, that the amount realized on the sale is more than the cost of qualified empowerment zone assets (replacement property) you purchased during the 60-day period beginning on the date of the sale. The following rules apply.

- No portion of the cost of the replacement property may be taken into account to the extent the cost is taken into account to exclude gain on a different empowerment zone asset.
- The replacement property must qualify as an empowerment zone asset with respect to the same empowerment zone as the asset sold.
- You must reduce the basis of the replacement property by the amount of postponed gain.
- This election doesn’t apply to any gain (a) treated as ordinary income or (b) attributable to real property, or an intangible asset, that isn’t an integral part of an enterprise zone business.
- The District of Columbia enterprise zone is not treated as an empowerment zone for this purpose.
- The election is irrevocable without IRS consent.

See section 1397B(b)(1) for the definition of a qualified empowerment zone asset. See section 1397C for the definition of empowerment zone and enterprise zone business. You can find out if your business is located within an empowerment zone by using the EZ/RC Address Locator at *http://egis.hud.gov/ezrclocator/*.

How to report. If applicable, report the entire gain realized from the sale as you otherwise would without regard to the election. On Form 4797, line 2, enter "Section 1397B Rollover" in column (a) and enter as a (loss) in column (g) the amount of gain included on Form 4797 that you are electing to postpone. If you are reporting the sale directly on Form 4797, line 2, use the line directly below the line on which you reported the sale.

Exclusion of Gain From Sale of DC Zone Assets

If you sold or exchanged a District of Columbia Enterprise Zone (DC Zone) asset that you acquired after 1997 and before 2012, and held for more than 5 years, you may be able to exclude the amount of “qualified capital gain.” The qualified gain is, generally, any gain recognized in a trade or business that you would otherwise include on Form 4797, Part I. This exclusion also applies to an interest in, or property of, certain businesses operating in the District of Columbia.

DC Zone asset. A DC Zone asset is any of the following.
- DC Zone business stock.
- DC Zone partnership interest.
- DC Zone business property.

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Qualified capital gain. The qualified capital gain is any gain recognized on the sale or exchange of a DC Zone asset that is a capital asset or property used in a trade or business. It does not include any of the following gain:

- Gain treated as ordinary income under section 1245;
- Gain treated as unrecaptured section 1250 gain. The section 1250 gain must be figured as if it applied to all depreciation rather than the additional depreciation;
- Gain attributable to real property, or an intangible asset, which is not an integral part of a DC Zone business; and
- Gain from a related-party transaction. See *Sales and Exchanges Between Related Persons* in chapter 2 of Pub. 544.

See section 1400B for more details and special rules.

How to report. If applicable, report the entire gain realized from the sale or exchange as you otherwise would without regard to the exclusion. To report the exclusion, enter "DC Zone Asset Exclusion" on Form 4797, line 2, column (a) and enter as a (loss) in column (g) the amount of the exclusion that offsets the gain reported in Part I, line 6.

CAUTION *Any unrecaptured section 1250 gain is not qualified capital gain. Identify the amount of gain that is unrecaptured section 1250 gain and report it on the Schedule D for the return you are filing.*

Exclusion of Gain From Qualified Community Assets

If you sold or exchanged a qualified community asset acquired after 2001 and before 2010 that you held for more than 5 years, you may be able to exclude the "qualified capital gain." The qualified gain is, generally, any gain recognized in a trade or business that you would otherwise include on Form 4797, Part I. This exclusion also applies to an interest in, or property of, certain renewal community businesses. See sections 1400F(c) and (d) for special rules and limitations.

Qualified community asset. A qualified community asset is any of the following.

- Qualified community stock.
- Qualified community partnership interest.
- Qualified community business property.

Qualified capital gain. Qualified capital gain is any gain recognized on the sale or exchange of a qualified community asset that is a capital asset or property used in a trade or business. It does not include any of the following gains:

- Gain treated as ordinary income under section 1245;
- Section 1250 gain figured as if section 1250 applied to all depreciation rather than the additional depreciation;
- Gain attributable to real property, or an intangible asset, that is not an integral part of a renewal community business; and
- Gain from a related-party transaction. See *Sales and Exchanges Between Related Persons* in chapter 2 of Pub. 544.

See section 1400F for more details and special rules.

How to report. If applicable, report the entire gain realized from the sale or exchange as you otherwise would without regard to the exclusion. To report the exclusion, enter "Qualified Community Asset Exclusion" on Form 4797, line 2, column (a) and enter as a (loss) in column (g) the amount of the exclusion that offsets the gain reported in Part I, line 6.

Specific Instructions

Note. To show losses, enclose figures in (parentheses).

If you disposed of property you acquired by inheritance from someone who died before or after 2010, enter "INHERITED" in column (b) instead of the date you acquired the property. Also report the sale or exchange that way if you inherited the property from someone who died in 2010 and the executor of the decedent's estate did not elect under section 1022 to file Form 8939.

Disposition by a Partnership or S Corporation of Section 179 Property

Partners and S corporation shareholders. If you received a Schedule K-1 from a partnership or S corporation reporting the sale, exchange, or other disposition of property for which a section 179 expense deduction was previously claimed and passed through to its partners or shareholders, you must report your share of the transaction on Form 4797, 4684, 6252, or 8824 (whether or not you were a partner or shareholder at the time the section 179 deduction was claimed).

Use the worksheet, later, to figure the amount to report on Form 4797, 4684, 6252, or 8824, and to figure any reduction in your carryforward of the unused section 179 expense deduction. The partnership or S corporation must provide the following information on Schedule K-1 for the transaction.

- Description of the property.
- Date the property was acquired and placed in service.
- Date of the sale or other disposition of the property.
- Your share of the gross sales price or amount realized. Enter this amount on line 1 of the worksheet.
- Your share of the cost or other basis plus the expense of sale. Enter this amount on line 2 of the worksheet.
- Your share of the depreciation allowed or allowable, but excluding the section 179 expense deduction. Enter this amount on line 3a of the worksheet.
- Your share of the section 179 expense deduction passed through for the property and the partnership's or S corporation's tax year(s) in which the amount was passed through. Enter on line 3b of the worksheet your share of the total amount of the section 179 expense deduction passed through for the property (even if you were not a partner or shareholder for the tax year in which it was passed through or you did not deduct all or part of the section 179 expense because of the dollar or taxable income limitations). The tax year(s) in which the amount was passed through are provided so you can determine the amount of unused carryover section 179 expense (if any) for the property to report on line 3c.
- If the disposition is due to a casualty or theft, a statement indicating so, and any additional information you need to complete Form 4684.
- If the disposition was an installment sale made during the partnership's or S corporation's tax year reported using the installment method, any information you need to complete Form 6252. The partnership or S corporation also must separately report your share of all payments received for the property in the following tax years.
- If the disposition was a disposition of property given up in an exchange involving like-kind property made during the partnership's or S corporation's tax year, any information you need to complete Form 8824.

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If you have a carryforward of unused section 179 expense deduction that includes section 179 expense deduction previously passed through to you for the disposed asset, you must reduce your carryforward by your share of the section 179 expense deduction shown on Schedule K-1 (or the amount attributable to that property included in your carryforward amount).

Note. Partnerships (other than electing large partnerships) and S corporations do not report these transactions on Forms 4797, 4684, 6252, or 8824. Instead, they provide their partners and shareholders the information they need to report the transactions. See the instructions for Form 1065 or Form 1120S for details on the information that must be reported on Schedule K-1.

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Line 1

Enter on line 1 the total gross proceeds from:

- Sales or exchanges of real estate reported to you for 2016 on Form(s) 1099-S (or substitute statement) that you are including on line 2, 10, or 20; and
- Sales of securities or commodities reported to you for 2016 on Forms 1099-B (or substitute statements) that you are including on line 10 because you are a trader with a mark-to-market election under section 475(f) in effect for the tax year. See *Traders Who Made a Mark-To-Market Election*, earlier, and the instructions for line 10, later.

Part I

Use Part I to report section 1231 transactions that are not required to be reported in Part III.

Section 1231 transactions. The following are section 1231 transactions.

- Sales or exchanges of real or depreciable property used in a trade or business and held for more than 1 year. To figure the holding period, begin counting on the day after you received the property and include the day you disposed of it.
- Cutting of timber that the taxpayer elects to treat as a sale or exchange under section 631(a).
- Disposal of timber with a retained economic interest that is treated as a sale, or an outright sale of timber, under section 631(b).
- Disposal of coal (including lignite) or domestic iron ore with a retained economic interest that is treated as a sale under section 631(c).
- Sales or exchanges of cattle and horses, regardless of age, used in a trade or business for draft, breeding, dairy, or sporting purposes and held for 24 months or more from acquisition date.
- Sales or exchanges of livestock other than cattle and horses, regardless of age, used in a trade or business for draft, breeding, dairy, or sporting purposes and held for 12 months or more from acquisition date.

Note. Livestock does not include poultry, chickens, turkeys, pigeons, geese, other birds, fish, frogs, reptiles, etc.

- Sales or exchanges of unharvested crops. See section 1231(b)(4).
- Involuntary conversions of trade or business property or capital assets held more than 1 year in connection with a trade or business or a transaction entered into for profit. These conversions may result from (a) part or total destruction, (b) theft or seizure, or (c) requisition or condemnation (whether threatened or carried out). If any recognized losses were from involuntary conversions from fire, storm, shipwreck, or other casualty or from theft and the losses exceed the recognized gains from the conversions, don't include any gains or losses from such conversions when figuring your net section 1231 losses.

Transactions to which section 1231 does not apply. Section 1231 transactions don't include sales or exchanges of:

- Inventory or property held primarily for sale to customers;
- Copyrights, literary, musical, or artistic compositions, letters or memoranda, or similar property (a) created by your personal efforts, (b) prepared or produced for you (in the case of letters, memoranda, or similar property), or (c) received from someone who created them or for whom they were created, as mentioned in (a) or (b), in a way that entitled you to the basis of the previous owner (such as by gift); or
- U.S. Government publications, including the Congressional Record, that you received from the Government other than by purchase at the normal sales price or that you got from someone who had received it in a similar way, if your basis is determined by reference to the previous owner's basis.

Line 7

Partners and S corporation shareholders receive a Schedule K-1 (Form 1065 or Form 1120S), which includes amounts that must be reported on Form 4797. Following the instructions for Schedule K-1, enter any amounts from your Schedule K-1 (Form 1120S), box 9, or Schedule K-1 (Form 1065), box 10, in Part I of Form 4797.

If the amount from line 7 is a gain and you have nonrecaptured section 1231 losses from prior years, see the instructions for line 8 below. If the amount from line 7 is a gain and you didn't have nonrecaptured section 1231 losses from prior years, enter the gain from line 7 as a long-term capital gain on the Schedule D for the return you are filing.

Line 8

Your nonrecaptured section 1231 losses are your net section 1231 losses deducted during the 5 preceding tax years that have not yet been applied against any net section 1231 gain to determine how much net section 1231 gain is treated as ordinary income under this rule.

You had a net section 1231 loss if section 1231 losses exceeded section 1231 gains. Gains are included only to the extent taken into account in figuring gross income. Losses are included only to the extent taken into account in figuring taxable income except that the limitation on capital losses does not apply.

Your net section 1231 gain on line 7 is treated as ordinary income to the extent of your nonrecaptured section 1231 losses. See the example below.

Example. You had net section 1231 losses of $4,000 and $6,000 in 2011 and 2012, respectively, and net section 1231 gains of $3,000 and $2,000 in 2015 and 2016, respectively. The 2016 net section 1231 gain of $2,000 is entered on line 7 and the nonrecaptured net section 1231 losses of $7,000 ($10,000 net section 1231 losses minus the $3,000 that was applied against the 2016 net section 1231 gain) are entered on line 8. The entire $2,000 net section 1231 gain on line 7 is treated as ordinary income and is entered on line 12 of Form 4797. For recordkeeping purposes, the $4,000 loss from 2011 is all recaptured ($3,000 in 2015 and $1,000 in 2016), and you have $5,000 of section 1231 losses from 2012 left to recapture ($6,000 minus the $1,000 recaptured this year).

Line 9

For recordkeeping purposes, if line 9 is zero, the amount on line 7 is the amount of net section 1231 loss recaptured in 2016. If line 9 is more than zero, you

Worksheet for Partners and S Corporation Shareholders To Figure Gain or Loss on Dispositions of Property for Which a Section 179 Deduction Was Claimed

Keep for Your Records

Caution: See the *worksheet instructions* below before starting.

1. Gross sales price . . . . . 1. _____
2. Cost or other basis . . . . . 2. _____
3. a Depreciation (excluding section 179 expense deduction) . . . . . 3a. _____
   b Section 179 expense deduction . . . . . 3b. _____
   c Unused carryover of section 179 expense deduction . . . . . 3c. _____
   d Subtract line 3c from line 3b . . . . . 3d. _____
   e Add lines 3a and 3d . . . . . 3e. _____
4. **Adjusted basis.** Subtract line 3e from line 2 . . . . . 4. _____
5. **Gain or loss.** Subtract line 4 from line 1 (see *Where To Report Amounts From Worksheet,* below) . . . . . 5. _____

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Worksheet Instructions

Caution: *For a disposition due to casualty or theft, skip lines 1 and 5 and enter the amount from line 4 on Form 4684, line 20, and complete the rest of Form 4684.*

Lines 1, 2, 3a, and 3b. Enter these amounts from Schedule K-1 (Form 1065 or 1120S).

Line 3c. If you were unable to claim all of the section 179 expense deduction previously passed through to you for the property (if any), enter the smaller of line 3b or the portion of your unused carryover of section 179 expense deduction attributable to the property. Make sure you reduce your carryover of disallowed section 179 expense deduction shown on Form 4562 by the amount on line 3c.

Where To Report Amounts From Worksheet

Generally, the information from the above worksheet is reported on the lines specified below for Form 4797, Part III. However, for a disposition under the installment method, complete the lines shown below for Form 6252. For dispositions of property given up in an exchange involving like-kind property, complete the lines shown below for Form 8824.

If line 5 is a gain and the property was held more than 1 year, report the disposition as follows.

- Complete Form 4797, line 19, columns (a), (b), and (c); Form 6252, lines 1 through 4; or Form 8824, Parts I and II.
- Report the amount from line 1 above on Form 4797, line 20; Form 6252, line 5; or Form 8824, line 12 or 16.
- Report the amount from line 2 above on Form 4797, line 21; or Form 6252, line 8.
- Report the amount from line 3e above on Form 4797, line 22; or Form 6252, line 9.
- Report the amount from line 4 above on Form 4797, line 23; Form 6252, line 10; or Form 8824, line 13 or 18.
- Complete the rest of the applicable form.

If line 5 is zero or a loss and the property was held more than 1 year, report the disposition as follows. Do not report a loss on Form 6252; instead, report the disposition on the lines shown for Form 4797.

- Complete Form 4797, line 2, columns (a), (b), and (c); or Form 8824, Parts I and II.
- Report the amount from line 1 above on Form 4797, line 2, column (d); or Form 8824, line 12 or 16.
- Report the amount from line 2 above on Form 4797, line 2, column (f).
- Report the amount from line 3e above on Form 4797, line 2, column (e).
- Report the amount from line 4 above on Form 8824, line 13 or 18.
- Complete the rest of the applicable form.

If the property was held 1 year or less, report the gain or loss on the disposition as shown below. Do not report a loss on Form 6252; instead, report the disposition on the lines shown for Form 4797.

- Complete Form 4797, line 10, columns (a), (b), and (c); Form 6252, lines 1 through 4; or Form 8824, Parts I and II.
- Report the amount from line 1 above on Form 4797, line 10, column (d); Form 6252, line 5; or Form 8824, line 12 or 16.
- Report the amount from line 2 above on Form 4797, line 10, column (f); or Form 6252, line 8.
- Report the amount from line 3e above on Form 4797, line 10, column (e); or Form 6252, line 9.
- Report the amount from line 4 above on Form 6252, line 10; or Form 8824, line 13 or 18.
- Complete the rest of the applicable form.

have recaptured all of your net section 1231 losses from prior years.

If line 9 is more than zero, enter the amount from line 8 on line 12. Enter the gain from line 9 as a long-term capital gain on the Schedule D for the return you are filing.

Part II

If a transaction is not reportable in Part I or Part III and the property is not a capital asset reportable on Schedule D, report the transaction in Part II.

If you received ordinary income from a sale or other disposition of your interest in a partnership, see Pub. 541, Partnerships.

Line 10

Report other ordinary gains and losses, including gains and losses from property held 1 year or less, on this line.

Deduct the loss from a qualifying abandonment of business or investment

property on line 10. See *Abandonments* in Pub. 544 for more information.

Gain or Loss From Certain Preferred Stock

Gain or loss recognized by any "applicable financial institution" from the sale or exchange of "any applicable preferred stock" is ordinary income or loss. An applicable financial institution includes:

- A financial institution defined in section 582(c)(2), and
- A depository institution holding company defined in section 3(w)(1) of the Federal Deposit Insurance Act.

Also, for this purpose, "applicable preferred stock" is preferred stock of Federal National Mortgage Association (Fannie Mae), or the Federal Home Loan Mortgage Corporation (Freddie Mac) that was:

- Held by the applicable financial institution on September 6, 2008, or
- Sold or exchanged by the applicable financial institution after December 31, 2007, and before September 7, 2008.

In the case of a sale or exchange of applicable preferred stock after September 6, 2008, by a taxpayer that held such preferred stock on September 6, 2008, these provisions apply only where the taxpayer was an applicable financial institution at all times during the period beginning on September 6, 2008, and ending on the date of the sale or exchange of the applicable preferred stock. Therefore, any Fannie Mae or Freddie Mac preferred stock held by a taxpayer that was not an applicable financial institution on September 6, 2008, is not applicable preferred stock (even if such taxpayer subsequently became an applicable financial institution).

For guidance on preferred stock held indirectly by applicable financial institutions through partnerships and subsidiaries, see Rev. Proc. 2008-64, 2008-47 I.R.B. 1195, available at *www.irs.gov/irb/2008–47_IRB/ar12.html*.

Deferred Gain from Qualifying Electric Transmission Transaction

If you sold or exchanged qualifying electric transmission property before January 1, 2008 (before January 1, 2017, for a qualified electric utility), and elected to defer the realized gain, the deferred gain is recognized ratably over the 8-year period that began with the tax year that includes the date of the disposition. See section 451(i) for more information on making the election for qualifying transactions.

Include the applicable portion of the deferred gain for the current tax year on line 10. Enter "Deferred gain under section 451(i)" in column (a) and 1/8 of the deferred gain in column (g).

Securities or Commodities Held by a Trader Who Made a Mark-To-Market Election

Report on line 10 all gains and losses from sales and dispositions of securities or commodities held in connection with your trading business, including gains and losses from marking to market securities and commodities held at the end of the tax year (see *Traders Who Made a Mark-To-Market Election*, earlier.) Attach to your tax return a statement, using the same format as line 10, showing the details of each transaction. Separately show and identify securities or commodities held and marked to market at the end of the year. On line 10, enter "Trader—see attached" in column (a) and the totals from the statement in columns (d), (f), and (g). Also, see the instructions for line 1, earlier.

Small Business Investment Company Stock

Report on line 10 ordinary losses from the sale or exchange (including worthlessness) of stock in a small business investment company operating under the Small Business Investment Act of 1958. See section 1242.

Also attach a statement that includes the name and address of the small business investment company and, if applicable, the reason the stock is worthless and the approximate date it became worthless.

Section 1244 (Small Business) Stock

Individuals report ordinary losses from the sale or exchange (including worthlessness) of section 1244 (small business) stock on line 10.

The maximum amount that may be treated as an ordinary loss on Form 4797 is $50,000 ($100,000 if married filing jointly). Special rules may limit the amount of your ordinary loss if (a) you received section 1244 stock in exchange for property with a basis in excess of its FMV or (b) your stock basis increased because of contributions to capital or otherwise. See Pub. 550 for more details, including information on what is section 1244 (small business) stock.

Attach a computation of the loss from the sale or exchange of section 1244 property. On line 10, enter "Losses on Section 1244 (Small Business Stock)," in column (a), and enter the allowable loss in column (g). Report on Schedule D losses in excess of the maximum amount that may be treated as an ordinary loss (and all gains) from the sale or exchange of section 1244 stock.

Keep adequate records to distinguish section 1244 stock from any other stock owned in the same corporation.

Line 18a

You must complete this line if there is a gain on Form 4797, line 3; a loss on Form 4797, line 11; and a loss on Form 4684, line 35, column (b)(ii). Enter on this line the smaller of the loss on Form 4797, line 11, or the loss on Form 4684, line 35, column (b)(ii). To figure which loss is smaller, treat both losses as positive numbers. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23.

Part III

TIP *Partners and shareholders reporting a disposition of section 179 property which was separately reported to you on Schedule K-1 (Form 1065 or 1120S), see* Partners and S corporation shareholders *at the beginning of the* Specific Instructions.

Generally, for property held 1 year or less, do not complete Part III; instead use Part II. For exceptions, see the chart *Where To Make First Entry for Certain Items Reported on This Form,* earlier.

Use Part III to figure recapture of depreciation and other items that must be reported as ordinary income on the disposition of certain property. Complete lines 19 through 24 to determine the gain on the disposition of the property. If you have more than four properties to report, use additional forms. For more details on depreciation recapture, see Pub. 544.

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If the property was sold on the installment sale basis, see the Instructions for Form 6252 before completing Part III. Also, if you have both installment sales and noninstallment sales, you may want to use separate Forms 4797, Part III, for the installment sales and the noninstallment sales.

Note. If you sold or otherwise disposed of property for which you elected under section 179(f) to treat as an expense the costs of certain real property, special rules apply. See section 179(f). For special rules for determining gain or loss and determining if the basis of the property is treated as section 1245 or section 1250 property, see Pub. 544.

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Line 20

The gross sales price includes money, the FMV of other property received, and any existing mortgage or other debt the buyer assumes or takes the property subject to. For casualty or theft gains, include insurance or other reimbursement you received or expect to receive for each item. Include on this line your insurance coverage, whether or not you are submitting a claim for reimbursement.

For section 1255 property disposed of in a sale, exchange, or involuntary conversion, enter the amount realized. For section 1255 property disposed of in any other way, enter the FMV.

Line 21

Reduce the cost or other basis of the property by the amount of any enhanced oil recovery credit or disabled access credit. However, do not adjust the cost or other basis for any of the items taken into account on line 22.

Line 22

Complete the following steps to figure the amount to enter on line 22.

Step 1. Add amounts such as the following.

- Deductions allowed or allowable for depreciation (including any special depreciation allowance (see the Instructions for Form 4562)), amortization, depletion, or preproductive expenses (see *Disposition of plants* in chapter 9 of Pub. 225).
- The section 179 expense deduction.
- The commercial revitalization deduction, for buildings placed in service before 2010.
- The downward basis adjustment under section 50(c) (or the corresponding provision of prior law).
- The deduction for qualified clean-fuel vehicle property or refueling property.
- Deductions claimed under section 190, 193, or 1253(d)(2) or (3) (as in effect before the enactment of P.L. 103-66).
- The basis reduction for any qualified plug-in electric or qualified electric vehicle credit.
- The basis reduction for the employer-provided childcare facility credit.
- The deduction for qualified energy efficient commercial building property.
- The basis reduction for the alternative motor vehicle credit.
- The basis reduction for the alternative fuel vehicle refueling property credit.

Step 2. From the Step 1 total, subtract amounts such as the following.

- Any investment credit recapture amount if the basis of the property was reduced in the tax year the property was placed in service under section 50(c)(1) (or the corresponding provision of prior law). See section 50(c)(2) (or the corresponding provision of prior law).
- Any section 179 or 280F(b)(2) recapture amount included in gross income in a prior tax year because the business use of the property decreased to 50% or less.
- Any qualified clean-fuel vehicle property or refueling property deduction you were required to recapture.
- Any basis increase for qualified plug-in electric or qualified electric vehicle credit recapture.
- Any basis increase for recapture of the employer-provided childcare facility credit.
- Any basis increase for recapture of the alternative motor vehicle credit.
- Any basis increase for recapture of the alternative fuel vehicle refueling property credit.
- Any qualified disaster expense recapture.

For more information on amounts recaptured as depreciation allowed or allowable, see chapter 3 of Pub. 544.

You may have to include depreciation allowed or allowable on another asset (and refigure the basis amount for line 21) if you use its adjusted basis in determining the adjusted basis of the property described on line 19. An example is property acquired by a trade-in. See Regulations section 1.1245-2(a)(4). Also, see *Like-Kind Exchanges* under *Nontaxable Exchanges* in chapter 1 of Pub. 544.

Line 23

For section 1255 property, enter the adjusted basis of the section 126 property disposed of.

Line 25

Section 1245 property. Section 1245 property is property that is depreciable (or amortizable under section 185 (repealed), 197, or 1253(d)(2) or (3) (as in effect before the enactment of P.L. 103-66)) and is one of the following.

- Personal property.
- Elevators and escalators placed in service before 1987.
- Real property (other than property described under tangible real property below) adjusted for the following.

1. Amortization of certified pollution control facilities.
2. The section 179 expense deduction.
3. Deduction for clean-fuel vehicles and certain refueling property.
4. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.
5. Deduction for certain qualified refinery property.
6. Deduction for qualified energy efficient commercial building property.
7. Deduction for election to expense qualified advanced mine safety equipment property.
8. Amortization of railroad grading and tunnel bores if in effect before the repeal by the Revenue Reconciliation Act of 1990. (Repealed by P.L. 99-514, Tax Reform Act of 1986, section 242(a).)
9. Certain expenditures for child care facilities if in effect before the repeal by P.L. 101-508, section 11801 (a)(13). (Repealed by P.L. 101-508, Omnibus Budget Reconciliation Act of 1990, section 11801(a)(13), except with regards to deductions made prior to November 5,1990.)
10. Expenditures to remove architectural and transportation barriers to the handicapped and elderly.
11. Deduction for qualified tertiary injectant expenses.
12. Certain reforestation expenditures.

- Tangible real property (except buildings and their structural components) if it is used in any of the following ways.

1. As an integral part of manufacturing, production, or extraction

or of furnishing transportation, communications, or certain public utility services.

2. As a research facility in these activities.

3. For the bulk storage of fungible commodities (including commodities in a liquid or gaseous state) used in these activities.

- A single purpose agricultural or horticultural structure (as defined in section 168(i)(13)).
- A storage facility (not including a building or its structural components) used in connection with the distribution of petroleum or any primary petroleum product.
- Any railroad grading or tunnel bore (as defined in section 168(e)(4)).

Exceptions and limits. Special rules apply to the following.

- Gifts.
- Transfers at death.
- Certain tax-free transactions.
- Certain like-kind exchanges, involuntary conversions, etc.
- Property distributed by a partnership to a partner.
- Transfers to tax-exempt organizations where the property will be used in an unrelated business.
- Timber property.
- Dispositions of amortizable section 197 intangibles.

For more information see section 1245(b). Also, see Pub. 544.

Line 26

Section 1250 property. Section 1250 property is depreciable real property (other than section 1245 property). Generally, section 1250 recapture applies if you used an accelerated depreciation method or you claimed any special depreciation allowance, or the commercial revitalization deduction.

Section 1250 recapture does not apply to dispositions of the following MACRS property placed in service after 1986 (or after July 31, 1986, if elected). You are not required to calculate additional depreciation for these properties on line 26.

- 27.5-year (or 40-year, if elected) residential rental property (except for 27.5-year qualified New York Liberty Zone property acquired after September 10, 2001).
- 22-, 31.5-, or 39-year (or 40-year, if elected) nonresidential real property (except for 39-year qualified New York Liberty Zone property acquired after September 10, 2001, and property for which you elected to claim a commercial revitalization deduction).

ACRS property. Real property depreciable under ACRS (pre-1987 rules) is subject to recapture under section 1245, except for the following, which are treated as section 1250 property.

- 15-, 18-, or 19-year real property and low-income housing that is residential rental property.
- 15-, 18-, or 19-year real property and low-income housing that is used mostly outside the United States.
- 15-, 18-, or 19-year real property and low-income housing for which a straight line election was made.
- Low-income rental housing described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B). See the instructions for line 26b.

Exceptions and limits. See section 1250(d) for exceptions and limits involving the following.

- Gifts.
- Transfers at death.
- Certain tax-free transactions.
- Certain like-kind exchanges, involuntary conversions, etc.
- Property distributed by a partnership to a partner.
- Disposition of qualified low-income housing.
- Transfers of property to tax-exempt organizations if the property will be used in an unrelated business.
- Dispositions of property as a result of foreclosure proceedings.

Special rules. Special rules apply in the following cases.

- For additional depreciation attributable to rehabilitation expenditures, see section 1250(b)(4).
- If substantial improvements have been made, see section 1250(f).

Line 26a

Enter the additional depreciation for the period after 1975. Additional depreciation is the excess of actual depreciation (including any special depreciation allowance, or commercial revitalization deduction) over depreciation figured using the straight line method. For this purpose, do not reduce the basis under section 50(c)(1) (or the corresponding provision of prior law) to figure straight line depreciation. Also, if you claimed a commercial revitalization deduction, figure straight line depreciation using the property's applicable recovery period under section 168.

Line 26b

Generally, use 100% as the percentage for this line. However, for low-income rental housing described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B), see that section for the percentage to use.

Line 26d

Enter the additional depreciation after 1969 and before 1976. If straight line depreciation exceeds the actual depreciation for the period after 1975, reduce line 26d by the excess. Do not enter less than zero on line 26d.

Line 26f

The amount the corporation treats as ordinary income under section 291 is 20% of the excess, if any, of the amount that would be treated as ordinary income if such property were section 1245 property, over the amount treated as ordinary income under section 1250. If the corporation used the straight line method of depreciation, the ordinary income under section 291 is 20% of the amount figured under section 1245.

Line 27

Partnerships (other than electing large partnerships) skip this section. Partners must enter on the applicable lines of Part III amounts subject to section 1252 according to instructions from the partnership.

You may have ordinary income on the disposition of certain farmland held more than 1 year but less than 10 years.

See section 1252 to determine if there is ordinary income on the disposition of certain farmland for which deductions were allowed under sections 175 (soil and water conservation) and 182 (land clearing) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986 on October 22, 1986).

Gain from disposition of certain farmland is subject to ordinary income rules under section 1252 before the application of section 1231 (Part I).

Enter 100% of line 27a on line 27b except as follows.

- 80% if the farmland was disposed of within the 6th year after it was acquired.
- 60% if disposed of within the 7th year.
- 40% if disposed of within the 8th year.
- 20% if disposed of within the 9th year.

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Skip line 27 if you dispose of such farmland during the 10th or later year after you acquired it.

Line 28

If you had a gain on the disposition of oil, gas, or geothermal property placed in service before 1987, treat all or part of the gain as ordinary income. Include on line 22 of Form 4797 any depletion allowed (or allowable) in determining the adjusted basis of the property.

If you had a gain on the disposition of oil, gas, geothermal, or other mineral properties (section 1254 property) placed in service after 1986, you must recapture all expenses that were deducted as intangible drilling costs, depletion, mine exploration costs, and development costs under sections 263, 616, and 617.

Exception. Property placed in service after 1986 and acquired under a written contract entered into before September 26, 1985, and binding at all times thereafter is treated as placed in service before 1987.

Note. A corporation that is an integrated oil company completes line 28a by treating amounts amortized under section 291(b)(2) as deductions under section 263(c).

Line 28a

If the property was placed in service before 1987, enter the total expenses after 1975 that:

- Were deducted by the taxpayer or any other person as intangible drilling and development costs under section 263(c) (except previously expensed mining costs that were included in income upon reaching the producing state), and
- Would have been reflected in the adjusted basis of the property if they had not been deducted.

If the property was placed in service after 1986, enter the total expenses that:

- Were deducted under section 263, 616, or 617 by the taxpayer or any other person; and
- But for such deduction, would have been included in the basis of the property, plus
- The deduction under section 611 that reduced the adjusted basis of such property.

If you disposed of a portion of section 1254 property or an undivided interest in it, see section 1254(a)(2).

Line 29a

Use 100% if the property is disposed of less than 10 years after receipt of payments excluded from income. Use 100% minus 10% for each year, or part of a year, that the property was held over 10 years after receipt of the excluded payments. Use zero if 20 years or more.

Line 29b

If any part of the gain shown on line 24 is treated as ordinary income under sections 1231 through 1254 (for example, section 1252), enter the smaller of (a) line 24 reduced by the part of the gain treated as ordinary income under the other provision or (b) line 29a.

Part IV

Column (a)

If you took a section 179 expense deduction for property placed in service after 1986 (other than listed property, as defined in section 280F(d)(4)) and the business use of the property decreased to 50% or less this year, complete column (a) of lines 33 through 35 to figure the recapture amount.

Column (b)

If you have listed property that you placed in service in a prior year and the business use decreased to 50% or less this year, figure the amount to be recaptured under section 280F(b)(2). Complete column (b), lines 33 through 35. See Pub. 463, Travel, Entertainment, Gift, and Car Expenses, for more details on recapture of excess depreciation.

Note. If you have more than one property subject to the recapture rules, figure the recapture amounts separately for each property. Show these calculations on a separate statement and attach it to your tax return.

Line 33

In column (a), enter the section 179 expense deduction you claimed when the property was placed in service. In column (b), enter the depreciation allowable on the property in prior tax years (plus any section 179 expense deduction you claimed when the property was placed in service).

Line 34

In column (a), enter the depreciation that would have been allowable on the section 179 property from the year the property was placed in service through (and including) the current year. See Pub. 946, How To Depreciate Property.

In column (b), enter the depreciation that would have been allowable if the property had not been used more than 50% in a qualified business. Figure the depreciation from the year it was placed in service up to (but not including) the current year. See Pub. 463 and Pub. 946.

Line 35

Subtract line 34 from line 33 and enter the recapture amount as “other income” on the same form or schedule on which you took the deduction. For example, if you took the deduction on Schedule C (Form 1040), report the recapture amount as other income on Schedule C (Form 1040).

Note. If you filed Schedule C or F (Form 1040) and the property was used in both your trade or business and for the production of income, the portion of the recapture amount attributable to your trade or business is subject to self-employment tax. Allocate the amount on line 35 to the appropriate schedules.

Be sure to increase your basis in the property by the recapture amount.

DRAFT AS OF August 21, 2010

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

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Recordkeeping	33 hr., 14min.
Learning about the law or the form	2 hr., 52min.
Preparing and sending the form to the IRS	3 hr., 33 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.