

Gains and Losses From Sales or Exchanges of Property

1968

Name of estate or trust

Part I—CAPITAL ASSETS—Short-Term Capital Gains and Losses—Assets Held Not More Than 6 Months

a. Kind of property (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
1						
2 Enter your share of net short-term gain (or loss) from partnerships and other fiduciaries						
3 Enter unused short-term capital loss carryover from preceding taxable years (attach statement)						
4 Net short-term gain (or loss) from lines 1, 2, and 3. Enter here and on line 10 below						

Long-Term Capital Gains and Losses—Assets Held More Than 6 Months

5						
6 Enter the full amount of your share of net long-term gain (or loss) from partnerships, other fiduciaries, etc.						
7 Enter unused long-term capital loss carryover from preceding taxable years (attach statement)						
8 Capital gain dividends						
9 Net long-term gain (or loss) from lines 5, 6, 7, and 8. Enter here and on line 11 below						

CAPITAL GAINS AND LOSSES

	1. Beneficiaries	2. Fiduciary	3. Total
10 Net short-term gain or loss from line 4, above			
11 Net long-term gain or loss from line 9, above			
12 Total net gain or loss			

Enter on line 6, page 1, Form 1041, the net gain shown on line 12, column 3, above. If net loss on line 12, column 3, above, enter as loss on line 6, page 1, Form 1041, whichever of the following is the smallest amount: (i) the amount of the loss, (ii) taxable income computed without regard to capital gains and losses and the deduction for exemption, or (iii) \$1,000.

COMPUTATION OF FIDUCIARY'S CAPITAL GAINS DEDUCTION

13(a) Long-term capital gain shown on line 11, column 3, above	
(b) Short-term capital loss shown on line 10, column 3, above	
(c) Excess of line 13(a) over line 13(b), above	
(d) Long-term capital gains taxable to beneficiaries	
(e) Balance (line 13(c) minus line 13(d)). (Enter 50% of this amount on line 20, page 1, Form 1041.)	

Part II—GAIN FROM DISPOSITION OF DEPRECIABLE PROPERTY UNDER SECTIONS 1245 AND 1250—Assets Held More Than 6 Months—Where double headings appear, use the first heading for section 1245 and the second heading for section 1250.

a. Kind of property (if necessary, attach statement of descriptive details not shown below—write 1245 or 1250 to indicate type of asset)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale														
14																		
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">f. Depreciation allowed (or allowable) since acquisition</th> <th rowspan="2">g. Adjusted basis (e less sum of f-1 and f-2)</th> <th rowspan="2">h. Total gain (d less g)</th> <th rowspan="2">i. Ordinary gain (lesser of f-2 or h) OR (see instructions)</th> <th rowspan="2">j. Other gain (h less i)</th> </tr> <tr> <th>f-1. Prior to January 1, 1962 OR Prior to January 1, 1964</th> <th>f-2. After December 31, 1961 OR After December 31, 1963</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>					f. Depreciation allowed (or allowable) since acquisition		g. Adjusted basis (e less sum of f-1 and f-2)	h. Total gain (d less g)	i. Ordinary gain (lesser of f-2 or h) OR (see instructions)	j. Other gain (h less i)	f-1. Prior to January 1, 1962 OR Prior to January 1, 1964	f-2. After December 31, 1961 OR After December 31, 1963						
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15 Total ordinary gain. Enter here and in column g, line 23, Part III																		
16 Total other gain. Enter here and in column g, line 5, Part I; however, if the gains do not exceed the losses when this amount is combined with other gains and losses from section 1231 property, enter the total of column j in column g, line 23, Part III																		

COMPUTATION OF ALTERNATIVE TAX

If fiduciary had a net long-term capital gain or an excess of net long-term capital gain over net short-term capital loss shown in column 2, line 12, and line 23, page 1, Form 1041, exceeds \$26,000, it may be to his advantage to make the alternative tax computation.

17	Amount from line 23, page 1, Form 1041 . . . . .	.....
18	50% of amount on line 13(e) . . . . .	.....
19	Balance (line 17 minus line 18) . . . . .	.....
20	Tax on amount on line 19 (see tax rate schedule) . . . . .	.....
21	50% of amount on line 18, above . . . . .	.....
22	Alternative tax (line 20 plus line 21); if less than line 24, page 1, Form 1041, enter this amount on line 25, page 1, Form 1041 . . . . .	.....

Part III—PROPERTY OTHER THAN CAPITAL ASSETS

a. Kind of property (if necessary, attach statement of descriptive details not shown below)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Depreciation allowed (or allowable) since acquisition	f. Cost or other basis, cost of subsequent improvements (if not purchased, attach explanation) and expense of sale	g. Gain or loss (d plus e less f)
23	.....	.....	.....	.....	.....	.....
24	Net gain (or loss). Enter here and on line 7, page 1, Form 1041					

INSTRUCTIONS
(References are to the Internal Revenue Code)

Gains and losses from sales and exchanges of capital assets and other property.—In computing gross income no distinction is made between gains and losses allocable to income account and those allocable to corpus account.

"Capital assets" defined.—The term "capital assets" means property held by the estate or trust (whether or not connected with the trade or business) but does NOT include—

- (a) stock in trade or other property of a kind properly includible in inventory if on hand at the close of the taxable year;
- (b) property held by the taxpayer primarily for sale to customers in the ordinary course of trade or business;
- (c) property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 167;
- (d) real property used in the trade or business of the taxpayer;
- (e) certain government obligations issued on or after March 1, 1941, at a discount, payable without interest and maturing at a fixed date not exceeding one year from date of issue;
- (f) certain copyrights, literary, musical, or artistic compositions, etc.; or
- (g) accounts and notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property referred to in (a) or (b) above.

Gains and losses from transactions described in section 1231 (see below) shall be treated as gains and losses from the sale or exchange of capital assets held for more than 6 months if the total of these gains exceeds the total of these losses. If the total of these gains does not exceed the total of these losses, such gains and losses shall not be treated as gains and losses from the sale or exchange of capital assets. Thus, in the event of a net gain, all these transactions should be entered in the "long-term capital gains and losses" portion of Schedule D. In the event of a net loss, all these transactions should be entered in the "property other than capital assets" portion of Schedule D, or in other applicable schedules on Form 1041.

Section 1231 deals with gains and losses arising from—

(a) sale, exchange, or involuntary conversion, of land (including in certain cases unharvested crops sold with the land) and depreciable property if they are used in the trade or business and held for more than 6 months,

(b) sale, exchange, or involuntary conversion of livestock (but not including poultry) held for draft, breeding, or dairy purposes and held for 1 year or more,

(c) the cutting of timber or the disposal of timber, coal, or domestic iron ore to which section 631 applies, and

(d) the involuntary conversion of capital assets held more than 6 months.

See sections 1231 and 631 for specific conditions applicable.

Gain from disposition of depreciable property under sections 1245 and 1250—Assets held more than 6 months (Part II).—(Report any gain from such property held for 6 months or less in Part III.) Except as provided below, section 1245 property means depreciable (a) personal property (other than livestock) including intangible personal property; and (b) tangible real property (except for buildings and their structural components) if used as an integral part of manufacturing, production, or extraction, or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or used as a research or storage facility in connection with these activities; and (c) elevators and escalators.

Except as provided below, section 1250 property means depreciable real property (other than section 1245 property).

See sections 1245 (b) and 1250 (d) for exceptions and limitations involving: (a) disposition by gift; (b) transfers at death; (c) certain tax-free transactions; (d) like kind exchanges, involuntary conversions; (e) sales or exchanges to effectuate FCC policies and exchanges to comply with S.E.C. orders; (f) property distributed by a partnership to a partner; and (g) disposition of principal residence (section 1250 only).

Column f of Part II.—In computing depreciation allowed or allowable for elevators or escalators, enter in column f-1 depreciation prior to July 1, 1963, and in column f-2 depreciation after June 30, 1963.

Column i of Part II, section 1250 property only.—If held for more than 6 months, but not more than 1 year, enter the smaller of (1) column h, or (2) column f-2. If held for more than 1 year, enter the result of multiplying the smaller of (1) column h, or (2) column f-2 less the amount of depreciation computed for the same period using the straight line method, by the percentage obtained by subtracting from 100%, one percentage point for each full month the property was held in excess of 20 months. Where substantial improvements have been made within the preceding 10 years, see section 1250 (f).

(Instructions continued on reverse of duplicate)

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1968

Name of estate or trust

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INSTRUCTIONS—(Continued from reverse side of the original)

Basis.—In determining gain or loss for property acquired after February 28, 1913, use cost, except where property was acquired by bequest, gift, tax-free exchange, involuntary conversion, or wash sale of stock. See sections 1014, 1015, 1031, 1033, and 1091, respectively. If the amount shown as the basis is other than actual cash cost of the property sold or exchanged, full details must be furnished regarding the acquisition of the property.

Limitation on allowable capital losses.—If the sum of all the capital losses exceeds the sum of all the capital gains (all such gains and losses to be taken into account at 100 percent), then such capital losses shall be allowed as a deduction only to the extent of (1) current year capital gains plus (2) the smaller of either the taxable income of the current year or \$1,000. For this purpose taxable income is computed without regard to capital gains or losses or the deduction for exemption. The excess of such allowable losses over the sum of items (1) and (2) above is called "capital loss carryover." Any such carryover loss may be carried forward indefinitely. Capital losses retain their character as either short-term or long-term when carried over to the succeeding year. To the extent the net capital losses are deducted from ordinary income, the net short-term capital loss must be considered as deducted first.

Losses in transactions between certain persons.—No deduction is allowable for losses from sales or exchanges of property directly or indirectly between (a) members of a family, (b) a corporation and an individual (or a fiduciary) owning more than 50 percent of the corporation's stock (liquidations excepted), (c) a grantor and fiduciary of any trust, (d) a fiduciary and a beneficiary of the same trust, (e) a fiduciary and a fiduciary or beneficiary of another trust created by the same grantor; or (f) an individual and a tax-exempt organization controlled by the individual or his family.

Redemption of stock to pay death taxes.—Section 303 deals with redemption of stock (to pay death taxes and certain expenses) included in an estate. List and identify such stock in the appropriate section and state the name of the decedent and the District Director's office in which the estate tax return was filed.

Allocation of capital gains and losses.—On line 10, enter in column 1 the amount of short-term gain or loss allocable to the beneficiary or beneficiaries. This includes (a) any amount (whether or not paid, credited, or required to be distributed to beneficiaries) which is a

short-term capital gain under the Internal Revenue Code but which is an item of trust income under the terms of the governing instrument and local law, and (b) any amount which is a short-term capital gain under the Internal Revenue Code and which is allocable to corpus under the terms of the governing instrument and local law, but which is, nevertheless, paid, credited, or required to be distributed to any beneficiary. However, any capital gains paid, or permanently set aside for the purpose specified in section 642 (c) should be entered in column 2.

Include on line 10, column 1, only those short-term capital losses which are taken into account in determining the amount of gain from the sale or exchange of capital assets which is paid, credited, or required to be distributed to any beneficiary during the taxable year. Enter in column 2 the amount of the short-term gain or loss allocable to the fiduciary. The amount in column 3 should be the same as the amount shown on line 4.

The long-term gain or loss is treated on line 11 just as short-term gain or loss is treated on line 10.

Fiduciary's capital gains deduction.—Section 1202 provides a special rule for the deduction for long-term capital gains of an estate or trust. The deduction is computed by excluding that portion of the gains from sales or exchanges of capital assets which is includable in the income of the beneficiaries. Lines 13 (a) through 13 (e) provide for the computation of long-term capital gains allocable to the fiduciary for the purpose of computing this deduction.

Capital gains dividends and undistributed capital gains of regulated investment companies.—Report in Schedule D, as long-term capital gains, any amount which a regulated investment company advises you is (a) a capital gain dividend, or (b) your share of the company's undistributed capital gains. Credit should be claimed on line 36, page 1, Form 1041, for 25 percent of (b), since such amount represents the tax imposed on a regulated investment company's undistributed capital gains which is deemed paid by the shareholders. Copy B of Form 2439 should be attached to page 1 of the fiduciary return to substantiate the credit. See section 852 and the regulations thereunder.

If the fiduciary makes a distribution to beneficiaries with respect to an "undistributed capital gain" it shall be treated by the fiduciary, and included in income of the beneficiaries, in the same manner as if the distribution to the beneficiaries resulted from a cash distribution by the regulated investment company.