1991

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

If you have comments concerning the accuracy of these time estimates or

Preparing the form . . . . 17 hr., 2 min.

Copying, assembling, and sending the form to the IRS . . . . . 1 hr., 20 min.

- The involuntary conversion (from other than casualty or theft) of trade or business property and capital assets held in connection with a trade or business or a transaction entered into for profit.

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

- The disposition of other noncapital assets.
- The recapture of section 179 expense 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 listed 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

the top margin of Form 4797. 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. Enter the recapture amount taxed as ordinary income on line 22 of Form 4797. Get **Pub. 225,** Farmer's Tax Guide, for more 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,** Sales and Other Dispositions of Assets, 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 the 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 to the passive activity rules.

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, to see how much loss is allowed before entering it on Form 4797

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

is more than your adjusted basis. Apply the ordinary income or capital gains provisions as if a sale had 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, 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 details.

Specific Instructions

To show losses, enclose figures in (parentheses).

Part I

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 treated as a sale 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 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 trade or business property or capital assets held in connection with a trade or business or a transaction entered into 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 or property held primarily for sale to customers.
- Sales or exchanges of 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)** that you received from someone who created them or for whom they were created, as mentioned in (a) or (b), in a way (such as by gift) that entitled you to the basis of the previous owner.
- Sales or exchanges of 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 8—Nonrecaptured Net Section 1231 Losses.—Part or all of your section 1231 gains on line 7 may be taxed as ordinary income instead of receiving long-term 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 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 1986 and 1987 and net section 1231 gains of $3,000 and $2,000 in 1990 and 1991, line 7 would show the 1991 gain of $2,000, and line 8 would show nonrecaptured net section 1231 losses of $7,000 ($10,000 net section 1231 losses minus the $3,000 that was recaptured because of the 1990 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 1986 is all recaptured ($3,000 in 1990 and $1,000 in 1991) and you have $5,000 left to recapture from 1987 ($6,000 minus 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 is zero, the amount on line 7 is the amount of net section 1231 loss recaptured in 1991. If line 9 is more than zero, you have recaptured in 1991 all of your net section 1231 losses from prior years.

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 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.

Section 1244 (Small Business) Stock—Individuals report losses from the sale or exchange (including worthlessness) of section 1244 (small business) stock on line 10. Gains from the sale or exchange of section 1244 stock are reported on Schedule D.

If you claim a section 1244 stock loss, you **must** file a statement with your return that specifies:

1. The address of the corporation that issued the stock;

2. The manner in which you acquired the stock;

3. The amount and type of consideration you gave in exchange for the stock; and

4. If you acquired the stock in a nontaxable transaction in exchange for property other than money, the type of property, and the adjusted basis and fair market value of the property on the date it was transferred to the corporation.

If you do not file this statement with your return, ordinary loss treatment under section 1244 may not be allowed.

Be sure to keep adequate records to distinguish section 1244 stock from any other stock owned in the same corporation. See **Pub. 550,** Investment Income and Expenses, for more information.

Line 15.—Enter any ordinary gain from **Form 6252,** Installment Sale Income, line 21 or 29. This line applies to sales of section 1252, 1254, and 1255 property. Also use this line to report any ordinary gain remaining from sales before June 7, 1984, of section 1245 and 1250 property.

Line 16.—Enter any recapture of section 179 expense deduction included on Schedule K-1 (Form 1065), line 20, and on Schedule K-1 (Form 1120S), line 20, 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 20 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

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 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 fair market value.

Line 21.—Figure the basis of the asset without any reduction for the section 179 expense deduction on the downward basis adjustment under section 50(c) or the corresponding provision of prior law. These amounts are subtracted 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.—Include on this line 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, figure the amount to enter on line 22 as follows:

- **Add** deductions for preproductive expenses, and depreciation, amortization, or depletion allowed or allowable.
- **Add** the section 179 expense deduction.
- **Add** the downward basis adjustment under section 50(c) or the corresponding provision of prior law, if any.
- **Subtract** any investment tax credit recapture amount if the basis of the property was reduced under section 50 (c)(1) or the corresponding provision of prior law when placed in service. See section 50(c)(2) or the corresponding provision of prior law.
- **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 deductions for depreciation, amortization, or depletion allowed or allowable on line 22. Enter the section 179 expense deduction on Form 1065, Schedule K, line 19. Partnerships should make the basis adjustment required under section 50(c) or the corresponding provision of prior law. 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 deductions for depreciation, amortization, or depletion allowed or allowable on line 22. Enter the section 179 expense deduction 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 50(c) or the corresponding provision of prior law. 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 50(c) or the corresponding provision of prior law.

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 (repealed) or 1253(d)(2) or (3)) 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) subject to amortization or deductions under section 169, 179, 185 (repealed), 188 (repealed), 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 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)).

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

- Gifts.
- Transfers at death.
- Certain tax-free transactions.
- Certain like-kind exchanges, involuntary conversions, etc.
- Sales or exchanges to carry out 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) (repealed) for property placed in service before 1987, when only a portion of a building is section 1245 recovery property.
- Section 1245(a)(6) (repealed) for qualified leased property placed in service before 1987.

Line 26.—Section 1250 Property

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 1987:

- 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 instructions for line 26b.

Section 1250 recapture applies when an accelerated depreciation method was used.

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 1986 (or after July 31, 1986, if the election is made).

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.
- Sales or exchanges to carry out 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 1975. 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 50(c)(1) or the corresponding provision of prior law 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, except for low-income rental housing described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B). For this type of low-income rental housing, see section 1250(a)(1)(B) for the percentage to use.

Line 26d.—Enter the additional depreciation after 1969 and before 1976. If the straight line depreciation is more than the actual depreciation after 1969 and before 1976, reduce line 26a by the amount the straight

line depreciation exceeds actual depreciation, but not by more than the amount on line 26a.

Line 26e.—Use 100% as the percentage for this line, except for residential rental property (and property disposed of under a written contract binding at all times since July 24, 1969). For this type of property, see section 1250(a)(2)(B) for the percentage to use.

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

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 had a gain on the disposition of oil, gas, or geothermal property placed in service before 1987, you must 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: *In the case of a corporation that is an integrated oil company, amounts amortized under section 291(b)(2) are treated as a deduction under section 263(c) when completing line 28a.*

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). (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 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
- Which, but for such deduction, would have been included in the basis of the property; plus
- The deduction under section 611 which 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 29.—Section 1255 Property

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.

Part IV

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; and

(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 section 1245 or 1250 (including the gain attributable to the section 179 expense deduction and any section 291 recapture) is fully taxable as ordinary income in the year of sale even if no payments were received. Figure the recapture amount as follows:

(1) Complete Form 4797, Part III and include any section 179 expense deduction you took 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 32. Report this amount separately on Form 6252.

(3) Enter the amount from line 31 of Form 4797 on line 8 of Form 6252 and also on line 13 of Form 4797.

If you have section 1252, 1254, or 1255 recapture income, complete Part III of Form 4797 for the year of sale. Line 27c, 28b, or 29b of Form 4797 is the amount of ordinary income to be recaptured. Enter this amount on line 21 or 29 of Form 6252 and on line 15 of Form 4797, but do not enter more than the amount shown on line 20 or 28 of Form 6252.

Note: *If you do not have to recapture all of the ordinary income this year, you must report the ordinary income up to the taxable part of the installment sale in future years until it is all reported. For years after the year of sale, any remaining recapture is reported directly on Form 6252.*

Get **Pub. 537,** Installment Sales, for more details.

Part V

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

Listed 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 under section 280F. 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 the statements to your tax return.*

Line 36—In column (a), enter the section 179 expense deduction claimed when the property was placed in service. In column (b), enter the depreciation allowable on the property in prior tax years. Include any section 179 expense deduction you took as depreciation.

Line 37—In column (a), enter the depreciation that would have been allowable on the section 179 amount from the year it was placed in service through the current year. Get **Pub. 534,** Depreciation. 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 until the current year. Get Pub. 534 and Pub. 917.

Line 38.—Subtract line 37 from line 36 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 attributable to your trade or business is subject to self-employment tax. Allocate the amount on line 38 before entering the recapture amount on the appropriate schedule.*

Be sure to increase the basis of the property by the recapture amount.

☆ U.S. GOVERNMENT PRINTING OFFICE: 1991-285-342