1993

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(b)(2))

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 the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

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

Recordkeeping	30 hr., 8 min.
Learning about the law or the form	11 hr., 29 min.
Preparing the form	17 hr., 7 min.
Copying, assembling, and sending the form to the 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 for the tax return with which this form is filed.

General Instructions

Purpose of Form

Use Form 4797 to report:

- The sale or exchange of property used in your trade or business; 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 property used in your trade or business and capital assets held in connection with a trade or business or a transaction entered into for profit.
- The disposition of noncapital assets other than inventory or property held primarily for sale to customers in the ordinary course of your trade or business.
- The 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(b)(2), when the business use of section 179 or listed property drops to 50% or less.

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

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

Other Forms To Use

- Use **Form 4684,** Casualties and Thefts, to report involuntary conversions from casualties and thefts.
- Use **Form 8824,** Like-Kind Exchanges, for each exchange. A "like-kind exchange" occurs when you exchange business or investment property for property of a like kind. For exchanges of property used in a trade or business (and other noncapital assets), enter the gain or (loss) from Form 8824, if any, on line 5 or 17.
- 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

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

Use **Form 6252,** Installment Sale Income, to report the sale on the installment method. Also use Form 6252 to report any payment received in 1993 from a sale made in an earlier year that you reported on the installment method.

To elect out of the installment method, report the full amount of the gain on a timely filed return (including extensions).

Get **Pub. 537,** Installment Sales, for more 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. For dispositions of plants reportable on Form 4797, enter the recapture amount taxed as ordinary income on line 24 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 allowed because of the passive activity rules. No basis adjustment may be elected on a partial disposition of your interest in an activity. See 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 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. See 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. To figure the holding period, begin counting on the day after you received the property and include the day you disposed of it.
- Cutting of timber that the taxpayer elects to treat as a sale or exchange under section 631(a).
- Disposal of timber with a retained economic interest 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 **(a)** part or total destruction, **(b)** theft or seizure, or **(c)** requisition or condemnation (whether threatened or carried out). If any recognized losses were from involuntary conversions from fire, storm, shipwreck, or other casualty, or from theft, and 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 9—Nonrecaptured net section 1231 losses.—Part or all of your section 1231 gains on line 8 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.

Example. If you had net section 1231 losses of $4,000 and $6,000 in 1988 and 1989 and net section 1231 gains of $3,000 and $2,000 in 1992 and 1993, line 8 would show the 1993 gain of $2,000, and line 9 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 1992 gain). The $2,000 gain on line 8 is all ordinary income and would be entered on line 13 of Form 4797. For recordkeeping purposes, the $4,000 loss from 1988 is all recaptured ($3,000 in 1992 and $1,000 in 1993) and you have $5,000 left to recapture from 1989 ($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. See Pub. 544 for more details.

Line 10.—For recordkeeping purposes, if line 10 is zero, the amount on line 8 is the amount of net section 1231 loss recaptured in 1993. If line 10 is more than zero, you have recaptured in 1993 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 11.—Report other ordinary gains and losses, including property held 1 year or less, on this line.

Section 1244 (small business) stock.— Individuals report ordinary losses from the sale or exchange (including worthlessness) of section 1244 (small business) stock on line 11. The maximum amount that may be treated as an ordinary loss is $50,000 ($100,000, if married filing a joint return). Gains from the sale or exchange of section 1244 stock (and losses in excess of the maximum amount that may be treated as an ordinary loss) 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. Get **Pub. 550,** Investment Income and Expenses, for more information.

Line 18.—Enter any recapture of section 179 expense deduction included on Schedule K-1 (Form 1065), line 23, and on Schedule K-1 (Form 1120S), line 23, 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 IV if you have section 179 recapture when the business use percentage of the property dropped to 50% or less.

Line 20b(1).—You must complete this line if there is a gain on Form 4797, line 3; a loss on Form 4797, line 12; **and** a loss on Form 4684, line 35, column (b)(ii). Enter on this line and on Schedule A (Form 1040), line 20, the **smaller** of the loss on Form 4797, line 12; or the loss on Form 4684, line 35, column (b)(ii). To figure which loss is smaller, treat both losses as positive numbers.

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 21 through 26 to determine the gain on the disposition of the property. If you have more than four properties to report, use additional forms. For more details on depreciation recapture, see Pub. 544.

Note: *If the property was sold on the installment sale basis, see the Instructions for Form 6252 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 22.—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 23.—Be sure to reduce the cost or other basis of the property by the amount of any qualified electric vehicle credit, diesel-powered highway vehicle credit, enhanced oil recovery credit, or disabled access credit.

However, **do not** reduce the cost or other basis on this line by any of the following amounts:

1. Deductions allowed or allowable for depreciation, amortization, depletion, or preproductive expenses;

2. The section 179 expense deduction;

3. The downward basis adjustment under section 50(c) (or the corresponding provision of prior law);

4. The deduction for qualified clean-fuel vehicle property or refueling property; or

5. Deductions claimed under section 190, 193, or 1253(d)(2) or (3) (as in effect before the enactment of P.L. 103-66).

Instead, include these amounts on line 24. They will be used to determine the property's adjusted basis on line 25.

Line 24.—For a taxpayer other than a partnership or an S corporation, complete the following steps to figure the amount to enter on line 24:

Step 1.—**Add** the following amounts:

1. Deductions allowed or allowable for depreciation, amortization, depletion, or preproductive expenses;

2. The section 179 expense deduction;

3. The downward basis adjustment under section 50(c) (or the corresponding provision of prior law);

4. The deduction for qualified clean-fuel vehicle property or refueling property; and

5. Deductions claimed under section 190, 193, or 1253(d)(2) or (3) (as in effect before the enactment of P.L. 103-66).

Step 2.—From the step 1 total, **subtract** the following amounts:

1. Any investment credit recapture amount if the basis of the property was reduced for the tax year the property was placed in service under section 50(c)(1) (or the corresponding provision of prior law). See section 50(c)(2) (or the corresponding provision of prior law).

2. Any section 179 or 280F(b)(2) recapture amount included in gross income in a prior tax year because the business use of the property dropped to 50% or less.

3. Any qualified clean-fuel vehicle property or refueling property deduction you were required to recapture because the property ceased to be eligible for the deduction.

You may have to include depreciation allowed or allowable on another asset (and recompute the basis amount for line 23) if you use its adjusted basis in determining the adjusted basis of the property described on line 21. An example is property acquired by a trade-in. See Regulations section 1.1245-2(a)(4).

Partnerships should enter the deductions allowed or allowable for depreciation, amortization, or depletion on line 24. Enter the section 179 expense deduction on Form 1065, Schedule K, line 22. 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 allowed or allowable for depreciation, amortization, or depletion on line 24. Enter the section 179 expense deduction on Form 1120S, Schedule K, line 21, but only if the corporation disposed of property acquired in a tax year 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 25.—For section 1255 property, enter the adjusted basis of the section 126 property disposed of.

Line 27—Section 1245 property.—Section 1245 property is depreciable (or amortizable under section 185 (repealed) or 1253(d)(2) or (3) (as in effect before the enactment of P.L. 103-66)) and is one of the following:

- Personal property.
- Elevators and escalators placed in service before 1987.
- Real property (other than property described under tangible real property below) 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 28—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 28b.

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 22-, 31.5-, or 39-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 28a.—Enter the additional depreciation for the period after 1975. **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.

Line 28b.—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 28d.—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 28a by the amount the straight line depreciation exceeds actual depreciation, but not by more than the amount on line 28a.

Line 28f—Corporations subject to section 291.—The amount treated as ordinary income under section 291 is 20% of the excess, if any, of the amount that would be treated as ordinary income if such property were section 1245 property, over the amount treated as ordinary income under section 1250. If you used the straight line method of depreciation, the ordinary income under section 291 is 20% of the amount figured under section 1245.

Line 29—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 29 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 29b, enter 100% of line 29a on line 29b, 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 30—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 24 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 30a.*

Line 30a.—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 that reduced the adjusted basis of such property.

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

Line 31—Section 1255 property.—For line 31a, 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

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 35 through 37 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(b)(2). Complete column (b), lines 35 through 37. 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 35.—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 36.—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. See Pub. 534 and Pub. 917.

Line 37.—Subtract line 36 from line 35 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 37 before entering the recapture amount on the appropriate schedule.*

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