



Instructions for Schedule D (Form 1065)

Capital Gains and Losses

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

Future Developments

For the latest information about developments related to Schedule D (Form 1065) and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form1065.

What's New

Form 8949. Many transactions that, in previous years, would have been reported on Schedule D or Schedule D-1 must be reported on Form 8949, Sales and Other Dispositions of Capital Assets. For 2012, Schedule D (Form 1065) filers will not list separate capital asset transactions on Schedule D (Form 1065) or Schedule D-1 (Form 1065). Instead, Schedule D (Form 1065) filers that have transactions that must be reported on line 1, 2, 3, 8, 9, or 10, must complete Form 8949 before completing line 1, 2, 3, 8, 9, or 10. See the Instructions for Form 8949.

Form 8865. Filers of Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, will now use Schedule D (Form 1065) to report capital gains and losses.

General Instructions

Purpose of Schedule

Use Schedule D (Form 1065) to report:

- The overall capital gains and losses from transactions reported on Form 8949, Sales and Other Dispositions of Capital Assets.
- Capital gains from installment sales from Form 6252, Installment Sale Income.
- Capital gains and losses from like-kind exchanges from Form 8824, Like-Kind Exchanges (and section 1043 conflict-of-interest sales).
- Partnership's share of net capital gains and losses, including specially allocated capital gains and losses, from partnerships, estates, and trusts.
- Capital gain distributions.

Note. For more information, see Pub. 544, Sales and Other Dispositions of Assets, and Instructions for Form 8949.

Other Forms The Partnership May Have To File

Use Form 4684, Casualties and Thefts, to report involuntary conversions of property due to casualty or theft.

Use Form 4797, Sales of Business Property, to report:

- Sales or exchanges of property used in a trade or business.
- Sales or exchanges of depreciable or amortizable property.
- Sales or other dispositions of securities or commodities held in connection with a trading business, if the partnership made a mark-to-market election (see *Mark-to-market accounting method* in the Instructions for Form 1065).
- Involuntary conversions (other than from casualties or thefts).
- The disposition of noncapital assets (other than inventory or property held primarily for sale to customers in the ordinary course of a trade or business).

Use Form 6781, Gains and Losses From Section 1256 Contracts and Straddles, to report gains and losses from section 1256 contracts and straddles. If there are limited partners, see section 1256(e)(4) for the limitation on losses from hedging transactions.

What Are Capital Assets?

Each item of property the partnership held (whether or not connected with its trade or business) is a capital asset except:

- Stock in trade or other property included in inventory or held mainly for sale to customers.
- Accounts or notes receivable acquired in the ordinary course of the trade or business for services rendered or from the sale of stock in trade or other property held mainly for sale to customers.
- Depreciable or real property used in the trade or business, even if it is fully depreciated.
- Certain copyrights; literary, musical, or artistic compositions; letters or memoranda; or similar property. See section 1221(a)(3).

- U.S. Government publications, including the Congressional Record, that the partnership received from the Government, other than by purchase at the normal sales price, or that the partnership got from another taxpayer who had received it in a similar way, if the partnership's basis is determined by reference to the previous owner.
- Certain commodities derivative financial instruments held by a dealer. See section 1221(a)(6).
- Certain hedging transactions entered into in the normal course of the trade or business. See section 1221(a)(7).
- Supplies regularly used in the trade or business.

Items for Special Treatment

- Transactions by a securities dealer. See sections 475 and 1236, and Rev. Rul. 97-39, 1997-39 IRB 4.
- Bonds and other debt instruments. See Pub. 550, Investment Income and Expenses.
- Certain real estate subdivided for sale that may be considered a capital asset. See section 1237.
- Gain on the sale of depreciable property to a more than 50%-owned entity, or to a trust in which the partnership is a beneficiary, is treated as ordinary gain. See section 1239.
- Liquidating distributions from a corporation. See Pub. 550 for details.
- Gain on the sale or exchange of stock in certain foreign corporations. See section 1248.
- Gain or loss on options to buy or sell, including closing transactions. See Pub. 550 for details.
- Gain or loss from a short sale of property. See Pub. 550 for details.
- Transfer of property to a political organization if the fair market value (FMV) of the property exceeds the partnership's adjusted basis in such property. See section 84.
- Any loss on the disposition of converted wetland or highly erodible cropland that is first used for farming after March 1, 1986, is reported as a long-term capital loss on Form 8949/Schedule D, but any gain on such a disposition is reported as ordinary income on Form 4797. See section 1257 for details.

- Transfer of partnership assets and liabilities to a newly formed corporation in exchange for all of its stock. See Rev. Rul. 84-111, 1984-2 C.B. 88.
- Disposition of foreign investment in a U.S. real property interest. See section 897.
- Any loss from a sale or exchange of property between the partnership and certain related persons is not allowed, except for distributions in a complete liquidation of a corporation. See sections 267 and 707(b) for details.
- Any loss from securities that are capital assets that become worthless during the year is treated as a loss from the sale or exchange of a capital asset on the last day of the tax year.
- Nonrecognition of gain on sale of stock to an employee stock ownership plan (ESOP) or an eligible cooperative. See section 1042 and Temporary Regulations section 1.1042-1T for rules under which the partnership may elect not to recognize gain from the sale of certain stock to an ESOP or an eligible cooperative.
- A nonbusiness bad debt must be treated as a short-term capital loss and can be deducted only in the year the debt becomes totally worthless. See Pub. 550 for more details.
- Any loss from a wash sale of stock or securities (including contracts or options to acquire or sell stock or securities) cannot be deducted unless the partnership is a dealer in stock or securities and the loss was sustained in a transaction made in the ordinary course of the partnership's trade or business. A wash sale occurs if the partnership acquires (by purchase or exchange), or has a contract or option to acquire, substantially identical stock or securities within 30 days before or after the date of the sale or exchange. See section 1091 for more information. Report a wash sale transaction on Form 8949, Part I or II (with the appropriate box checked), depending on how long you owned the stock or securities. Enter "W" in column (f) and enter as a positive number in column (g) the amount of the loss not allowed. Complete all remaining columns. See the Instructions for Form 8949.
- Gain from installment sales. If the partnership sold property at a gain and it will receive a payment in a tax year after the year of sale, it generally must report the sale on the installment method unless it elects not to. However, the installment method may not be used to report sales of stock or securities traded on an established securities market. Use Form 6252 to report the sale on the installment method. Also use Form 6252 to report any payment received during the tax year from a sale made in an earlier year that was reported on the installment method.

If the partnership wants to elect out of the installment method for installment gain that is not specially allocated among the partners, it must report the full amount of the gain on Form 8949 on a timely filed return (including extensions) for the year of the sale.

If the partnership wants to elect out of the installment method for installment gain that is specially allocated among the partners, it must do the following on a timely filed return (including extensions):

1. For a short-term capital gain, report the full amount of the gain on Schedule K, line 8 or 11.

For a long-term capital gain, report the full amount of the gain on Schedule K, line 9a or 11. Report the collectibles (28%) gain on Schedule K, line 9b.

2. Enter each partner's share of the full amount of the gain on Schedule K-1, box 8 or 9a, or in box 11 using code F, whichever applies. Report the collectibles (28%) gain on Schedule K-1, box 9b.

If the partnership filed its original return on time without making the election, it may make the election on an amended return filed no later than 6 months after the due date of the return (excluding extensions). Write "Filed pursuant to section 301.9100-2" at the top of the amended return.

- A sale or other disposition of an interest in a partnership owning unrealized receivables or inventory items may result in ordinary gain or loss. See Pub. 541, Partnerships, for more details.
- Gain from certain constructive ownership transactions. Gain in excess of the gain that would have been recognized if the partnership had held a financial asset directly during the term of a derivative contract must be treated as ordinary income. See section 1260 for details.
- Gain from the sale of collectibles. Report any collectibles (28%) gain (loss) included on lines 8 through 14 on line 9b of Schedule K (and each partner's share in box 9b of Schedule K-1). A collectibles (28%) gain (loss) is any long-term gain or deductible long-term loss from the sale or exchange of a collectible that is a capital asset.

Collectibles include works of art, rugs, antiques, metals (such as gold, silver, and platinum bullion), gems, stamps, coins, alcoholic beverages, and certain other tangible property.

Report any 28% gain or loss from a sale or exchange of a collectible on Form 8949, Part II (with the appropriate box checked). See the Instructions for Form 8949.

Also include gain (but not loss) from the sale or exchange of an interest in a

partnership or trust held more than 1 year and attributable to unrealized appreciation of collectibles. For details, see Regulations section 1.1(h)-1. Also, attach the statement required under Regulations section 1.1(h)-1(e).

Special rules for traders in securities.

Traders in securities are engaged in the business of buying and selling securities for their own account. To be engaged in business as a trader in securities:

- The partnership must seek to profit from daily market movements in the prices of securities and not from dividends, interest, or capital appreciation.
- The partnership's trading activity must be substantial.
- The partnership must carry on the activity with continuity and regularity.

The following facts and circumstances should be considered in determining if a partnership's activity is a business:

- Typical holding periods for securities bought and sold.
- The frequency and dollar amount of the partnership's trades during the year.
- The extent to which the partners pursue the activity to produce income for a livelihood.
- The amount of time devoted to the activity.

Like an investor, a trader must report each sale of securities (taking into account commissions and any other costs of acquiring or disposing of the securities) on Form 8949/Schedule D or an attached statement containing all the same information for each sale in a similar format. However, if a trader made the mark-to-market election (see *Mark-to-market accounting method* in the Instructions for Form 1065), each transaction is reported in Part II of Form 4797 instead of Form 8949/Schedule D.

Regardless of whether a trader reports its gains and losses on Form 8949/Schedule D or Form 4797, the gain or loss from the disposition of securities is not taken into account when figuring net earnings from self-employment on Schedules K and K-1. See section 1402(i) for an exception that applies to section 1256 contracts.

The limitation on investment interest expense that applies to investors does not apply to interest paid or incurred in a trading business. A trader reports interest expense and other expenses (excluding commissions and other costs of acquiring or disposing of securities) from a trading business on page 1 of Form 1065.

A trader also may hold securities for investment. The rules for investors generally will apply to those securities. Allocate interest and other expenses between the partnership's trading business and its investment securities.

Investment interest expense is reported on line 13b of Schedule K and in box 13 of Schedule K-1 using code H.

Constructive sale treatment for certain appreciated positions. Generally, the partnership must recognize gain (but not loss) on the date it enters into a constructive sale of any appreciated position in stock, a partnership interest, or certain debt instruments as if the position were disposed of at FMV on that date.

The partnership is treated as making a constructive sale of an appreciated position when it (or a related person, in some cases) does one of the following.

- Enters into a short sale of the same or substantially identical property (that is, a "short sale against the box.")
- Enters into an offsetting notional principal contract relating to the same or substantially identical property.
- Enters into a futures or forward contract to deliver the same or substantially identical property.
- Acquires the same or substantially identical property (if the appreciated position is a short sale, offsetting notional principal contract, or a futures or forward contract).

Exception. Generally, constructive sale treatment does not apply if:

- The partnership closed the transaction before the end of the 30th day after the end of the tax year in which it was entered into,
- The partnership held the appreciated position to which the transaction relates throughout the 60-day period starting on the date the transaction was closed, and
- At no time during that 60-day period was the partnership's risk of loss reduced by holding certain other positions.

For details and other exceptions to these rules, see Pub. 550.

Rollover of gain from qualified stock.

If the partnership sold qualified small business stock (defined below) it held for more than 6 months, it may postpone gain if it purchased other qualified small business stock during the 60-day period that began on the date of the sale. The partnership must recognize gain to the extent the sale proceeds exceed the cost of the replacement stock. Reduce the basis of the replacement stock by any postponed gain.

If the partnership chooses to postpone gain, report the sale on Form 8949, Part I or II (with the appropriate box checked), as you would if you were not making the election. Then enter "R" in column (f). Enter the amount of the postponed gain as a negative number (in parentheses) in column (g). See the Instructions for Form 8949.

Attach a statement to Form 1065 that (a) identifies the replacement qualified small business stock, (b) shows the computation of the adjustment to the partnership's basis in the replacement stock for the amount of any postponed gain under section 1045, and (c) shows the dates on which the replacement stock was acquired by the partnership.



The partnership also must separately state the amount of the gain rolled over on qualified stock under section 1045 on Form 1065, Schedule K, line 11. Each partner must determine if he or she qualifies for the rollover at the partner level or if he or she wants to opt out of the section 1045 election. Also, the partnership must separately state on that line any gain that would qualify for the section 1045 rollover at the partner level instead of the partnership level (because a partner was entitled to purchase replacement stock) and any gain on qualified stock that could qualify for an exclusion under section 1202.

To be qualified small business stock, the stock must meet all of the following tests.

- It must be stock in a C corporation (that is, not S corporation stock).
- It must have been originally issued after August 10, 1993.
- As of the date the stock was issued, the corporation was a qualified small business. A qualified small business is a domestic C corporation with total gross assets of \$50 million or less (a) at all times after August 9, 1993, and before the stock was issued and (b) immediately after the stock was issued. Gross assets include those of any predecessor of the corporation. All corporations that are members of the same parent-subsidiary controlled group are treated as one corporation.
- The partnership must have acquired the stock at its original issue (either directly or through an underwriter), either in exchange for money or other property or as pay for services (other than as an underwriter) to the corporation. In certain cases, the partnership may meet the test if it acquired the stock from another person who met this test (such as by gift or at death) or through a conversion or exchange of qualified business stock by the holder.
- During substantially all the time the partnership held the stock:

1. The corporation was a C corporation,
2. At least 80% of the value of the corporation's assets were used in the active conduct of one or more qualified businesses (defined below), and

3. The corporation was not a foreign corporation, domestic international sales corporation (DISC), former DISC, corporation that has made (or that has a subsidiary that has made) a section 936 election, regulated investment company (RIC), real estate investment trust (REIT), real estate mortgage investment conduit (REMIC), financial asset securitization investment trust (FASIT), or cooperative.

Note. A specialized small business investment company (SSBIC) is treated as having met test 2 above.

A qualified business is any business other than the following.

- One involving services performed in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, or brokerage services.
- One whose principal asset is the reputation or skill of one or more employees.
- Any banking, insurance, financing, leasing, investing, or similar business.
- Any farming business (including the raising or harvesting of trees).
- Any business involving the production of products for which percentage depletion can be claimed.
- Any business of operating a hotel, motel, restaurant, or similar business.

Exclusion of gain from qualified community assets. If the partnership sold or exchanged a qualified community asset acquired after 2001, and before 2010, and held for more than 5 years, it can exclude any qualified capital gain. The exclusion applies to an interest in, or property of, certain qualified community assets.

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, but does not include any of the following.

- 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 qualified community business.
- 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 on qualified community assets and special rules.

How to report. Report the sale or exchange on Form 8949, Part II (with the appropriate box checked), as you would if you were not taking the exclusion. Enter "X" in column (f) and enter the amount of the exclusion as a negative number (in parentheses) in column (g). See the Instructions for Form 8949.

Exclusion of gain from DC Zone assets. If the partnership sold or exchanged a District of Columbia Enterprise Zone (DC Zone) asset that it held for more than 5 years, it may be able to exclude the qualified capital gain. The DC Zone asset must have been acquired after 1997, and before 2012, to qualify as an asset for which the partnership may be able to take the exclusion. The sale or exchange of DC Zone capital assets reported on Form 8949/Schedule D includes:

- Stock in a domestic corporation that was a DC Zone business.
- Interest in a partnership that was a DC Zone business.

Report the sale or exchange of property used in the partnership's DC Zone business on Form 4797.

Gains not qualified for exclusion.

The following gains do not qualify for the exclusion of gain from DC Zone assets.

- Gain on the sale of an interest in a partnership, which is a DC Zone business, attributable to unrecaptured section 1250 gain. See the instructions for line 9c of Schedule K for information on how to report unrecaptured section 1250 gain.

- Gain on the sale of an interest in a partnership or S corporation attributable to real property or an intangible asset which is not an integral part of the DC Zone business.
- 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 on DC Zone assets and special rules.

How to report. Report the sale or exchange on Form 8949, Part II (with the appropriate box checked), as you would if you were not taking the exclusion. Enter "X" in column (f) and enter the amount of the exclusion as a negative number (in parentheses) in column (g). See the Instructions for Form 8949.

Specific Instructions

Complete all necessary pages of Form(s) 8949 before you complete line 1, 2, 3, 8, 9, or 10 of Schedule D.

Rounding Off to Whole Dollars

You can round cents to whole dollars on your Schedule D. If you do round cents to whole dollars, you must round all amounts. To round, drop cent amounts under 50 and increase cent amounts over 49 to the next dollar. For example, \$1.49 becomes \$1 and \$1.50 becomes \$2.

If you have to add two or more amounts to figure the amount to enter on a line, include cents when adding the amounts and round only the total.

Lines 1, 2, 3, 8, 9, and 10, Column (h)—Gain or Loss

Figure gain or loss on each line. First, subtract cost or other basis (column (e))

from proceeds/sales price (column (d)). Then combine the result with any adjustments in column (g). Enter the gain or loss in column (h). Enter negative amounts in parentheses.

Example 1—gain. Column (d) is \$6,000 and column (e) is \$2,000. Enter \$4,000 in column (h).

Example 2—loss. Column (d) is \$6,000 and column (e) is \$8,000. Enter (\$2,000) in column (h).

Example 3—adjustment. Column (d) is \$6,000, column (e) is \$2,000, and column (g) is (\$1,000). Enter \$3,000 in column (h).

Lines 6 and 13. Capital Gains (Losses) From Other Partnerships, Estates, and Trusts

See the Schedule K-1 or other information supplied to you by the other partnership, estate, or trust.

Line 14. Capital Gain Distributions

On line 14 report the total amount of (a) capital gain distributions and (b) the partnership's share of undistributed capital gains from a RIC or REIT. Report the partnership's share of taxes paid on undistributed capital gains by a RIC or REIT on a statement attached to Form 1065 for Schedule K, line 15f (and each partner's share in box 15 of Schedule K-1 using code H).