1990

Department of the Treasury
Internal Revenue Service

Instructions for Form 4797

Sales of Business Property

(Also, Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F)

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

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 this 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.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	30 hrs., 37 min.
Learning about the law or the form	11 hrs., 17 min.
Preparing the form	16 hrs., 56 min.
Copying, assembling, and sending the form to IRS	1 hr., 20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the IRS and the Office of Management and Budget, at the addresses listed in the Instructions of the tax return with which this form is filed.

Purpose of Form

Use Form 4797 to report the following:

- The sale or exchange of trade or business property; depreciable and amortizable property; oil, gas, geothermal, or other mineral properties; and section 126 property.
- The involuntary conversion (from other than casualty or theft) of trade or business property and capital assets held in a trade or business, or a transaction entered into for profit.
- Disposition of other noncapital assets.
- Recapture of section 179 deductions for partners and S corporation shareholders from property dispositions by partnerships and S corporations.
- The computation of recapture amounts under sections 179 and 280F when the business use of section 179 or 280F property drops to 50% or less.

Other Forms To Use.—Use **Form 4684,** Casualties and Thefts, to report involuntary conversions from casualties and thefts. If you sold property on which you claimed investment credit, get **Form 4255,** Recapture of Investment Credit, to see if you must recapture some or all of the credit.

Special Rules

Exchange of "Like-Kind" Property.—A "like-kind exchange" occurs when you exchange business or investment property for property of like kind. Report on Form 4797 the exchange of like-kind property, even if no gain or loss is recognized. Also complete and attach to your return new **Form 8824,** Like-Kind Exchanges, for each exchange.

On Form 4797, write "From Form 8824" for the description of the property, and enter the gain or loss from Form 8824, if any. Also, write in the top margin of Form 4797 "Like-Kind Exchange" or, if one or more of the exchanges involved a related party, write "Related Party Like-Kind Exchange." See Form 8824 and its instructions for details.

Recapture of Preproductive Expenses.—If you elected out of the uniform capitalization rules of section 263A, any plant that you produce is treated as section 1245 property. (Before January 1, 1989, this election was available for both plants and animals.) Any gain from the disposition of such property is ordinary income up to the total amount of the deductions that would have been required to be capitalized for that plant except for the election. You can use the farm-price or unit-livestock method to determine the deductions that otherwise would have been capitalized in figuring the gain that is ordinary income. Enter the recapture amount taxed as ordinary income on line 22. Get **Pub. 225,** Farmer's Tax Guide, for more details.

If you have revoked a previous election to deduct preproductive period expenses for animals, the recapture rules will apply when you dispose of the property. See Pub. 225 and the Instructions for **Schedule F** (Form 1040) for details.

Involuntary Conversion of Property.— You may not have to pay tax on a gain from an involuntary or compulsory conversion of property. Get Pub. 544 for details.

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 Instructions for **Form 6198,** At-Risk Limitations. Also get **Pub. 925,** Passive Activity and At-Risk Rules. Losses from passive activities are first subject to the at-risk rules and then the passive activity rules.

Examples of Items To Be Reported on This Form—Where To Make First Entry

Below are common examples of items to be reported on this form. Columns (b) and (c) show where to make the first entry on Form 4797. (a)	Held 1 year or less (b)	Held more than 1 year (c)
1 Depreciable 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 residential rental 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 Cattle and horses used in a trade or business for draft, breeding, dairy, or sporting purposes:		
a Held for less than 24 months from acquisition date, sold at a gain or loss	Part II	Part II
b Held for 24 months or more from acquisition date:		
(1) Sold at a gain	Not applicable	Part III (1245)
(2) Sold at a loss	Not applicable	Part I
(3) Raised cattle and horses sold at a gain	Not applicable	Part I
4 Livestock other than cattle and horses used in a trade or business for draft, breeding, dairy, or sporting purposes:		
a Held less than 12 months from acquisition date, sold at a gain or loss	Part II	Part II
b Held for 12 months or more from acquisition date:		
(1) Sold at a gain	Part II	Part III (1245)
(2) Sold at a loss	Part II	Part I
(3) Raised livestock sold at a gain	Part II	Part I
5 Farmland held less than 10 years upon which soil, water, and/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
6 Disposition of cost-sharing payment property described in section 126	Part III (1255)	Part III (1255)

Passive Loss Limitations.—If you report a loss on an asset used in a passive activity, use **Form 8582,** Passive Activity Loss Limitations, to see how much loss is allowed before entering it on Form 4797. Gains from assets used in a passive activity should be reported on Form 4797 but also used on Form 8582.

Unused passive activity credits are not allowable 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. No basis adjustment may be elected on a partial disposition of your interest in an activity. Get Pub. 925 for details.

Transfer of Appreciated Property to Political Organizations.—Treat a transfer of property to a political organization as a sale of property on the date of transfer if the property's fair market value when transferred is more than your adjusted basis. Apply the ordinary income or capital gains provisions as if a sale actually occurred. See section 84.

Allocation of Purchase Price.—If you acquire or dispose of assets that constitute a trade or business, the buyer and seller must allocate the total purchase price using the "residual method" and must file **Form 8594,** Asset Acquisition Statement.

Form 1099-A, Information Return for Acquisition or Abandonment of Secured Property.—If you receive a Form 1099-A from your lender, you may have gain or loss to report because of acquisition or abandonment. Get Pub. 544 for more details.

Line-by-Line Instructions

To show losses, enclose figures in (parentheses).

Part I.—Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty and Theft (Section 1231)

Section 1231 transactions are:

- Sales or exchanges of real or depreciable property used in a trade or business and held for more than 1 year
- 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 under section 631(b).
- Disposal of coal (including lignite) or iron ore mined in the U.S. 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 by the taxpayer 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 by the taxpayer for draft, breeding, dairy, or sporting purposes and held for 12 months or more from acquisition date.

Note: *Livestock does not include poultry.*

- Sales or exchanges of unharvested crops. See section 1231(b)(4).
- Involuntary conversions of property or capital assets used in a trade or business, or held for profit, and kept more than 1 year

These conversions may result from: (1) part or total destruction, (2) theft or seizure, or (3) 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 they exceed the recognized gains from the conversions, do not include them when figuring your net section 1231 losses.

Section 1231 transactions do not include sales or exchanges of inventory, property held primarily for sale to customers, or (if they are treated as capital assets under section 1221): copyrights; literary, musical, or artistic compositions; letters or memorandums; U.S. Government publications (including the Congressional Record); or similar property.

Line 8—Nonrecaptured Net Section 1231 Losses.—Part or all of your section 1231 gains on line 7 may have to be treated as ordinary income instead of receiving capital gain treatment. These net section 1231 gains are treated as ordinary income to the extent of the "nonrecaptured section 1231 losses. The nonrecaptured losses are net section 1231 losses deducted during the 5 most recent preceding tax years that have not yet been applied against any net section 1231 gain for determining how much gain is ordinary income under these rules. For example, if you had net section 1231 losses of $4,000 and $6,000 in 1985 and 1986 and net section 1231 gains of $3,000 and $2,000 in 1989 and 1990, line 7 would show the 1990 gain of $2,000, and line 8 would show nonrecaptured net section 1231 losses of $7,000 ($10,000 net section 1231 losses less the $3,000 that was recaptured because of the 1989 gain). The $2,000 gain on line 7 is all ordinary income and would be entered on line 12 of Form 4797. For recordkeeping purposes, the $4,000 loss from 1985 is all recaptured ($3,000 in 1989 and $1,000 in 1990) and you have $5,000 left to recapture from 1986 ($6,000 less the $1,000 recaptured this year).

Figuring the Prior Year Losses.—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 computing gross income. Losses are included only to the extent taken into account in computing taxable income except that the limitation on capital losses does not apply. Get Pub. 544 for more details.

Line 9.—For recordkeeping purposes, if line 9 zero, the amount on line 7 is the amount of net section 1231 loss recaptured in 1990. If line 9 is more than zero, you have recaptured in 1990 all of your net section 1231 losses from prior years.

Part II.—Ordinary Gains and Losses

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 receive ordinary income from a sale or other disposition of your interest in a partnership, get **Pub. 541,** Tax Information on Partnerships.

Line 10.—Report other ordinary gains and losses, including property held 1 year or less, on this line.

Report losses from the sale of small business stock (section 1244) on this line and report gains on Schedule D.

Line 15.—Enter any ordinary gain from **Form 6252,** Installment Sale Income, lines 21 or 29. This line applies only to sales of section 1252, 1254, and 1255 property and section 1245 and 1250 property if you still report ordinary gain from sales before 6-7-84.

Line 16.—Enter any recapture of section 179 expense included on Schedule K-1 (Form 1065), line 21, and on Schedule K-1 (Form 1120S), line 21, but only if it is due to a disposition. Include it only to the extent that you took a deduction for it in an earlier year. See instructions for Part V if you have section 179 recapture when the business use percentage of the property dropped to 50% or less.

Line 18b(1).—If there is a loss on line 11, a gain on line 3, and a loss on either line 12 or line 17 of Form 4684, Part II, column (b)(ii), you must make an entry on this line. Enter on this line and on line 21 of Schedule A (Form 1040) the **smaller** of:

(a) the loss on line 11, or

(b) the sum of lines 12 and 17 of Form 4684, Part II, column (b)(ii).

Part III.—Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255

Part III is used to compute recapture of depreciation and certain other items that must be reported as ordinary income on the disposition of property. Fill out 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.

Note: *If the property was sold on the installment sale basis, see the instructions for Part IV before completing this part. Also, if you have both installment sales and noninstallment sales, you may want to use a separate Form 4797, Part III, for each installment sale and one Form 4797, Part III, for the noninstallment sales.*

Line 20.—The gross sales price includes money, the fair market value of other property received, and any existing mortgage or other debt the buyer assumes or takes the property subject to. For casualty or theft property, include insurance or other reimbursement you received or expect to receive for each item.

For section 1255 property, show the amount realized from the sale, exchange, or involuntary conversion of section 126 property. Enter the fair market value of section 126 property for any other disposition.

Line 21.—The asset basis used on this line should be determined without taking into account any reduction under sections 179 (expense deduction) and 48(q) (ITC adjustment), which are to be accounted for on line 22. If this is a disposition of a diesel-powered highway vehicle for which you claimed a credit on line 1 of **Form 4136,** Credit for Federal Tax on Fuels, reduce the cost of the vehicle by the credit claimed for it.

Line 22.—This line should show all adjustments for deductions (whether for the same or other property) allowed or allowable to you or any other person for depreciation or amortization. If you are not a partnership or an S corporation, use the following computation to determine the amount to enter on line 22:

- **Add** preproductive expenses, depreciation or depletion allowed or allowable, amortization, ACRS, or MACRS deductions.
- **Add** the section 179 expense deducted.
- **Add** the section 48(q)(1) downward basis adjustment, if any.
- **Subtract** 50% of any investment tax credit recaptured if the basis of the property was reduced under section 48(q)(1) when placed in service. See section 48(q)(2).
- **Subtract** any section 179 or 280F recapture amount included in gross income in a prior tax year because the business use of the property dropped to 50% or less.

You may have to include depreciation allowed or allowable on another asset (and recompute 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).

Partnerships should enter the depreciation or depletion allowed or allowable, amortization, ACRS, or MACRS deductions on line 22. Enter the section 179 expense on Form 1065, Schedule K, line 19. Partnerships should make the basis adjustment required under section 48(q). Partners adjust the basis of their interest in the partnership to take into account the basis adjustments made at the partnership level.

S corporations should enter the depreciation or depletion allowed or allowable, amortization, ACRS, or MACRS deductions on line 22. Enter the section 179 expense on Form 1120S, Schedule K, line 18, but only if you are disposing of property acquired in tax years beginning after 1982. S corporations should make the basis adjustment required under section 48(q). Shareholders adjust the basis in their stock in the corporation to take into account the basis adjustments made at the S corporation level under section 48(q).

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 depreciable (or amortizable under section 185 or 1253(d)(2) or (3)) and is one of the following:

- Personal property.
- Elevators and escalators placed in service before 1-1-87
- Real property (other than property described under tangible real property below) subject to amortization or deductions under section 169, 179, 185, 188, 190, 193, or 194.
- 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, extraction, or furnishing transportation, communications, or certain other 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 under section 48(p).
- A storage facility (not including a building or its structural components) used in connection with the distribution of petroleum or any primary product of petroleum.
- Any railroad grading or tunnel bore (as defined in section 168(e)(4)).

See section 1245(b) for exceptions and limits involving:

- Gifts.
- Transfers at death.
- Certain tax-free transactions.
- Certain like-kind exchanges, involuntary conversions, etc.
- Sales or exchanges to accomplish FCC policies, and exchanges to comply with SEC orders.
- 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.

See the following sections for special rules:

- Section 1245(a)(4) for player contracts and section 1056(c) for information required from the transferor of a franchise of any sports enterprise if the sale or exchange involves the transfer of player contracts.
- Section 1245(a)(5) as in effect before the Tax Reform Act of 1986 for property placed in service before 1-1-87, when only a portion of a building is section 1245 recovery property.
- Section 1245(a)(6) as in effect before the Tax Reform Act of 1986, for qualified leased property placed in service before 1-1-87

Line 26.—Section 1250 Property

Section 1250 recapture applies to certain recovery property and to depreciable nonrecovery real property when an accelerated depreciation method was used.

Section 1250 property is depreciable real property (other than section 1245 property). ACRS deductions under section 168 are subject to recapture under section 1245, except for the following, which are treated as section 1250 property if the property was placed in service before 1-1-87:

- 15-year 18-year, or 19-year real property and low-income housing which is residential rental property.
- 15-year 18-year or 19-year real property and low-income housing which is used mostly outside the U.S.
- 15-year 18-year or 19-year real property and low-income housing on which the alternate ACRS method of depreciation is taken under section 168(b)(3) as in effect before the Tax Reform Act of 1986.
- low-income property as described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B). See Instructions for line 26b.

The section 1250 recapture rules do not apply to dispositions of 27.5-year (or 40-year, if elected) residential rental property or 31.5-year (or 40-year if elected) nonresidential real property placed in service after 12-31-86 (or after 7-31-86 if the election is made).

See section 1250(d) for exceptions and limits involving:

- Gifts.
- Transfers at death.
- Some tax-free transactions.
- Some like-kind exchanges, involuntary conversions, etc.
- Sales or exchanges to accomplish FCC policies, and exchanges to comply with SEC orders.
- Property distributed by a partnership to a partner
- Disposition of a main home.
- Disposition of qualified low-income housing.
- Transfers of property to tax-exempt organizations where the property will be used in an unrelated business.
- Dispositions of property as a result of foreclosure proceedings.

Special rules:

- 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 12-31-75. For section 1250 property held more than 1 year additional depreciation is the excess of actual depreciation over depreciation figured using the straight line method. For this purpose, do not reduce the basis under section 48(q)(1) in figuring straight line depreciation. For section 1250 property held 1 year or less, all depreciation is additional depreciation.

Line 26b.—Use 100% as the percentage for this line unless you have property described in section 1250(a)(1)(B).

Line 26d.—Enter the additional depreciation after 12-31-69 and before 1-1-76. If the straight line depreciation is more than the actual depreciation after 12-31-69 and before 1-1-76, reduce line 26a by the amount the straight line depreciation exceeds actual depreciation, but not less than zero.

Line 26e.—Use 100% as the percentage for this line unless you have property described in section 1250(a)(2)(B).

Line 26f—Corporations subject to section 291.—The amount treated as ordinary income under section 291 is 20% of the excess, if any, of the amount which would be treated as ordinary income if such property were section 1245 property, over the amount treated as ordinary income under section 1250. If you used the straight line method of depreciation, the ordinary income under section 291 is 20% of the amount figured under section 1245.

Line 27.—Section 1252 Property

Partnerships should skip this section. Partners should 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.

Refer to 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 before 1-1-86. If you dispose of such farmland during the 10th or later year after you acquired it, skip line 27

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

When filling out line 27b, 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

Line 28.—Section 1254 Property

If you dispose of oil, gas, or geothermal property placed in service before 1-1-87 at a gain, 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 dispose of oil, gas, geothermal, or other mineral properties (section 1254 property) placed in service after 12-31-86 at a gain, 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 acquired under a written contract entered into before 9-26-85 and binding at all times thereafter is excluded from this change.

Note: *In the case of a corporation which is an integrated oil company, amounts amortized under section 291(b)(2) should be treated as a deduction under section 263(c) when completing line 28a.*

Line 28a.—If the property was placed in service before 1-1-87 enter the total expenses after 12-31-75 that:

- were deducted by the taxpayer or any other person as intangible drilling and development costs under section 263(c). (Previously expensed mining costs, that have been included in income upon reaching the producing state, are not taken into account in determining recapture.); and
- would have been reflected in the adjusted

Part IV—Election Not To Use the Installment Method

If you sold property at a gain and will receive any payment in a tax year after the year of sale, use the installment method and Form 6252. Also use Form 6252 if you received an installment payment this tax year from a sale made in an earlier year.

If you want to **elect out** of the installment method, you must do the following on a timely filed return (including extensions):

(1) Report the full amount of the sale on Form 4797

(2) If you received a note or other obligation and report it at less than face value (including all contingent payment obligations), complete Part IV. If you have more than one note, enter the amounts separately in the spaces in Part IV.

Recapture Income in the Year of Sale.—Any recapture income under sections 1245 and 1250 (including the gain attributable to the expense election under section 179 and any section 291 recapture) is fully taxable as ordinary income in the year of sale even if no payments were received. Use the following instructions to figure the recapture amount:

(1) Complete Form 4797, Part III and include any deduction you took under section 179 as depreciation on lines 22 and 25a. Include the gain from the installment sale on lines 30 and 31.

(2) Do not enter any gain on line 32. If this form was used to report only the recapture from an installment sale, enter "N/A" on line

Part V—Recapture Amounts Under Sections 179 and 280F When Business Use Drops to 50% or Less

Section 179 Property—Column (a).—If you took a deduction under section 179 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 was reduced to 50% or less this year, complete column (a) of lines 36 through 38 to figure the recapture amount.

Section 280F Property—Column (b).—If you have listed property that you placed in service in a prior year and the business use dropped to 50% or less this year, figure the amount to be recaptured. Complete column (b), lines 36 through 38. Get **Pub. 917** Business Use of a Car for more details on recapture of excess depreciation.

Note: *If you have more than one property subject to the recapture rules, use separate statements to figure the recapture amounts and attach them to your tax return.*

Line 36—Column (a).—Enter the section 179 expense deducted when the property was placed in service.

Column (b).—Enter the recovery deductions allowable on the property in prior tax years. Any deduction allowable under section 179 is treated as a recovery deduction under section 168.

Line 37—Column (a).—Enter the depreciation that would have been allowable on the section 179 amount from the year it