

Chapter 3: Form 4797

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Corrections were made to this workbook through January of 2009. No subsequent modifications were made.

Form 4797, *Sales of Business Property*, was first introduced for use in preparing the 1971 income tax return. It has remained virtually unchanged since then. However, it remains one of the most misunderstood forms by many tax professionals.

Form 4797 is used primarily to report gains and losses from the disposition of business-use assets, gains and losses from certain involuntary conversions, and recapture amounts under IRC §§179 and 280F(b)(2).

Generally, reporting on Form 4797 is advantageous to the taxpayer because:

- Gain reported on Form 4797 is normally not subject to SE tax, and
- Some gains reported on Form 4797 are treated as long-term capital gains.

Form 4797 has four parts. This chapter describes how information is reported and used in each of these parts. There is also a section describing disposition of §179 property owned by pass-through entities.

FORM 4797, PART I

Part I is used to report sales or exchanges of property **used in a trade or business** and **involuntary conversions** from other than casualty or theft for property held **more than one year**.

These transactions result in IRC §1231 gains and losses. After aggregating the gains and losses, §1231 allows taxpayers to deduct the net loss from §1231 transactions against ordinary income and report the net gain from these transactions as a long-term capital gain.¹

¹ IRC §1231(a)

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IRC §1231 TREATMENT

To qualify for §1231 treatment,² **one of the following must apply:**

1. The property must be used in a trade or business. Land, buildings, and equipment are examples of property used in a trade or business.
2. The property must be a capital asset that was held for more than one year, was used in conjunction with a trade or business, or was a transaction entered into for profit and that was subject to an involuntary conversion.

Note. Although land, buildings, and equipment that are used in a business are commonly referred to as capital assets, the Internal Revenue Code excludes such assets from the definition of “capital assets.”³

EXCLUDED PROPERTY

Property that is specifically **excluded** from §1231 treatment includes:

1. A copyright; a literary, musical, or artistic composition; or a letter, memorandum, or similar property⁴ held by:
 - a. A taxpayer, whose personal efforts created the property;
 - b. In the case of a letter, memorandum, or similar property, the taxpayer for whom the property was prepared or produced; or
 - c. A taxpayer who acquired the property from a taxpayer described in (a) or (b) in a transaction that gave him a carryover basis in the property.
2. A publication of the United States government that is received from the United States government, or any agency of it, other than by purchase at the price at which it is offered for sale to the public,⁵ and that is held by:
 - a. A taxpayer who received the publication from the United States government; or
 - b. A taxpayer who acquired the property from a taxpayer described in (a), or in a transaction that gave him a carryover basis in the property.

² IRC §1231(a)(3)

³ IRC §1221(a)(2)

⁴ IRC §1231(b)(1)(C)

⁵ IRC §1231(b)(1)(D)

OTHER INCLUDED PROPERTY

Other property specifically **included** in §1231 property follows:

1. Timber for which the owner made the election under §631(a) to treat the cutting as a sale or exchange;⁶
2. Timber, coal, or domestic iron ore sold under a contract that retains an economic interest for the taxpayer;⁷
3. Cattle and horses held for draft, breeding, dairy, or sporting purposes and held for 24 months or more;⁸
4. Other livestock held for draft, breeding, and dairy, or sporting purposes and held for 12 months or more;⁹ and
5. Unharvested crops¹⁰ that are:
 - a. On land that was held for more than one year and that was used in the trade or business, and
 - b. Sold or exchanged at the same time and to the same person as the land.

PROPERTY USED IN A TRADE OR BUSINESS: GENERAL DEFINITION

In the context of §1231, the phrase “used in a trade or business” has a very specific meaning. Property **must meet all three requirements** to be considered “used in a trade or business” under this definition:

1. It must be held for **more than one year**;
2. It must be **used in a trade or business** (in the normal meaning of that phrase as used in §162) and be either:
 - a. Subject to the allowance for depreciation, or
 - b. Real property; and
3. It **cannot be inventory or property that is held for sale** in the ordinary course of business.

Note. Generally, caselaw indicates that rental real estate is a §1231 asset and not §1221 investment property.

If the disposition is subject to depreciation recapture under §§1245, 1250, 1252, 1254, or 1255, it is reported on Form 4797, Part III; otherwise, it is reported on Part II, line 2.

⁶. IRC §1231(b)(2)

⁷. Ibid

⁸. IRC §1231(b)(3)

⁹. IRC §1231(b)(3)(B)

¹⁰. IRC §1231(b)(4)

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Example 1. Maxime Jones' only §1231 transaction for 2008 was the sale of land **used in her business**. She purchased the land on October 20, 2001, for \$20,000. She sold it on November 8, 2008, for \$30,000 and paid her broker a \$1,400 commission. Maxime should report the sale as shown on Form 4797, Part I.

Form 4797		Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ▶ Attach to your tax return.▶ See separate instructions.		OMB No. 1545-0184 2008 Attachment Sequence No. 27	
Name(s) shown on return Maxime Jones				Identifying number 111-11-1111	
1 Enter the gross proceeds from sales or exchanges reported to you for 2008 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions).				1 30,000	
Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year (see instructions)					
(a) Description of property	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale
2 Land	10/20/2001	11/08/2008	30,000	21,400	8,600
3 Gain, if any, from Form 4684, line 39				3	
4 Section 1231 gain from installment sales from Form 6252, line 26 or 37				4	
5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824				5	
6 Gain, if any, from line 32, from other than casualty or theft				6	
7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:				7 8,600	
Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.					
Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.					
8 Nonrecaptured net section 1231 losses from prior years (see instructions)				8	
9 Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions).				9 8,600	

INVOLUNTARY CONVERSIONS

Involuntary conversions for purposes of §1231 include conversions in any one of the following three groups:

1. Destruction by fire, storm, shipwreck, or other casualty, but only if the recognized gains from such conversions exceed the recognized losses from such conversions;
2. Theft or seizure, but only if the recognized gains from such conversions exceed the recognized losses from such conversions; or
3. Condemnation or the threat of imminence of condemnation.

Note. The gain or loss from involuntary conversions is excluded from §1231 treatment if:

- The involuntary conversion is due to fire, storm, shipwreck or other casualty, or from theft, and
- The losses from such conversions exceed the gains from such conversions for the taxable year.

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Example 2. On July 10, 2008, the city acquired by **condemnation** 10 acres of land held by Merv Paul to build a new street. Merv purchased the land as an investment on December 13, 2000, for \$100,000. He paid an attorney \$5,000 to represent him in the eminent domain proceedings. He received \$75,000 from the city. Merv should report the transaction as shown on the following Form 4797.

Form 4797		Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))		OMB No. 1545-0184 2008 Attachment Sequence No. 27		
Department of the Treasury Internal Revenue Service (99)		▶ Attach to your tax return. ▶ See separate instructions.				
Name(s) shown on return Merv Paul		Identifying number 222-22-2222				
1 Enter the gross proceeds from sales or exchanges reported to you for 2008 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions).		1		75,000		
Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year (see instructions)						
(a) Description of property	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale	(g) Gain or (loss) Subtract (f) from the sum of (d) and (e)
2 Land	12/13/2000	7/10/2008	75,000		105,000	(30,000)
3 Gain, if any, from Form 4684, line 39			3			
4 Section 1231 gain from installment sales from Form 6252, line 26 or 37			4			
5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824			5			
6 Gain, if any, from line 32, from other than casualty or theft			6			
7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:			7			(30,000)
Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.						
Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.						
8 Nonrecaptured net section 1231 losses from prior years (see instructions)			8			
9 Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions).			9			
Part II Ordinary Gains and Losses (see instructions)						
10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):						
11 Loss, if any, from line 7						(30,000)
12 Gain, if any, from line 7 or amount from line 8, if applicable						
13 Gain, if any, from line 31						
14 Net gain or (loss) from Form 4684, lines 31 and 38a						
15 Ordinary gain from installment sales from Form 6252, line 25 or 36						
16 Ordinary gain or (loss) from like-kind exchanges from Form 8824						
17 Combine lines 10 through 16						
18 For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below:						
a If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23. Identify as from "Form 4797, line 18a." See instructions						18a
b Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Form 1040, line 14						18b (30,000)
For Paperwork Reduction Act Notice, see separate instructions.						
Cat. No. 130861						
Form 4797 (2008)						

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RECAPTURE OF IRC §1231 LOSSES FROM PRIOR YEARS

Section 1231(c) adds another issue that is dealt with in Part I of Form 4797. **The issue is that §1231 gains in a given year must be reported as ordinary income to the extent that §1231 losses were deducted against ordinary income in the previous five years and have not been recaptured.** The term **recapture** refers to the recharacterization of §1231 gains as ordinary income rather than long-term capital gains. This rule requires a taxpayer to keep a running balance of recaptured §1231 losses so that the amount of net §1231 gain that must be reported as ordinary income can be calculated. These losses are reported on line 8.

Example 3. Gracie Style had the following §1231 gains and losses:

Year	Gain (Loss)
2003	(\$10,000)
2004	(10,000)
2005	15,000
2006	10,000
2007	(7,000)

In 2008, Gracie had \$10,000 of §1231 gain. She calculates her recapture as follows:

Year	Gain (Loss)	Loss Recapture	Unrecaptured Loss Remaining	Ordinary Income	Capital Gain/Loss
2003	(\$10,000)	\$ 0	(\$10,000)	(\$10,000)	
2004	(10,000)	0	(20,000)	(10,000)	
2005	15,000	15,000	(5,000)	15,000	
2006	10,000	5,000	0	5,000	\$5,000
2007	(7,000)	0	(7,000)	(7,000)	
2008	10,000	7,000	0	7,000	3,000
	<u>\$ 8,000</u>			<u>\$ 0</u>	<u>\$8,000</u>

The 5-year look-back recapture rule is applied by comparing the net §1231 gain with the unrecaptured §1231 losses from the previous five years. Gracie's \$15,000 net gains in 2005 and \$10,000 in 2006 caused her to recapture all of the \$20,000 net losses from 2003 and 2004. Therefore, her only unrecaptured losses that are carried to 2008 are the \$7,000 of net losses from 2007. Those unrecaptured losses cause Gracie to **recognize \$7,000 of her \$10,000 §1231 gain in 2008 as ordinary income. The remaining \$3,000 is long-term capital gain.**

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For Example 3

Form 4797		Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))		OMB No. 1545-0184 2008 Attachment Sequence No. 27	
Department of the Treasury Internal Revenue Service (99)		▶ Attach to your tax return.▶ See separate instructions.		Identifying number 333-33-3333	
Name(s) shown on return Gracie Style					
For the gross proceeds from sales or exchanges reported to you for 2008 on Form(s) 1099-B or 1099-S (or substitute)					
6	Gain, if any, from	6		7	10,000
7	Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:				
Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.					
Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.					
8	Nonrecaptured net section 1231 losses from prior years (see instructions)	8		9	7,000
9	Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions).	9			3,000
Part II Ordinary Gains and Losses (see instructions)					
10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):					
11	Loss, if any, from line 7.	11	()	12	7,000
12	Gain, if any, from line 7 or amount from line 8, if applicable.	13		14	
13	Gain, if any, from line 31	15		16	
14	Net gain or (loss) from Form 4684, lines 31 and 38a	17		18a	
15	Ordinary gain from installment sales from Form 6252, line 25 or 36	18b			7,000
16	Ordinary gain or (loss) from like-kind exchanges from Form 8824				
17	Combine lines 10 through 16				
18	For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below:				
a If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23. Identify as from "Form 4797, line 18a." See instructions					
b Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Form 1040, line 14					

OTHER PART I TRANSACTIONS

Any §1231 long-term gain from an installment sale is reported on Form 6252, *Installment Sale Income*, and transferred to Form 4797, **line 4**. Long-term gains and losses from like-kind exchanges reported on Form 8824, *Like-Kind Exchanges*, are transferred to Form 4797, **line 5**. In addition, long-term gains reported on Schedule K-1 from partnerships and S corporations also transfer to Part I.

Any long-term gain from Form 4797, Part III, line 32, is brought forward to Part I, **line 6**.

Any loss reported on line 8 is subtracted from line 7 and the net is reported on **line 9**. If line 9 is more than zero, the amount from line 8 (nonrecaptured net §1231 losses) is entered on line 12, Part II. Any gain reported on line 9 is then transferred to the long-term portion of Schedule D, *Capital Gains and Losses*.

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FORM 4797, PART II

Form 4797, Part II, reports income and losses from the sale of assets the taxpayer used in a trade or business that are neither §1231 assets, inventory, nor property held primarily for sale to customers. Part II is for transactions that are not reported in Form 4797, Part I or III, Schedule D, or Schedules C and F. It is generally the place to report business property that has been held **one year or less**, and is **neither** held for sale in the ordinary course of business nor a capital asset.

Part II is used to report gains and losses that are taxed as ordinary income, but not subject to SE tax. The net gain or loss from Part II is usually carried to an individual's Form 1040, line 14. To the extent a net loss includes losses from a casualty or theft of **investment** property, that portion of the net loss is carried to the individual's Schedule A, line 28.

Any portion of the loss attributable to property used by an employee is reported on Schedule A, line 23. This should be identified as "Form 4797, line 18a."

Line 10 is the equivalent of line 2 for property that would be §1231 property if it had been held more than a year.

Example 4. On March 22, 2008, Madison sold a widget-making machine that she **used in her business** for \$10,000. She purchased the machine on September 13, 2007, for \$9,000 and claimed \$2,389 of depreciation. In addition, the city **condemned** a 5-acre parcel of land on May 17, 2008, and paid her \$25,000. She purchased the five acres on August 18, 2007, for \$30,000. She paid an attorney \$500 to represent her in the condemnation.

These two transactions are reported as shown on Form 4797.

Form 4797		Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))		OMB No. 1545-0184 2008 Attachment Sequence No. 27		
Department of the Treasury Internal Revenue Service (99)		▶ Attach to your tax return. ▶ See separate instructions.				
Name(s) shown on return Madison		Identifying number 666-66-6666				
1 Enter the gross proceeds from sales or exchanges reported to you for 2008 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions).						
Part II Ordinary Gains and Losses (see instructions)						
10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):						
Widget Machine	09/13/2007	03/22/2008	10,000	2,389	9,000	3,389
5 AC land	08/18/2007	05/17/2008	25,000		30,500	(5,500)

Observation. A difference between line 2 and line 10 is the reporting of **depreciable** property sold at a **gain**. Such property **held for more than a year** is **not** reported on line 2. Rather, it is reported in Part III. Such property **held for one year or less** is reported on line 10. The difference arises because all gain reported on line 10 gets ordinary treatment. Therefore, there is no need to sort out the ordinary gain that is depreciation recapture.

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Line 11 is used to report a §1231 loss for the year. That loss is calculated on line 7, in Part I. Because the loss is treated as an ordinary loss, it is carried to Part II to be combined with other gains and losses that are given ordinary treatment.

Example 5. Rae's only §1231 transaction for 2008 was a sale of land **used in her business**. She purchased the land on October 20, 1976, for \$30,000. Rae sold it on November 8, 2008, for \$20,000 and paid her broker a \$1,400 commission. Rae should report the sale as shown on Form 4797.

Form 4797		Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))		OMB No. 1545-0184 2008 Attachment Sequence No. 27	
Department of the Treasury Internal Revenue Service (99)		▶ Attach to your tax return. ▶ See separate instructions.			
Name(s) shown on return Rae				Identifying number 777-77-7777	
1 Enter the gross proceeds from sales or exchanges reported to you for 2008 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions).					
Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year (see instructions)					
(a) Description of property	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale
2 Land	10/20/1976	11/8/2008	20,000		31,400
					(11,400)
3 Gain, if any, from Form 4684, line 39					3
4 Section 1231 gain from installment sales from Form 6252, line 26 or 37					4
5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824					5
6 Gain, if any, from line 32, from other than casualty or theft					6
7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:					7 (11,400)
Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.					
Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.					
8 Nonrecaptured net section 1231 losses from prior years (see instructions)					8
9 Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions).					9
Part II Ordinary Gains and Losses (see instructions)					
10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):					
11 Loss, if any, from line 7					11 (11,400)
12 Gain, if any, from line 7 or amount from line 8, if applicable					12
13 Gain, if any, from line 31					13
14 Net gain or (loss) from Form 4684, lines 31 and 38a					14
15 Ordinary gain from installment sales from Form 6252, line 25 or 36					15
16 Ordinary gain or (loss) from like-kind exchanges from Form 8824					16
17 Combine lines 10 through 16					17 (11,400)
18 For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below:					
a If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23. Identify as from "Form 4797, line 18a." See instructions					18a
b Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Form 1040, line 14					18b (11,400)
For Paperwork Reduction Act Notice, see separate instructions.					
Cat. No. 130861 Form 4797 (2008)					

Note. The significance of properly reporting this sale on Form 4797 instead of Schedule D is that the loss on line 18B is reported on Form 1040 and is not subject to the \$3,000 capital loss limitation.

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CASUALTIES

A casualty is the damage, destruction, or loss of property resulting from an unforeseen event that is sudden, unexpected, or unusual. This includes events such as fires, thefts, storms, floods, tornadoes, vandalism, earthquakes, and other casualties. Casualty gains or losses are reported on Form 4684, *Casualty Losses and Thefts*. The involuntary conversion due to the casualties is transferred to Form 4797, Part II and Part III.

Form 4797, **Line 14** is used to report a net gain or loss from casualties and thefts of property used in connection with a trade or business and that does not qualify for §1231 treatment. This includes transactions from **two** categories:

1. Property that does not meet the holding period requirements.

Example 6. On July 24, 2008, a flood destroyed Elwood's extruding machine and meat wrapper that was **used in his business**. The relevant information for these assets is as follows:

Asset	Date Purchased	Adjusted Basis	Value Before Flood	Value After Flood	Insurance Proceeds
Extruding machine	8/18/2007	\$10,000	\$9,500	\$0	\$9,500
Meat wrapper	9/24/2007	3,000	4,100	0	4,100

The \$600 gain calculated on Form 4684, Part II, is entered on line 14 of Form 4797.

Note. Line 21 of Form 4684 requires the taxpayer to report insurance or other reimbursements whether or not he files a claim. If not reported, the loss is not allowed.¹¹

¹¹. IRC §165(h)(4)(E)

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For Example 6

Form 4684 (2008)

Attachment Sequence No. 26

Page 2

Name(s) shown on tax return. Do not enter name and identifying number if shown on other side.

Identifying number

Elwood

888-88-8888

SECTION B—Business and Income-Producing Property

Part I Casualty or Theft Gain or Loss (Use a separate Part I for each casualty or theft.)

- 19 Description of properties (show type, location, and date acquired for each property). Use a separate line for each property lost or damaged from the same casualty or theft.

Property A **Extruding Machine 8/18/2007**

Property B **Meat Wrapper 9/24/2007**

Property C

Property D

		Properties			
		A	B	C	D
20	Cost or adjusted basis of each property.	10,000	3,000		
21	Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3. Note: If line 20 is more than line 21, skip line 22.	9,500	4,100		
22	Gain from casualty or theft. If line 21 is more than line 20, enter the difference here and on line 29 or line 34, column (c), except as provided in the instructions for line 33. Also, skip lines 23 through 27 for that column. See the instructions for line 4 if line 21 includes insurance or other reimbursement you did not claim, or you received payment for your loss in a later tax year.		1,100		
23	Fair market value before casualty or theft	9,500			
24	Fair market value after casualty or theft	0			
25	Subtract line 24 from line 23	9,500			
26	Enter the smaller of line 20 or line 25. Note: If the property was totally destroyed by casualty or lost from theft, enter on line 26 the amount from line 20.	10,000			
27	Subtract line 21 from line 26. If zero or less, enter -0-	500			
28	Casualty or theft loss. Add the amounts on line 27. Enter the total here and on line 29 or line 34 (see instructions).				500

Part II Summary of Gains and Losses (from separate Parts I)

(a) Identify casualty or theft	(b) Losses from casualties or thefts		(c) Gains from casualties or thefts includible in income
	(i) Trade, business, rental or royalty property	(ii) Income-producing and employee property	
Casualty or Theft of Property Held One Year or Less			
29 FLOOD 7/24/2008	(500)	()	1,100
30 Totals. Add the amounts on line 29	30 (500)	()	1,100
31 Combine line 30, columns (b)(i) and (c). Enter the net gain or (loss) here and on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions			31 600
32 Enter the amount from line 30, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Schedule A (Form 1040NR), line 11. Estates and trusts, partnerships, and S corporations, see instructions.			32

Casualty or Theft of Property Held More Than One Year

33 Casualty or theft gains from Form 4797, line 32	33	
34		
35 Total losses. Add amounts on line 34, columns (b)(i) and (b)(ii)	35	
36 Total gains. Add lines 33 and 34, column (c)	36	
37 Add amounts on line 35, columns (b)(i) and (b)(ii)	37	
38 If the loss on line 37 is more than the gain on line 36:		
a Combine line 35, column (b)(i) and line 36, and enter the net gain or (loss) here. Partnerships (except electing large partnerships) and S corporations, see the note below. All others, enter this amount on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions	38a	
b Enter the amount from line 35, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23 or Schedule A (Form 1040NR), line 11. Estates and trusts, enter on the "Other deductions" line of your tax return. Partnerships (except electing large partnerships) and S corporations, see the note below. Electing large partnerships, enter on Form 1065-B, Part II, line 11	38b	
39 If the loss on line 37 is less than or equal to the gain on line 36, combine lines 36 and 37 and enter here. Partnerships (except electing large partnerships), see the note below. All others, enter this amount on Form 4797, line 3	39	

Note: Partnerships, enter the amount from line 38a, 38b, or line 39 on Form 1065, Schedule K, line 11.
S corporations, enter the amount from line 38a or 38b on Form 1120S, Schedule K, line 10.

Form 4684 (2008)

2008 Workbook

2. Net loss from casualties and thefts of property used in connection with a trade or business.

Example 7. Shawn owns land which includes a building that was damaged by a hurricane on August 19, 2008. The land was used in his business. The basis of the land on the date of the hurricane was \$20,000, and the basis of the building was \$30,000. Shawn collected \$34,000 from insurance for the building and did not reinvest the proceeds. There was no insurance on the land, which had an FMV of \$35,000 before the hurricane and \$25,000 after the hurricane.

Shawn should report these transactions as shown on Form 4684 below. The \$6,000 loss is then transferred to line 14 of Form 4797.

2008 Workbook

For Example 7

Form 4684 (2008)

Attachment Sequence No. 26

Page 2

Name(s) shown on tax return. Do not enter name and identifying number if shown on other side.

Identifying number

SHAWN

999-99-9999

SECTION B—Business and Income-Producing Property**Part I Casualty or Theft Gain or Loss** (Use a separate Part I for each casualty or theft.)

- 19 Description of properties (show type, location, and date acquired for each property). Use a separate line for each property lost or damaged from the same casualty or theft.

Property A **Building 01/01/1996**Property B **Land 01/01/1996**

Property C

Property D

	Properties			
	A	B	C	D
20 Cost or adjusted basis of each property.	20 30,000	20,000		
21 Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3. Note: If line 20 is more than line 21, skip line 22.	21 34,000			
22 Gain from casualty or theft. If line 21 is more than line 20, enter the difference here and on line 29 or line 34, column (c), except as provided in the instructions for line 33. Also, skip lines 23 through 27 for that column. See the instructions for line 4 if line 21 includes insurance or other reimbursement you did not claim, or you received payment for your loss in a later tax year.	22 4,000			
23 Fair market value before casualty or theft	23	35,000		
24 Fair market value after casualty or theft.	24	25,000		
25 Subtract line 24 from line 23	25	10,000		
26 Enter the smaller of line 20 or line 25. Note: If the property was totally destroyed by casualty or lost from theft, enter on line 26 the amount from line 20.	26	10,000		
27 Subtract line 21 from line 26. If zero or less, enter -0-	27	10,000		
28 Casualty or theft loss. Add the amounts on line 27. Enter the total here and on line 29 or line 34 (see instructions).	28	10,000		

Part II Summary of Gains and Losses (from separate Parts I)

(b) Losses from casualties or thefts

(c) Gains from casualties or thefts includible in income

(a) Identify casualty or theft

(i) Trade, business, rental or royalty property

(ii) Income-producing and employee property

Casualty or Theft of Property Held One Year or Less

29	() () () ()		
30 Totals. Add the amounts on line 29	30 () () () ()		
31 Combine line 30, columns (b)(i) and (c). Enter the net gain or (loss) here and on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions	31		
32 Enter the amount from line 30, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Schedule A (Form 1040NR), line 11. Estates and trusts, partnerships, and S corporations, see instructions.	32		

Casualty or Theft of Property Held More Than One Year

33 Casualty or theft gains from Form 4797, line 32	33 4,000		
34 Hurricane 08/19/2008	(10,000) () ()		
35 Total losses. Add amounts on line 34, columns (b)(i) and (b)(ii)	35 (10,000) () ()		
36 Total gains. Add lines 33 and 34, column (c)	36 4,000		
37 Add amounts on line 35, columns (b)(i) and (b)(ii)	37 (10,000)		
38 If the loss on line 37 is more than the gain on line 36: a Combine line 35, column (b)(i) and line 36, and enter the net gain or (loss) here. Partnerships (except electing large partnerships) and S corporations, see the note below. All others, enter this amount on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions	38a (6,000)		
b Enter the amount from line 35, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23 or Schedule A (Form 1040NR), line 11. Estates and trusts, enter on the "Other deductions" line of your tax return. Partnerships (except electing large partnerships) and S corporations, see the note below. Electing large partnerships, enter on Form 1065-B, Part II, line 11	38b		
39 If the loss on line 37 is less than or equal to the gain on line 36, combine lines 36 and 37 and enter here. Partnerships (except electing large partnerships), see the note below. All others, enter this amount on Form 4797, line 3	39		

Note: Partnerships, enter the amount from line 38a, 38b, or line 39 on Form 1065, Schedule K, line 11.
S corporations, enter the amount from line 38a or 38b on Form 1120S, Schedule K, line 10.

Form 4684 (2008)

2008 Workbook

Example 8. As a result of a flood, Henrietta Blossom's equipment was destroyed. She acquired the equipment on July 1, 1980, and **used it in her business**. The equipment had an FMV of \$15,000 before the flood. Original cost was \$18,000 and it was fully depreciated, which resulted in a zero basis. She received \$15,000 from the insurance company for the loss of the equipment. She decided not to replace the equipment.

Henrietta recognized a \$15,000 gain as a result of receiving \$15,000 from the insurance company for her zero-basis equipment. She cannot defer the gain because she did not replace the equipment. Henrietta reports the \$15,000 as shown on the following Form 4684 and Form 4797.

Note. The \$15,000 gain is subject to §1245 recapture rules and must be reported as ordinary income on Form 4797. The \$15,000 gain is carried from line 22 of Form 4684 to Part III of Form 4797. The capital gain of zero from line 32 of Form 4797 is carried back to line 33 of Form 4684.

2008 Workbook

For Example 8

Form 4684 (2008)

Attachment Sequence No. 26

Page 2

Name(s) shown on tax return. Do not enter name and identifying number if shown on other side.

Identifying number

Henrietta Blossom

444-44-4444

SECTION B—Business and Income-Producing Property**Part I Casualty or Theft Gain or Loss** (Use a separate Part I for each casualty or theft.)

- 19 Description of properties (show type, location, and date acquired for each property). Use a separate line for each property lost or damaged from the same casualty or theft.

Property A **Equipment 7/1/1980**

Property B

Property C

Property D

		Properties			
		A	B	C	D
20	Cost or adjusted basis of each property.	0			
21	Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3. Note: If line 20 is more than line 21, skip line 22.	15,000			
22	Gain from casualty or theft. If line 21 is more than line 20, enter the difference here and on line 29 or line 34, column (c), except as provided in the instructions for line 33. Also, skip lines 23 through 27 for that column. See the instructions for line 4 if line 21 includes insurance or other reimbursement you did not claim, or you received payment for your loss in a later tax year.	15,000			
23	Fair market value before casualty or theft				
24	Fair market value after casualty or theft				
25	Subtract line 24 from line 23				
26	Enter the smaller of line 20 or line 25. Note: If the property was totally destroyed by casualty or lost from theft, enter on line 26 the amount from line 20.				
27	Subtract line 21 from line 26. If zero or less, enter -0-				
28	Casualty or theft loss. Add the amounts on line 27. Enter the total here and on line 29 or line 34 (see instructions).				

Part II Summary of Gains and Losses (from separate Parts I)

(b) Losses from casualties or thefts

(a) Identify casualty or theft

(i) Trade, business, rental or royalty property

(ii) Income-producing and employee property

(c) Gains from casualties or thefts includible in income

		Casualty or Theft of Property Held One Year or Less	
29		()	()
30	Totals. Add the amounts on line 29	30	()
31	Combine line 30, columns (b)(i) and (c). Enter the net gain or (loss) here and on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions	31	
32	Enter the amount from line 30, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Schedule A (Form 1040NR), line 11. Estates and trusts, partnerships, and S corporations, see instructions.	32	

Casualty or Theft of Property Held More Than One Year

33	Casualty or theft gains from Form 4797, line 32	33	0
34		()	()
35	Total losses. Add amounts on line 34, columns (b)(i) and (b)(ii)	35	()
36	Total gains. Add lines 33 and 34, column (c)	36	
37	Add amounts on line 35, columns (b)(i) and (b)(ii)	37	
38	If the loss on line 37 is more than the gain on line 36: a Combine line 35, column (b)(i) and line 36, and enter the net gain or (loss) here. Partnerships (except electing large partnerships) and S corporations, see the note below. All others, enter this amount on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions	38a	
	b Enter the amount from line 35, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23 or Schedule A (Form 1040NR), line 11. Estates and trusts, enter on the "Other deductions" line of your tax return. Partnerships (except electing large partnerships) and S corporations, see the note below. Electing large partnerships, enter on Form 1065-B, Part II, line 11	38b	
39	If the loss on line 37 is less than or equal to the gain on line 36, combine lines 36 and 37 and enter here. Partnerships (except electing large partnerships), see the note below. All others, enter this amount on Form 4797, line 3	39	

Note: Partnerships, enter the amount from line 38a, 38b, or line 39 on Form 1065, Schedule K, line 11.
S corporations, enter the amount from line 38a or 38b on Form 1120S, Schedule K, line 10.

Form 4684 (2008)

2008 Workbook

For Example 8

Form 4797 <small>Department of the Treasury Internal Revenue Service (99)</small>	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ▶ Attach to your tax return.▶ See separate instructions.	<small>OMB No. 1545-0184</small> 2008 <small>Attachment Sequence No. 27</small>				
Name(s) shown on return Henrietta Blossom		Identifying number 444-44-4444				
1 Enter the gross proceeds from sales or exchanges reported to you for 2008 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions). 1						
Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year (see instructions)						
(a) Description of property	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale	(g) Gain or (loss) Subtract (f) from the sum of (d) and (e)
2						
3 Gain, if any, from Form 4684, line 39						3
4 Section 1231 gain from installment sales from Form 6252, line 26 or 37						4
5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824						5
6 Gain, if any, from line 32, from other than casualty or theft						6
7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:						7
Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.						
Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.						
8 Nonrecaptured net section 1231 losses from prior years (see instructions)						8
9 Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions).						9
Part II Ordinary Gains and Losses (see instructions)						
10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):						
11 Loss, if any, from line 7						11 ()
12 Gain, if any, from line 7 or amount from line 8, if applicable						12
13 Gain, if any, from line 31						13 15,000
14 Net gain or (loss) from Form 4684, lines 31 and 38a						14
15 Ordinary gain from installment sales from Form 6252, line 25 or 36						15
16 Ordinary gain or (loss) from like-kind exchanges from Form 8824						16
17 Combine lines 10 through 16						17 15,000
18 For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below:						
a If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23. Identify as from "Form 4797, line 18a." See instructions						18a
b Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Form 1040, line 14						18b 15,000
For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 130861 Form 4797 (2008)						

2008 Workbook

For Example 8

Form 4797 (2008)

Page **2**

Part III Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255 (see instructions)

19	(a) Description of section 1245, 1250, 1252, 1254, or 1255 property:	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)
A	Equipment (from line 22 of Form 4684)	7/1/1980	5/15/2008
B			
C			
D			

These columns relate to the properties on lines 19A through 19D. ▶		Property A	Property B	Property C	Property D
20	Gross sales price (Note: See line 1 before completing.)	20 15,000			
21	Cost or other basis plus expense of sale	21 18,000			
22	Depreciation (or depletion) allowed or allowable	22 18,000			
23	Adjusted basis. Subtract line 22 from line 21	23 0			
24	Total gain. Subtract line 23 from line 20	24 15,000			
25	If section 1245 property:				
a	Depreciation allowed or allowable from line 22	25a 18,000			
b	Enter the smaller of line 24 or 25a	25b 15,000			
26	If section 1250 property: If straight line depreciation was used, enter -0- on line 26g, except for a corporation subject to section 291.				
a	Additional depreciation after 1975 (see instructions)	26a			
b	Applicable percentage multiplied by the smaller of line 24 or line 26a (see instructions)	26b			
c	Subtract line 26a from line 24. If residential rental property or line 24 is not more than line 26a, skip lines 26d and 26e	26c			
d	Additional depreciation after 1969 and before 1976	26d			
e	Enter the smaller of line 26c or 26d	26e			
f	Section 291 amount (corporations only)	26f			
g	Add lines 26b, 26e, and 26f	26g			
27	If section 1252 property: Skip this section if you did not dispose of farmland or if this form is being completed for a partnership (other than an electing large partnership).				
a	Soil, water, and land clearing expenses	27a			
b	Line 27a multiplied by applicable percentage (see instructions)	27b			
c	Enter the smaller of line 24 or 27b	27c			
28	If section 1254 property:				
a	Intangible drilling and development costs, expenditures for development of mines and other natural deposits, and mining exploration costs (see instructions)	28a			
b	Enter the smaller of line 24 or 28a	28b			
29	If section 1255 property:				
a	Applicable percentage of payments excluded from income under section 126 (see instructions)	29a			
b	Enter the smaller of line 24 or 29a (see instructions)	29b			

Summary of Part III Gains. Complete property columns A through D through line 29b before going to line 30.

30	Total gains for all properties. Add property columns A through D, line 24	30 15,000
31	Add property columns A through D, lines 25b, 26g, 27c, 28b, and 29b. Enter here and on line 13	31 15,000
32	Subtract line 31 from line 30. Enter the portion from casualty or theft on Form 4684, line 33. Enter the portion from other than casualty or theft on Form 4797, line 6	32 0

Part IV Recapture Amounts Under Sections 179 and 280F(b)(2) When Business Use Drops to 50% or Less (see instructions)

	(a) Section 179	(b) Section 280F(b)(2)
33	Section 179 expense deduction or depreciation allowable in prior years	33
34	Recomputed depreciation (see instructions)	34
35	Recapture amount. Subtract line 34 from line 33. See the instructions for where to report	35

Form **4797** (2008)



Printed on recycled paper

2008 Workbook

For Example 9

Form 4684 (2008)

Attachment Sequence No. 26

Page 2

Name(s) shown on tax return. Do not enter name and identifying number if shown on other side.

Identifying number

Devin Brown

987-65-4321

SECTION B—Business and Income-Producing Property**Part I Casualty or Theft Gain or Loss** (Use a separate Part I for each casualty or theft.)

- 19 Description of properties (show type, location, and date acquired for each property). Use a separate line for each property lost or damaged from the same casualty or theft.

Property A **Tools (various)**

Property B

Property C

Property D

	Properties			
	A	B	C	D
20 Cost or adjusted basis of each property.	20 4,000			
21 Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3. Note: If line 20 is more than line 21, skip line 22.	21 0			
22 Gain from casualty or theft. If line 21 is more than line 20, enter the difference here and on line 29 or line 34, column (c), except as provided in the instructions for line 33. Also, skip lines 23 through 27 for that column. See the instructions for line 4 if line 21 includes insurance or other reimbursement you did not claim, or you received payment for your loss in a later tax year.	22			
23 Fair market value before casualty or theft	23 20,000			
24 Fair market value after casualty or theft.	24 0			
25 Subtract line 24 from line 23	25 20,000			
26 Enter the smaller of line 20 or line 25. Note: If the property was totally destroyed by casualty or lost from theft, enter on line 26 the amount from line 20.	26 4,000			
27 Subtract line 21 from line 26. If zero or less, enter -0-	27 4,000			
28 Casualty or theft loss. Add the amounts on line 27. Enter the total here and on line 29 or line 34 (see instructions).	28 4,000			

Part II Summary of Gains and Losses (from separate Parts I)

(b) Losses from casualties or thefts

(a) Identify casualty or theft

(i) Trade, business, rental or royalty property

(ii) Income-producing and employee property

(c) Gains from casualties or thefts includible in income

Casualty or Theft of Property Held One Year or Less

29	() () () ()		
30 Totals. Add the amounts on line 29	30 () () () ()		
31 Combine line 30, columns (b)(i) and (c). Enter the net gain or (loss) here and on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions	31		
32 Enter the amount from line 30, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Schedule A (Form 1040NR), line 11. Estates and trusts, partnerships, and S corporations, see instructions.	32		

Casualty or Theft of Property Held More Than One Year

33 Casualty or theft gains from Form 4797, line 32	33		
34 THEFT	(4,000) () ()		
35 Total losses. Add amounts on line 34, columns (b)(i) and (b)(ii)	35 (4,000) ()		
36 Total gains. Add lines 33 and 34, column (c)	36		
37 Add amounts on line 35, columns (b)(i) and (b)(ii)	37 (4,000)		
38 If the loss on line 37 is more than the gain on line 36: a Combine line 35, column (b)(i) and line 36, and enter the net gain or (loss) here. Partnerships (except electing large partnerships) and S corporations, see the note below. All others, enter this amount on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions	38a (4,000)		
b Enter the amount from line 35, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23 or Schedule A (Form 1040NR), line 11. Estates and trusts, enter on the "Other deductions" line of your tax return. Partnerships (except electing large partnerships) and S corporations, see the note below. Electing large partnerships, enter on Form 1065-B, Part II, line 11	38b		
39 If the loss on line 37 is less than or equal to the gain on line 36, combine lines 36 and 37 and enter here. Partnerships (except electing large partnerships), see the note below. All others, enter this amount on Form 4797, line 3	39		

Note: Partnerships, enter the amount from line 38a, 38b, or line 39 on Form 1065, Schedule K, line 11.
S corporations, enter the amount from line 38a or 38b on Form 1120S, Schedule K, line 10.

Form 4684 (2008)

2008 Workbook

Line 15 of Form 4797 is used to report ordinary income that is recognized in the current year from an installment sale of property. This amount is calculated on Form 6252, *Installment Sale Income*. The amount carried from Form 6252 is always a gain because losses cannot be reported on the installment basis.

Line 16 is used to report depreciation recapture that is recognized in a like-kind exchange. This amount is calculated on Form 8824, *Like-Kind Exchanges*.

Line 18 is used to segregate the losses of an individual taxpayer that are subject to the miscellaneous itemized deductions floor of 2% of AGI that were included in the Part II calculation. Such losses are included in the Part II calculation only if **all** of the following circumstances exist:

1. The taxpayer incurred a casualty or theft loss on §1231 property that was held for investment.¹²
2. The taxpayer had a net gain from a casualty or theft loss of business and investment property.¹³
3. The taxpayer had a net §1231 loss for the tax year.¹⁴

All entities, except individuals, enter the amount from line 17 on the appropriate line of the entity return.

Example 10. On January 15, 2008, a fire destroyed a building Rylee **used in his business** along with a painting that he held as an investment. He purchased the building on June 22, 1992. He had a \$70,000 basis in the building at the time it burned and received \$270,000 from the insurance company for the loss. He purchased the painting on October 3, 2000, for \$90,000. It was worth \$120,000 at the time of the fire and was not insured.

On February 22, 2008, Rylee sold a parcel of the land he used in his business. He purchased the land on May 10, 1998, for \$350,000 and sold it for \$100,000. He paid a broker \$7,000 to handle the sale.

Rylee should report the \$90,000 loss on the painting and the \$200,000 gain on the building on Form 4684. The net \$110,000 gain is carried to Form 4797, Part I, line 3, and is netted with the \$257,000 loss from the sale of the land. The \$147,000 net loss is reported on Form 4797, Part I, line 7, and carried to line 11. The \$90,000 loss from the painting is reported on Part II, line 18a, and carried to Form 1040, Schedule A, line 27. The remainder of the \$147,000 net loss is reported on Form 4797, Part II, line 18b, and carried to Form 1040, line 14.

¹² See line 35(b)(ii) of Form 4684

¹³ See IRC §1231(a)(4)(C) and line 39 of Form 4684

¹⁴ See line 7 of Form 4797

2008 Workbook

For Example 10

Form 4684 (2008)

Attachment Sequence No. 26

Page 2

Name(s) shown on tax return. Do not enter name and identifying number if shown on other side.

Identifying number

Rylee

111-22-1111

SECTION B—Business and Income-Producing Property

Part I Casualty or Theft Gain or Loss (Use a separate Part I for each casualty or theft.)

19 Description of properties (show type, location, and date acquired for each property). Use a separate line for each property lost or damaged from the same casualty or theft.

Property A Building acquired 6/22/1992

Property B Painting acquired 10/3/2000

Property C

Property D

		Properties			
		A	B	C	D
20	Cost or adjusted basis of each property.	70,000	90,000		
21	Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3. Note: If line 20 is more than line 21, skip line 22.	270,000			
22	Gain from casualty or theft. If line 21 is more than line 20, enter the difference here and on line 29 or line 34, column (c), except as provided in the instructions for line 33. Also, skip lines 23 through 27 for that column. See the instructions for line 4 if line 21 includes insurance or other reimbursement you did not claim, or you received payment for your loss in a later tax year.	200,000			
23	Fair market value before casualty or theft		120,000		
24	Fair market value after casualty or theft.		0		
25	Subtract line 24 from line 23		120,000		
26	Enter the smaller of line 20 or line 25. Note: If the property was totally destroyed by casualty or lost from theft, enter on line 26 the amount from line 20.		90,000		
27	Subtract line 21 from line 26. If zero or less, enter -0-		90,000		
28	Casualty or theft loss. Add the amounts on line 27. Enter the total here and on line 29 or line 34 (see instructions).				90,000

Part II Summary of Gains and Losses (from separate Parts I)

(b) Losses from casualties or thefts

(c) Gains from casualties or thefts includible in income

(a) Identify casualty or theft

(i) Trade, business, rental or royalty property

(ii) Income-producing and employee property

Casualty or Theft of Property Held One Year or Less

29		()	()	()	
30	Totals. Add the amounts on line 29	30	()	()	
31	Combine line 30, columns (b)(i) and (c). Enter the net gain or (loss) here and on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions				31
32	Enter the amount from line 30, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Schedule A (Form 1040NR), line 11. Estates and trusts, partnerships, and S corporations, see instructions.				32

Casualty or Theft of Property Held More Than One Year

33	Casualty or theft gains from Form 4797, line 32	33		
34	Fire 01/15/2008	()	(90,000)	200,000
35	Total losses. Add amounts on line 34, columns (b)(i) and (b)(ii)	35	()	(90,000)
36	Total gains. Add lines 33 and 34, column (c)	36		200,000
37	Add amounts on line 35, columns (b)(i) and (b)(ii)	37		(90,000)
38	If the loss on line 37 is more than the gain on line 36:			
a	Combine line 35, column (b)(i) and line 36, and enter the net gain or (loss) here. Partnerships (except electing large partnerships) and S corporations, see the note below. All others, enter this amount on Form 4797, line 14. If Form 4797 is not otherwise required, see instructions	38a		
b	Enter the amount from line 35, column (b)(ii) here. Individuals, enter the amount from income-producing property on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23 or Schedule A (Form 1040NR), line 11. Estates and trusts, enter on the "Other deductions" line of your tax return. Partnerships (except electing large partnerships) and S corporations, see the note below. Electing large partnerships, enter on Form 1065-B, Part II, line 11	38b		
39	If the loss on line 37 is less than or equal to the gain on line 36, combine lines 36 and 37 and enter here. Partnerships (except electing large partnerships), see the note below. All others, enter this amount on Form 4797, line 3	39		110,000

Note: Partnerships, enter the amount from line 38a, 38b, or line 39 on Form 1065, Schedule K, line 11.
S corporations, enter the amount from line 38a or 38b on Form 1120S, Schedule K, line 10.

Form 4684 (2008)

2008 Workbook

For Example 10

Form 4797 Department of the Treasury Internal Revenue Service (99)	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ► Attach to your tax return. ► See separate instructions.	OMB No. 1545-0184 2008 Attachment Sequence No. 27				
Name(s) shown on return Rylee		Identifying number 111-22-1111				
1 Enter the gross proceeds from sales or exchanges reported to you for 2008 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions).		100,000				
Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year (see instructions)						
(a) Description of property	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale	(g) Gain or (loss) Subtract (f) from the sum of (d) and (e)
2 Land	05/10/1998	02/22/2008	100,000		357,000	(257,000)
3 Gain, if any, from Form 4684, line 39						110,000
4 Section 1231 gain from installment sales from Form 6252, line 26 or 37						
5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824						
6 Gain, if any, from line 32, from other than casualty or theft						
7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:						(147,000)
Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below. Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.						
8 Nonrecaptured net section 1231 losses from prior years (see instructions)						
9 Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions).						
Part II Ordinary Gains and Losses (see instructions)						
10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):						
11 Loss, if any, from line 7						(147,000)
12 Gain, if any, from line 7 or amount from line 8, if applicable						
13 Gain, if any, from line 31						
14 Net gain or (loss) from Form 4684, lines 31 and 38a						
15 Ordinary gain from installment sales from Form 6252, line 25 or 36						
16 Ordinary gain or (loss) from like-kind exchanges from Form 8824						
17 Combine lines 10 through 16						(147,000)
18 For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below:						
a If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23. Identify as from "Form 4797, line 18a." See instructions						(90,000)
b Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Form 1040, line 14						(57,000)

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 130861

Form **4797** (2008)

FORM 4797, PART III

3

Form 4797, Part III is used to calculate the portion of gain realized on the sale of §1231 assets that must be recaptured as **ordinary income** under:

1. The depreciation recapture rules;¹⁵
2. The soil and water conservation recapture rules;¹⁶
3. The rules for recapturing intangible drilling and development costs, expenditures for development of mines and other natural deposits, and mining exploration costs;¹⁷ and
4. The recapture of cost-sharing payments that are excluded from income under §126.¹⁸

IRC §1245 RECAPTURE

IRC §1245 requires the lesser of the gain realized or the depreciation allowed or allowable to be reported as ordinary income upon sale or other transfer of an asset that is defined as §1245 property. In general, this includes personal property for which depreciation was allowed and certain real property, such as single-purpose agricultural and horticultural structures and property used as an integral part of production.

Since the gain is subject to §1245 recapture, the transaction is reported on Form 4797, Part III. Because all the gain is ordinary income, it is reported on Form 4797, line 13.

For purposes of this provision, in addition to regular depreciation, the following are **also treated as depreciation**:

1. The amount claimed as a deduction under §179;
2. Any basis reduction as a result of discharge of indebtedness under §108;
3. The basis reduction for claiming investment credit;
4. The deduction for qualified clean-fuel vehicle property or refueling property; and
5. Deductions claimed under §190,¹⁹ §193,²⁰ or §1253(d)(2) or (3),²¹ as in effect before the Omnibus Reconciliation Act of 1993.

Example 11. During 2008, Rhonda sold a 1-ton truck and a cement mixer that she **used in her construction business**. In 2007, she claimed a \$15,000 §179 deduction on the truck. The sale price, basis, and depreciation on the assets are as follows:

Item	Gross Sales Price	Cost Basis	Depreciation
Truck, 1-ton	\$4,000	\$15,000	\$15,000
Cement mixer	1,500	1,000	475

Rhonda reports these transactions as shown in Form 4797, Part III.

¹⁵ IRC §§1245 and 1250

¹⁶ IRC §1252

¹⁷ IRC §1254

¹⁸ IRC §1255

¹⁹ Removal of architectural and transportation barriers to the handicapped and elderly

²⁰ Deduction for tertiary inject and expenses

²¹ Transfers of franchises, trademarks, and trade names

2008 Workbook

For Example 11

Form 4797 (2008)

Page **2**

Part III Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255 (see instructions)

19	(a) Description of section 1245, 1250, 1252, 1254, or 1255 property:	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)
A	Truck (1-ton)	01/02/2007	03/08/2008
B	Cement Mixer	08/07/2006	09/14/2008
C			
D			

These columns relate to the properties on lines 19A through 19D. ▶		Property A	Property B	Property C	Property D
20	Gross sales price (Note: See line 1 before completing.)	20 4,000	1,500		
21	Cost or other basis plus expense of sale	21 15,000	1,000		
22	Depreciation (or depletion) allowed or allowable	22 15,000	475		
23	Adjusted basis. Subtract line 22 from line 21	23	525		
24	Total gain. Subtract line 23 from line 20	24 4,000	975		
25	If section 1245 property:				
a	Depreciation allowed or allowable from line 22	25a 15,000	475		
b	Enter the smaller of line 24 or 25a	25b 4,000	475		
26	If section 1250 property: If straight line depreciation was used, enter -0- on line 26g, except for a corporation subject to section 291.				
a	Additional depreciation after 1975 (see instructions)	26a			
b	Applicable percentage multiplied by the smaller of line 24 or line 26a (see instructions)	26b			
c	Subtract line 26a from line 24. If residential rental property or line 24 is not more than line 26a, skip lines 26d and 26e	26c			
d	Additional depreciation after 1969 and before 1976	26d			
e	Enter the smaller of line 26c or 26d	26e			
f	Section 291 amount (corporations only)	26f			
g	Add lines 26b, 26e, and 26f	26g			
27	If section 1252 property: Skip this section if you did not dispose of farmland or if this form is being completed for a partnership (other than an electing large partnership).				
a	Soil, water, and land clearing expenses	27a			
b	Line 27a multiplied by applicable percentage (see instructions)	27b			
c	Enter the smaller of line 24 or 27b	27c			
28	If section 1254 property:				
a	Intangible drilling and development costs, expenditures for development of mines and other natural deposits, and mining exploration costs (see instructions)	28a			
b	Enter the smaller of line 24 or 28a	28b			
29	If section 1255 property:				
a	Applicable percentage of payments excluded from income under section 126 (see instructions)	29a			
b	Enter the smaller of line 24 or 29a (see instructions)	29b			


Summary of Part III Gains. Complete property columns A through D through line 29b before going to line 30.

30	Total gains for all properties. Add property columns A through D, line 24	30 4,975
31	Add property columns A through D, lines 25b, 26g, 27c, 28b, and 29b. Enter here and on line 13	31 4,475
32	Subtract line 31 from line 30. Enter the portion from casualty or theft on Form 4684, line 33. Enter the portion from other than casualty or theft on Form 4797, line 6	32 500

Part IV Recapture Amounts Under Sections 179 and 280F(b)(2) When Business Use Drops to 50% or Less (see instructions)

	(a) Section 179	(b) Section 280F(b)(2)
33	Section 179 expense deduction or depreciation allowable in prior years	33
34	Recomputed depreciation (see instructions)	34
35	Recapture amount. Subtract line 34 from line 33. See the instructions for where to report	35

Form **4797** (2008)

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Observation. The §179 deduction that Rhonda claimed in 2007 reduced her Schedule C income and therefore reduced her SE tax. The §1245 recapture reported in 2008 is not reported on Schedule C and does not increase her SE tax.

3

IRC §1250

IRC §1250 requires the lesser of the gain realized or the depreciation claimed in excess of straight-line depreciation to be reported as ordinary income upon sale or transfer of any asset defined as §1250 property. That includes real property for which depreciation was allowed other than real property included in the definition of §1245 property.

Note. The recapture rules vary according to the date the property was placed in service and the method of depreciation that was claimed. The applicable percentage used to figure the amount taxable as ordinary income because of additional depreciation depends on whether the real property is nonresidential real property, residential real property, or low-income housing. Instructions to Form 4797 are helpful.

No recapture is required for §1250 residential or nonresidential real property depreciated under MACRS.

DEPRECIATION RECAPTURE SUMMARY

TABLE REDACTED AS PER AGREEMENT WITH CCH.

2008 Workbook

Note. The IRS has several publications related to depreciation. Pub. 946, *How to Depreciate Property*; Pub. 544, *Sales and Other Dispositions of Assets*; and Pub 534, *Depreciating Property Placed in Service before 1987*, are useful resources related to depreciation and depreciation recapture.

DEPRECIATION RECAPTURE FROM A LIKE-KIND EXCHANGE

Gain that is recognized from a like-kind exchange is subject to the same recapture rules as gain recognized from the sale of the property.

Gain that is recognized from the exchange of §1245 property is ordinary income to the extent of depreciation claimed on the property. Gain in excess of the depreciation claimed is §1231 gain.

Example 12. In 2008, Wesley traded a combine with a cost of \$35,000, an adjusted basis of \$22,000, and FMV of \$40,000 for a corn planter with an FMV of \$25,000. He also received \$15,000 in boot. The trade qualifies as a like-kind exchange because the combine and corn planter are both included in the same NAICS code. The gain recognized on the exchange is:

FMV of combine	\$40,000
Adjusted basis of combine	(22,000)
Gain realized	\$18,000
Gain recognized	15,000

Note. Gain recognized is limited to the lesser of the gain realized or boot received. In this case, \$15,000 boot was received; therefore, the deferred gain is \$3,000 (\$18,000 – \$15,000), which is recognized upon disposition of the planter.

Wesley reported the exchange on Form 8824 and Form 4797 as shown below.

Form 8824 Department of the Treasury Internal Revenue Service	Like-Kind Exchanges (and section 1043 conflict-of-interest sales) ▶ Attach to your tax return.	OMB No. 1545-1190 2008 Attachment Sequence No. 109
Name(s) shown on tax return Wesley		Identifying number 111-44-1111
Part I Information on the Like-Kind Exchange		
Note: If the property described on line 1 or line 2 is real or personal property located outside the United States, indicate the country.		
1 Description of like-kind property given up: Combine		
2 Description of like-kind property received: Corn Planter		
3 Date like-kind property given up was originally acquired (month, day, year)	3	MI 03 / 10 / 2006 Y
4 Date you actually transferred your property to other party (month, day, year)	4	MI 06 / 20 / 2008 Y
5 Date like-kind property you received was identified by written notice to another party (month, day, year). See instructions for 45-day written notice requirement	5	MI 06 / 20 / 2008 Y
6 Date you actually received the like-kind property from other party (month, day, year). See instructions	6	MI 06 / 20 / 2008 Y

2008 Workbook

For Example 12

Form 8824 (2008)

Page **2**

Name(s) shown on tax return. Do not enter name and social security number if shown on other side.

Your social security number

Part III Realized Gain or (Loss), Recognized Gain, and Basis of Like-Kind Property Received

Caution: If you transferred **and** received (a) more than one group of like-kind properties or (b) cash or other (not like-kind) property, see **Reporting of multi-asset exchanges** in the instructions.

Note: Complete lines 12 through 14 **only** if you gave up property that was not like-kind. Otherwise, go to line 15.

12	Fair market value (FMV) of other property given up	12		
13	Adjusted basis of other property given up	13		
14	Gain or (loss) recognized on other property given up. Subtract line 13 from line 12. Report the gain or (loss) in the same manner as if the exchange had been a sale	14		
Caution: If the property given up was used previously or partly as a home, see Property used as home in the instructions.				
15	Cash received, FMV of other property received, plus net liabilities assumed by other party, reduced (but not below zero) by any exchange expenses you incurred (see instructions)	15	15,000	
16	FMV of like-kind property you received	16	25,000	
17	Add lines 15 and 16	17	40,000	
18	Adjusted basis of like-kind property you gave up, net amounts paid to other party, plus any exchange expenses not used on line 15 (see instructions)	18	22,000	
19	Realized gain or (loss). Subtract line 18 from line 17	19	18,000	
20	Enter the smaller of line 15 or line 19, but not less than zero	20	15,000	
21	Ordinary income under recapture rules. Enter here and on Form 4797, line 16 (see instructions)	21	13,000	
22	Subtract line 21 from line 20. If zero or less, enter -0-. If more than zero, enter here and on Schedule D or Form 4797, unless the installment method applies (see instructions)	22	2,000	
23	Recognized gain. Add lines 21 and 22	23	15,000	
24	Deferred gain or (loss). Subtract line 23 from line 19. If a related party exchange, see instructions	24	3,000	
25	Basis of like-kind property received. Subtract line 15 from the sum of lines 18 and 23	25	22,000	

3

2008 Workbook

For Example 12

Form 4797 <small>Department of the Treasury Internal Revenue Service (99)</small>	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ▶ Attach to your tax return.▶ See separate instructions.	<small>OMB No. 1545-0184</small> 2008 <small>Attachment Sequence No. 27</small>					
Name(s) shown on return Wesley		Identifying number 111-44-1111					
1 Enter the gross proceeds from sales or exchanges reported to you for 2008 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions). 1							
Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year (see instructions)							
(a) Description of property	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale	(g) Gain or (loss) Subtract (f) from the sum of (d) and (e)	
2							
3 Gain, if any, from Form 4684, line 39					3		
4 Section 1231 gain from installment sales from Form 6252, line 26 or 37					4		
5 Section 1231 gain or (loss) from like-kind exchanges from Form 8824					5	2,000	
6 Gain, if any, from line 32, from other than casualty or theft					6		
7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:					7	2,000	
Partnerships (except electing large partnerships) and S corporations. Report the gain or (loss) following the instructions for Form 1065, Schedule K, line 10, or Form 1120S, Schedule K, line 9. Skip lines 8, 9, 11, and 12 below.							
Individuals, partners, S corporation shareholders, and all others. If line 7 is zero or a loss, enter the amount from line 7 on line 11 below and skip lines 8 and 9. If line 7 is a gain and you did not have any prior year section 1231 losses, or they were recaptured in an earlier year, enter the gain from line 7 as a long-term capital gain on the Schedule D filed with your return and skip lines 8, 9, 11, and 12 below.							
8 Nonrecaptured net section 1231 losses from prior years (see instructions)					8		
9 Subtract line 8 from line 7. If zero or less, enter -0-. If line 9 is zero, enter the gain from line 7 on line 12 below. If line 9 is more than zero, enter the amount from line 8 on line 12 below and enter the gain from line 9 as a long-term capital gain on the Schedule D filed with your return (see instructions).					9		
Part II Ordinary Gains and Losses (see instructions)							
10 Ordinary gains and losses not included on lines 11 through 16 (include property held 1 year or less):							
11 Loss, if any, from line 7					11	()	
12 Gain, if any, from line 7 or amount from line 8, if applicable					12		
13 Gain, if any, from line 31					13		
14 Net gain or (loss) from Form 4684, lines 31 and 38a					14		
15 Ordinary gain from installment sales from Form 6252, line 25 or 36					15		
16 Ordinary gain or (loss) from like-kind exchanges from Form 8824					16	13,000	
17 Combine lines 10 through 16					17	13,000	
18 For all except individual returns, enter the amount from line 17 on the appropriate line of your return and skip lines a and b below. For individual returns, complete lines a and b below:							
a If the loss on line 11 includes a loss from Form 4684, line 35, column (b)(ii), enter that part of the loss here. Enter the part of the loss from income-producing property on Schedule A (Form 1040), line 28, and the part of the loss from property used as an employee on Schedule A (Form 1040), line 23. Identify as from "Form 4797, line 18a." See instructions						18a	
b Redetermine the gain or (loss) on line 17 excluding the loss, if any, on line 18a. Enter here and on Form 1040, line 14						18b	13,000
For Paperwork Reduction Act Notice, see separate instructions. <small>Cat. No. 130861</small> Form 4797 (2008)							

2008 Workbook

INSTALLMENT SALES

Under the installment method, the taxpayer reports gain on a sale as payments are received, instead of reporting all the gain in the year of sale. A sale qualifies as an installment sale, even if only one payment is made, if that payment is received after the close of the year of sale.

The portion of the payment that is income to the taxpayer is equal to the installment payment received multiplied by the gross profit ratio.

Example 13. Zeph sells business equipment on the installment basis for \$75,000. He originally paid \$100,000 for the equipment and took depreciation deductions totaling \$60,000. Therefore, Zeph must recognize a gain of \$35,000. Because this gain is from depreciation recapture, he must **report the entire gain in the year of sale**, even though he only receives \$10,000 in cash.

Example 14. Assume the same facts as **Example 13**, except instead of selling business equipment, Zeph sold a lot along with a fully-depreciated building which was depreciated using the straight-line method. Zeph would complete the following Form 6252 and report the current year gain on Form 4797. The amount Zeph reported on Form 6252, line 26, is carried to Form 4797, Part I, line 4.

3

2008 Workbook

For Example 14

Form 6252 Department of the Treasury Internal Revenue Service	Installment Sale Income ▶ Attach to your tax return. ▶ Use a separate form for each sale or other disposition of property on the installment method.	OMB No. 1545-0228 2008 Attachment Sequence No. 79
Name(s) shown on return Zeph		Identifying number 878-78-7878
1 Description of property ▶ Building and lot		
2a Date acquired (month, day, year) ▶ 01 / 01 / 1969		b Date sold (month, day, year) ▶ 01 / 01 / 2008
3 Was the property sold to a related party (see instructions) after May 14, 1980? If "No," skip line 4. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
4 Was the property you sold to a related party a marketable security? If "Yes," complete Part III. If "No," complete Part III for the year of sale and the 2 years after the year of sale. <input type="checkbox"/> Yes <input type="checkbox"/> No		
Part I Gross Profit and Contract Price. Complete this part for the year of sale only.		
5 Selling price including mortgages and other debts. Do not include interest whether stated or unstated	5	75,000
6 Mortgages, debts, and other liabilities the buyer assumed or took the property subject to (see instructions)	6	
7 Subtract line 6 from line 5	7	75,000
8 Cost or other basis of property sold	8	100,000
9 Depreciation allowed or allowable	9	60,000
10 Adjusted basis. Subtract line 9 from line 8	10	40,000
11 Commissions and other expenses of sale	11	
12 Income recapture from Form 4797, Part III (see instructions)	12	
13 Add lines 10, 11, and 12	13	40,000
14 Subtract line 13 from line 5. If zero or less, do not complete the rest of this form (see instructions)	14	35,000
15 If the property described on line 1 above was your main home, enter the amount of your excluded gain (see instructions). Otherwise, enter -0-	15	0
16 Gross profit. Subtract line 15 from line 14	16	35,000
17 Subtract line 13 from line 6. If zero or less, enter -0-	17	0
18 Contract price. Add line 7 and line 17	18	75,000
Part II Installment Sale Income. Complete this part for the year of sale and any year you receive a payment or have certain debts you must treat as a payment on installment obligations.		
19 Gross profit percentage (expressed as a decimal amount). Divide line 16 by line 18. For years after the year of sale, see instructions	19	0.4667
20 If this is the year of sale, enter the amount from line 17. Otherwise, enter -0-	20	0
21 Payments received during year (see instructions). Do not include interest, whether stated or unstated	21	10,000
22 Add lines 20 and 21	22	10,000
23 Payments received in prior years (see instructions). Do not include interest, whether stated or unstated	23	
24 Installment sale income. Multiply line 22 by line 19	24	4,667
25 Enter the part of line 24 that is ordinary income under the recapture rules (see instructions)	25	
26 Subtract line 25 from line 24. Enter here and on Schedule D or Form 4797 (see instructions)	26	4,667
Part III Related Party Installment Sale Income. Do not complete if you received the final payment this tax year.		
27 Name, address, and taxpayer identifying number of related party		
28 Did the related party resell or dispose of the property ("second disposition") during this tax year? <input type="checkbox"/> Yes <input type="checkbox"/> No		
29 If the answer to question 28 is "Yes," complete lines 30 through 37 below unless one of the following conditions is met. Check the box that applies.		
a <input type="checkbox"/> The second disposition was more than 2 years after the first disposition (other than dispositions of marketable securities). If this box is checked, enter the date of disposition (month, day, year) ▶ / /		
b <input type="checkbox"/> The first disposition was a sale or exchange of stock to the issuing corporation.		
c <input type="checkbox"/> The second disposition was an involuntary conversion and the threat of conversion occurred after the first disposition.		
d <input type="checkbox"/> The second disposition occurred after the death of the original seller or buyer.		
e <input type="checkbox"/> It can be established to the satisfaction of the Internal Revenue Service that tax avoidance was not a principal purpose for either of the dispositions. If this box is checked, attach an explanation (see instructions).		
30 Selling price of property sold by related party (see instructions)	30	
31 Enter contract price from line 18 for year of first sale	31	
32 Enter the smaller of line 30 or line 31	32	
33 Total payments received by the end of your 2008 tax year (see instructions)	33	
34 Subtract line 33 from line 32. If zero or less, enter -0-	34	
35 Multiply line 34 by the gross profit percentage on line 19 for year of first sale	35	
36 Enter the part of line 35 that is ordinary income under the recapture rules (see instructions)	36	
37 Subtract line 36 from line 35. Enter here and on Schedule D or Form 4797 (see instructions)	37	

For Paperwork Reduction Act Notice, see page 4.

Cat. No. 13601R

Form **6252** (2008)

2008 Workbook

For Example 14

Form 4797 (2008)

Page **2**

Part III Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255 (see instructions)

19 (a) Description of section 1245, 1250, 1252, 1254, or 1255 property:		(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)
A Building and lot		01/01/69	01/01/08
B			
C			
D			

These columns relate to the properties on lines 19A through 19D. ▶		Property A	Property B	Property C	Property D
20	Gross sales price (Note: See line 1 before completing.)	20 75,000			
21	Cost or other basis plus expense of sale	21 100,000			
22	Depreciation (or depletion) allowed or allowable	22 60,000			
23	Adjusted basis. Subtract line 22 from line 21	23 40,000			
24	Total gain. Subtract line 23 from line 20	24 35,000			
25 If section 1245 property:					
a	Depreciation allowed or allowable from line 22	25a			
b	Enter the smaller of line 24 or 25a	25b			
26 If section 1250 property: If straight line depreciation was used, enter -0- on line 26g, except for a corporation subject to section 291.					
a	Additional depreciation after 1975 (see instructions)	26a			
b	Applicable percentage multiplied by the smaller of line 24 or line 26a (see instructions)	26b			
c	Subtract line 26a from line 24. If residential rental property or line 24 is not more than line 26a, skip lines 26d and 26e	26c			
d	Additional depreciation after 1969 and before 1976	26d			
e	Enter the smaller of line 26c or 26d	26e			
f	Section 291 amount (corporations only)	26f			
g	Add lines 26b, 26e, and 26f	26g 0			
27 If section 1252 property: Skip this section if you did not dispose of farmland or if this form is being completed for a partnership (other than an electing large partnership).					
a	Soil, water, and land clearing expenses	27a			
b	Line 27a multiplied by applicable percentage (see instructions)	27b			
c	Enter the smaller of line 24 or 27b	27c			
28 If section 1254 property:					
a	Intangible drilling and development costs, expenditures for development of mines and other natural deposits, and mining exploration costs (see instructions)	28a			
b	Enter the smaller of line 24 or 28a	28b			
29 If section 1255 property:					
a	Applicable percentage of payments excluded from income under section 126 (see instructions)	29a			
b	Enter the smaller of line 24 or 29a (see instructions)	29b			

Summary of Part III Gains. Complete property columns A through D through line 29b before going to line 30.

30	Total gains for all properties. Add property columns A through D, line 24	30 35,000
31	Add property columns A through D, lines 25b, 26g, 27c, 28b, and 29b. Enter here and on line 13	31
32	Subtract line 31 from line 30. Enter the portion from casualty or theft on Form 4684, line 33. Enter the portion from other than casualty or theft on Form 4797, line 6 See Form 6252	32 N/A

Part IV Recapture Amounts Under Sections 179 and 280F(b)(2) When Business Use Drops to 50% or Less (see instructions)

	(a) Section 179	(b) Section 280F(b)(2)
33	Section 179 expense deduction or depreciation allowable in prior years	33
34	Recomputed depreciation (see instructions)	34
35	Recapture amount. Subtract line 34 from line 33. See the instructions for where to report	35

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Form **4797** (2008)

2008 Workbook

For Example 14

Form 4797 Department of the Treasury Internal Revenue Service (99)	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ▶ Attach to your tax return. ▶ See separate instructions.	OMB No. 1545-0184 <div style="font-size: 2em; font-weight: bold; margin: 5px 0;">2008</div> Attachment Sequence No. 27				
Name(s) shown on return Zeph		Identifying number 878-78-7878				
1 Enter the gross proceeds from sales or exchanges reported to you for 2008 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions). 1						
Part I Sales or Exchanges of Property Used in a Trade or Business and Involuntary Conversions From Other Than Casualty or Theft—Most Property Held More Than 1 Year (see instructions)						
(a) Description of property	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)	(d) Gross sales price	(e) Depreciation allowed or allowable since acquisition	(f) Cost or other basis, plus improvements and expense of sale	(g) Gain or (loss) Subtract (f) from the sum of (d) and (e)
2						
3	Gain, if any, from Form 4684, line 39					3
4	Section 1231 gain from installment sales from Form 6252, line 26 or 37					4
5	Section 1231 gain or (loss) from like-kind exchanges from Form 8824					5
6	Gain, if any, from line 32, from other than casualty or theft					6
7	Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:					7
						4,667

TRADE-IN OF MACHINERY FOR A LEASING ARRANGEMENT

The first issue to consider when a taxpayer trades a piece of machinery used in his trade or business for a new machine which is acquired by lease is whether the acquisition qualifies as a lease for tax purposes. The guidelines for a lease are well defined in Rev. Rul. 55-540. While no one factor is determinative, the decision is made on the overall facts and circumstances of the transaction. Factors indicative of a lease include whether:

1. Portions of the periodic payments are made specifically applicable to an equity to be acquired by the lessee;
2. The lessee will acquire the title upon payment of a stated amount of “rentals,” which under the contract he is required to make;
3. The total rental payments required for a relatively short period of use compare to the total sum required to secure the transfer of title;
4. The rental payments materially exceed the fair rental value of the property;
5. The property can be acquired at the end of the lease for a relatively small amount compared to the FMV of the property at that time; or
6. Some portion of the rental payments is specifically designated or readily recognizable as interest.

If the lessee has property which is traded for the leased machine, he must report the trade as if the property was sold and the proceeds were used to make lease payments. The FMV is reported on Form 4797.

Example 15. On January 18, 2008, Teddy traded his bulldozer (bulldozer A) for a 3-year lease of a new bulldozer (bulldozer B). He purchased bulldozer A on July 6, 2002, for \$150,000 and depreciated the entire cost before the trade. The lease calls for a \$30,000 annual payment. Teddy received a credit of \$25,000 against the first lease payment in exchange for bulldozer A and paid the remaining \$5,000 in cash. Teddy is allowed to purchase bulldozer B at the end of the lease for a price determined by the market value of used bulldozers at the time of the purchase.

Teddy must report bulldozer A on Form 4797 and recognize ordinary income of \$25,000 due to depreciation recapture. However, he may deduct the \$25,000 as a part of the \$30,000 lease payment.

If the lease applied the \$25,000 trade-in equally to the three annual payments, he could only deduct \$8,333 in 2008 and the same amounts in 2009 and 2010. However, he must still recognize the entire trade-in value in 2008.

If the arrangement applied the \$25,000 trade-in value to the purchase price of \$150,000, amortized the remaining \$125,000 over three years at a 7% interest rate, and allowed Teddy to keep bulldozer B, the transaction is treated as a like-kind exchange. This allows Teddy to utilize §179 and deduct the interest payments.

FORM 4797, PART IV

Form 4797, Part IV, is used to report the recapture of an IRC §179 expense deduction for property placed in service after 1986 when the business use of property placed in service in a previous year is reduced to 50% or less during the recapture period. The recapture period of the expense election is the entire recovery period of the qualifying §179 property (see IRC §179(d)(10)). Part IV is also used to recapture depreciation on listed property when the business use decreases to 50% or less as required under §280F(b)(2). The recapture for each property must be computed separately on a statement attached to Form 4797 and the total entered in Part IV.

The recapture amount equals the §179 expense deduction taken minus the MACRS depreciation amount that would have been allowed on the expense amount from the time the property was placed in service up to and including the year of recapture (see Treas. Reg. §1.179-1(e)(1)).

The §179 expense deduction is reported on Line 33(a) and the recomputed depreciation is reported on line 34(a). The difference is reported on Line 35(a) and is then transferred to either Schedule C or F, depending on which schedule the original deduction was taken.

If the property is listed property (defined in §280F(d)(4)), the total of both the §179 deduction and the MACRS depreciation is reported on Line 33(b). Next, the depreciation that would have been allowed if the property had not been used more than 50% in a qualified business is computed using the alternative MACRS method and reported on Line 34(b). The difference is reported on Line 35(b) and then transferred to either Schedule C or F.

Note. In both scenarios, the recapture amount will increase SE income. It will also increase the basis of the property.

Example 16. Jasper purchased an SUV for 100% business use in his delivery service on June 15, 2006. He reduced the size of the business in 2008 and only used the SUV 50% for business. Jasper completes Form 4797 as follows and **reports \$17,400 as other income on Form 1040, Schedule C.**

Part IV Recapture Amounts Under Sections 179 and 280F(b)(2) When Business Use Drops to 50% or Less (see instructions)		(a) Section 179	(b) Section 280F(b)(2)
33	Section 179 expense deduction or depreciation allowable in prior years	33	25,200
34	Recomputed depreciation (see instructions).	34	7,800
35	Recapture amount. Subtract line 34 from line 33. See the instructions for where to report	35	17,400

Form 4797 (2008)

DISPOSITION OF IRC §179 PROPERTY BY A PASS-THROUGH ENTITY

When a §179 expense deduction was previously claimed and passed through to partners or shareholders, special rules apply. These rules apply to a partnership or S corporation that sells, exchanges, or disposes of the §179 property. The partner or shareholder must report his share of the transaction on Form 4797, 4684, 6252, or 8824. This is the case whether or not he was a partner or shareholder at the time the §179 deduction was claimed. It is possible the partner or shareholder was unable to claim the §179 deduction on his tax return. Consequently, this allows him to reduce any carryover deduction before it is taxed on the §179 recapture.

The Form 4797 instructions include a worksheet used to calculate any reduction in the carryforward of an unused §179 expense deduction. The partnership or S corporation must provide the following information on the partner's or shareholder's Schedule K-1 for the transaction:

- Description of the property
- Date the property was acquired and placed in service
- Date of the sale or other disposition of the property
- The partner's or shareholder's share of the gross sales price or amount realized
- The partner's or shareholder's share of the cost or other basis plus the expense of sale
- The partner's or shareholder's share of the depreciation allowed or allowable, but excluding the §179 expense deduction
- The partner's or shareholder's share of the §179 expense deduction passed through from the property and the partnership's or S corporation's tax year(s) in which the amount was passed through. This must be reported even though the taxpayer was not a partner or shareholder for the tax year in which it was passed through, or he did not deduct all or part of the §179 expense because of the dollar or taxable income limitations. The tax year(s) in which it was passed through are provided to allow the taxpayer to determine the amount of the property's unused carryover §179 expense (if any) to report.
- If the disposition is due to a casualty or theft, a statement indicating so, and any additional information needed by the partner or shareholder to complete Form 4684.
- For installment sale dispositions made during the partnership's or S corporation's tax year, any information needed by the partner or shareholder to complete Form 6252 must be included. The partnership or S corporation must also separately report the partner's or shareholder's share of all payments received for the property in the following tax years.
- Any information needed by the partner or shareholder to complete Form 8824, if the disposition involved property given up in an exchange involving like-kind property made during the partnership's or S corporation's tax year.

Note. If a taxpayer has a carryforward of an unused §179 expense deduction that includes a §179 expense deduction previously passed through for the disposed asset, the taxpayer must reduce his carryforward by his share of the §179 expense deduction shown on Schedule K-1 (or the amount attributable to that property included in his carryforward amount).

Example 17. Louis is a partner in XYZ Partnership. He was unable to use all the \$179 expense deductions passed through to him and has a carryover of \$700 at the beginning of the year. His 2008 Schedule K-1 from XYZ reports as supplemental information his share of an asset sale on which a \$179 expense deduction was claimed. The K-1 reports his share of the sale of equipment acquired on June 19, 2000, and sold on February 5, 2008. His share of the sale price was \$900; cost, \$1,000; expense deduction, \$900; and depreciation, \$100. Louis completes the worksheet²² and Form 4797 as follows.

Worksheet for Partners and S Corporation Shareholders to Figure Gain or Loss on Dispositions of Property for Which a Section 179 Deduction Was Claimed				Keep for Your Records
Caution: See the worksheet instructions below before starting.				
1. Gross sales price	.....	1.	900	
2. Cost or other basis	.....	2.	1,000	
3. a Depreciation (excluding section 179 expense deduction)	.....	3a.	100	
b Section 179 expense deduction	.....	3b.	900	
c Unused carryover of section 179 expense deduction	.....	3c.	700	
d Subtract line 3c from line 3b	.....	3d.	200	
e Add lines 3a and 3d	.....	3e.	300	
4. Adjusted basis. Subtract line 3e from line 2	.....	4.	700	
5. Gain or loss. Subtract line 4 from line 1 (see <i>Where To Report Amounts From Worksheet</i> , below)	.....	5.	200	

Worksheet Instructions

Caution: For a disposition due to casualty or theft, skip lines 1 and 5 and enter the amount from line 4 on Form 4684, line 20, and complete the rest of Form 4684.

Lines 1, 2, 3a, and 3b. Enter these amounts from Schedule K-1 (Form 1065 or 1120S).

Line 3c. If you were unable to claim all of the section 179 expense deduction previously passed through to you for the property (if any), enter the smaller of line 3b or the portion of your unused carryover of section 179 expense deduction attributable to the property. Make sure you reduce your carryover of disallowed section 179 expense deduction shown on Form 4562 by the amount on line 3c.

Where To Report Amounts From Worksheet

Generally, the information from the above worksheet is reported on the lines specified below for Form 4797, Part III. However, for a disposition under the installment method, complete the lines shown below for Form 6252. For dispositions of property given up in an exchange involving like-kind property, complete the lines shown below for Form 8824.

- ▶ If line 5 is a gain and the property was held more than 1 year, report the disposition as follows.
 - Complete Form 4797, line 19, columns (a), (b), and (c); Form 6252, lines 1 through 4; or Form 8824, Parts I and II.
 - Report the amount from line 1 above on Form 4797, line 20; Form 6252, line 5; or Form 8824, line 12 or 16.
 - Report the amount from line 2 above on Form 4797, line 21; or Form 6252, line 8.
 - Report the amount from line 3e above on Form 4797, line 22; or Form 6252, line 9.
 - Report the amount from line 4 above on Form 4797, line 23; Form 6252, line 10; or Form 8824, line 13 or 18.
 - Complete the rest of the applicable form.
- ▶ If line 5 is zero or a loss and the property was held more than 1 year, report the disposition as follows. Do not report a loss on Form 6252; instead, report the disposition on the lines shown for Form 4797.
 - Complete Form 4797, line 2, columns (a), (b), and (c); or Form 8824, Parts I and II.
 - Report the amount from line 1 above on Form 4797, line 2, column (d); or Form 8824, line 12 or 16.
 - Report the amount from line 2 above on Form 4797, line 2, column (f).
 - Report the amount from line 3e above on Form 4797, line 2, column (e).
 - Report the amount from line 4 above on Form 8824, line 13 or 18.
 - Complete the rest of the applicable form.
- ▶ If the property was held one year or less, report the gain or loss on the disposition as shown below. Do not report a loss on Form 6252; instead, report the disposition on the lines shown for Form 4797.
 - Complete Form 4797, line 10, columns (a), (b), and (c); Form 6252, lines 1 through 4; or Form 8824, Parts I and II.
 - Report the amount from line 1 above on Form 4797, line 10, column (d); Form 6252, line 5; or Form 8824, line 12 or 16.
 - Report the amount from line 2 above on Form 4797, line 10, column (f); or Form 6252, line 8.
 - Report the amount from line 3e above on Form 4797, line 10, column (e); or Form 6252, line 9.
 - Report the amount from line 4 above on Form 6252, line 10; or Form 8824, line 13 or 18.
 - Complete the rest of the applicable form.

²² Form 4797 Instructions

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For Example 17

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Part III Gain From Disposition of Property Under Sections 1245, 1250, 1252, 1254, and 1255
(see instructions)

19 (a) Description of section 1245, 1250, 1252, 1254, or 1255 property:		(b) Date acquired (mo., day, yr.)	(c) Date sold (mo., day, yr.)
A Equipment		06/19/2000	02/05/2008
B			
C			
D			

These columns relate to the properties on lines 19A through 19D. ►		Property A	Property B	Property C	Property D
20 Gross sales price (Note: See line 1 before completing.)	20	900			
21 Cost or other basis plus expense of sale	21	1,000			
22 Depreciation (or depletion) allowed or allowable	22	300			
23 Adjusted basis. Subtract line 22 from line 21	23	700			
24 Total gain. Subtract line 23 from line 20	24	200			
25 If section 1245 property:					
a Depreciation allowed or allowable from line 22	25a	300			
b Enter the smaller of line 24 or 25a	25b	200			

property: If straight line depreciation was used, enter

After completing the worksheet, Louis finds he will only be taxed on \$200 of the possible \$900 gain. However, his carryover §179 expense deduction is eliminated.

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WHERE TO REPORT

Dispositions are often reported in the wrong part of Form 4797. The following chart from the Form 4797 instructions serves as a guide for where to make the first entry.

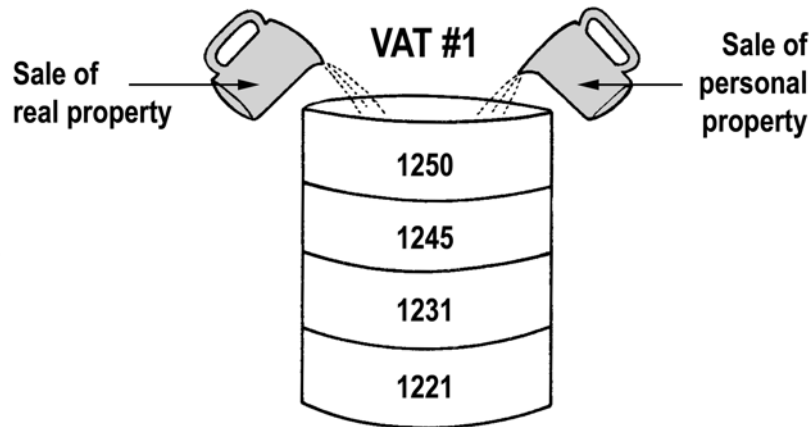
Where To Make First Entry for Certain Items Reported on This Form		
(a) Type of property	(b) Held 1 year or less	(c) Held more than 1 year
1 Depreciable trade or business property:		
a Sold or exchanged at a gain	Part II	Part III (1245, 1250)
b Sold or exchanged at a loss	Part II	Part I
2 Depreciable 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 All other farmland	Part II	Part I
5 Disposition of cost-sharing payment property described in section 126	Part II	Part III (1255)
6 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
7 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

The following discussion is from the *1968 Farm Income Tax Training Schools Workbook*. This explanation has been somewhat modified to fit Form 4797. As originally written in 1968, all transactions were reported on Schedule D, *Capital Gains and Losses*.

Visualize that sales or exchanges of everything a person owns (except inventory, receivables, certain copyrights, compositions, and government obligations) qualifies for capital gains treatment, and they are placed in the vat.

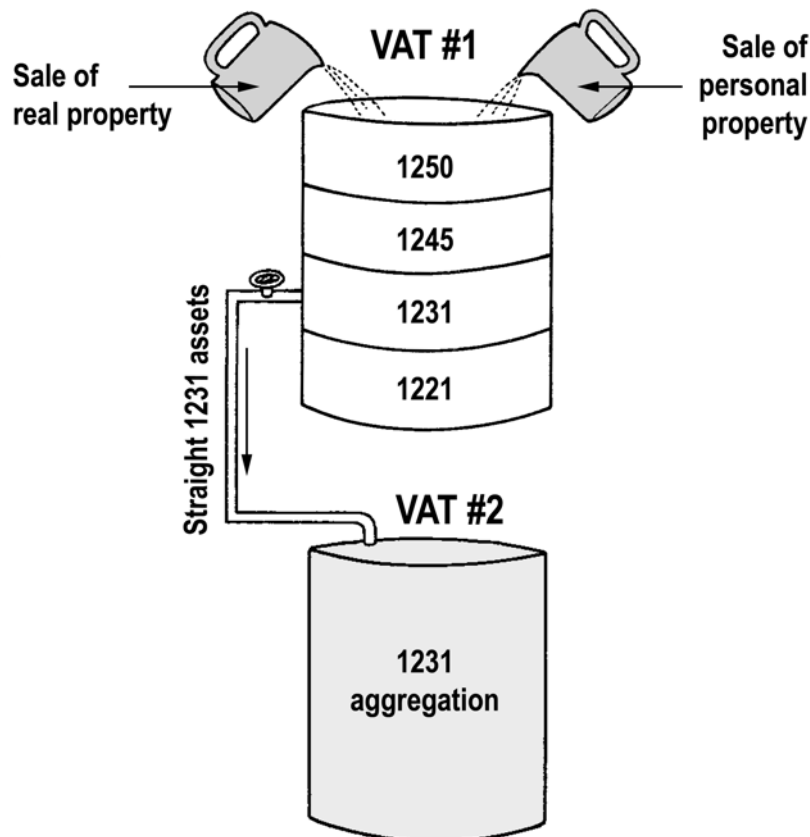
2008 Workbook

Diagram 1



1. The first type of property to address is IRC §1221 assets (Diagram 1). These are true capital assets such as sales of stocks and bonds, personal residence, and so forth, and are reported on Schedule D. These assets settle to the bottom of the vat. All other properties (§§1231, 1245 and 1250) are layered above §1221 property.

Diagram 2



2. The next type of property to address is §1231 assets (Diagram 2). These are “drained off” and moved to vat #2. These assets are aggregated in order to utilize them (compile gains and losses as separate units). If the gains exceed the losses, they receive capital gain treatment, just like the §1221 assets (true capital assets). Straight §1231 assets are those that are not subject to the recapture provisions of §§1245 and 1250.

Examples of §1231 assets include the sale or exchange of:

- a. Land used in trade or business
- b. Depreciable property such as buildings not subject to §1250 recaptured and §1245 properties sold at a loss
- c. Livestock held for 24 months or more for draft, breeding, or dairy purposes
- d. Unharvested crops, if crops and land were used in a business, held 12 months, and sold to same person at same time without retaining the right to reacquire land
- e. Easements; however, proceeds are first used to reduce basis of land subject to easement
- f. The cutting of timber, if elected

Note. Any excess remaining after the §§1245 and 1250 applications must be routed into the §1231 aggregation.

The basic types of transactions in the total §1231 comparison are:

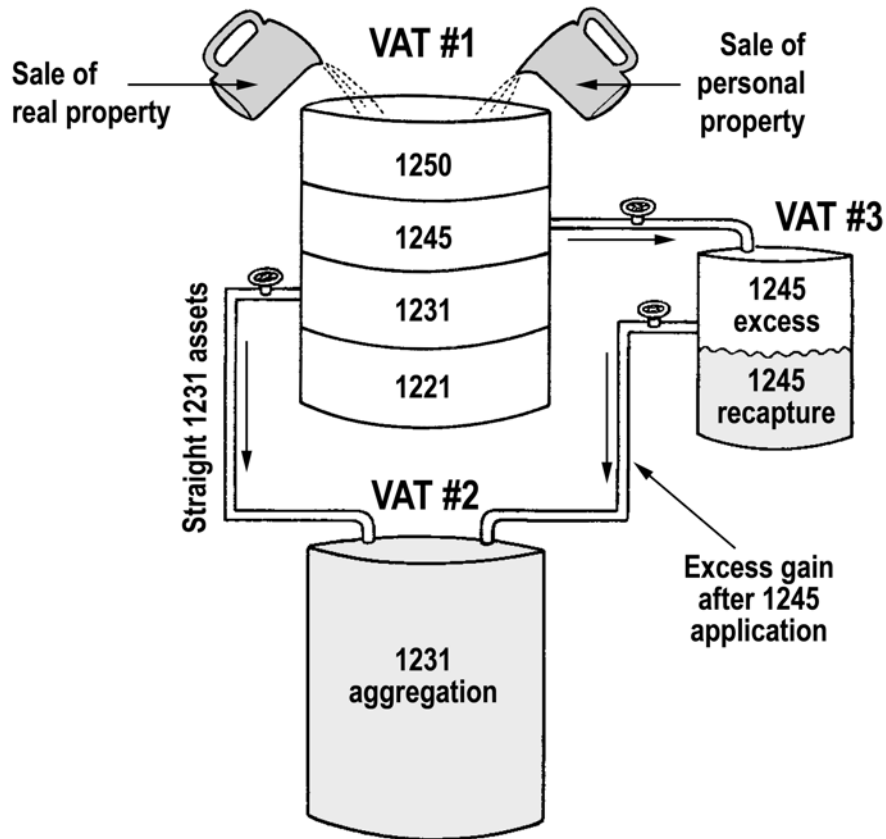
- Involuntary conversions of capital assets held more than 12 months. These are included whether the casualty or theft was insured or uninsured. Some courts hold that a casualty or theft loss and uninsured personal property is fully deductible as a casualty loss under §165. However, the IRS’s position is that it must be included in the aggregation.
- Involuntary conversions of real and depreciable property, used in a trade or business when the property was held for more than 12 months.

Note. Wholly uninsured casualty and theft losses are excluded.

- Sales and exchanges of the type described above (a) through (f), but not sales or exchanges of capital assets properly characterized under §1221.

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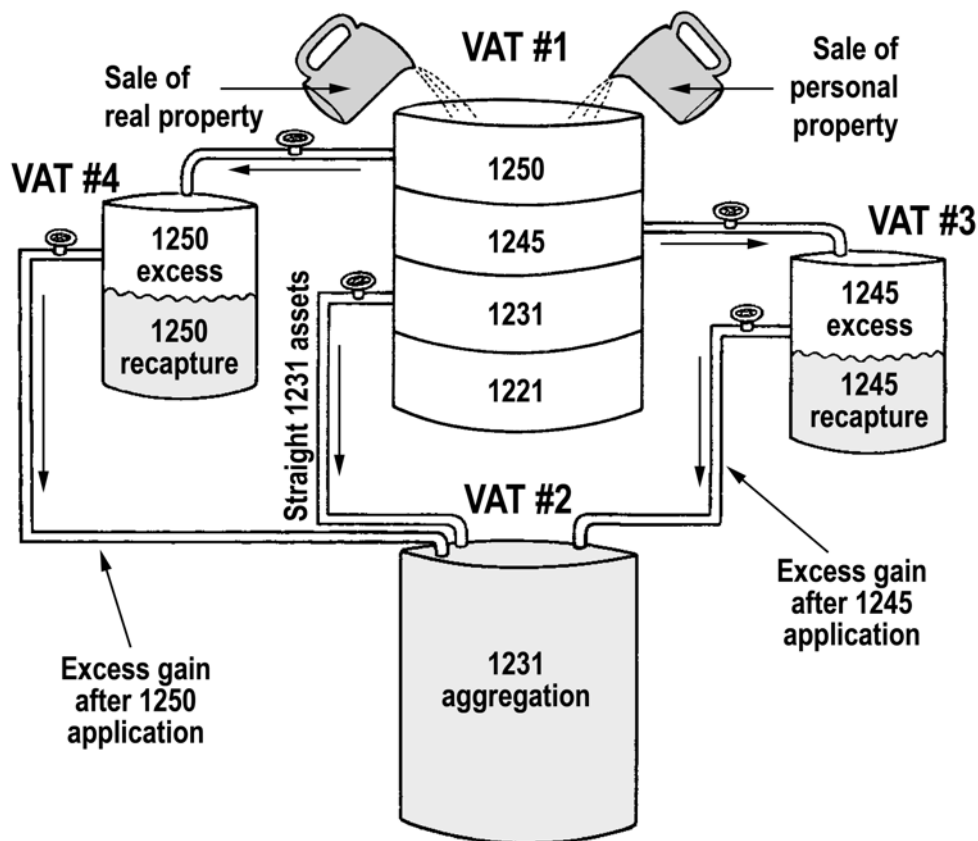
Diagram 3



3. The next set of assets to address are §1245 assets (Diagram 3). IRC §1245 recaptures gain on sales or exchanges of depreciable personal property, such as machinery and equipment. IRC §1245 also applies to other tangible property, such as grain bins, silos, and fences that were used as an integral part of a farm operation. The gains are entered on Form 4797, Part III.

Note. Section 1245 dispositions creating a **loss** are not entered in Part III. They are placed directly into vat #2 with the §1231 aggregation.

Diagram 4

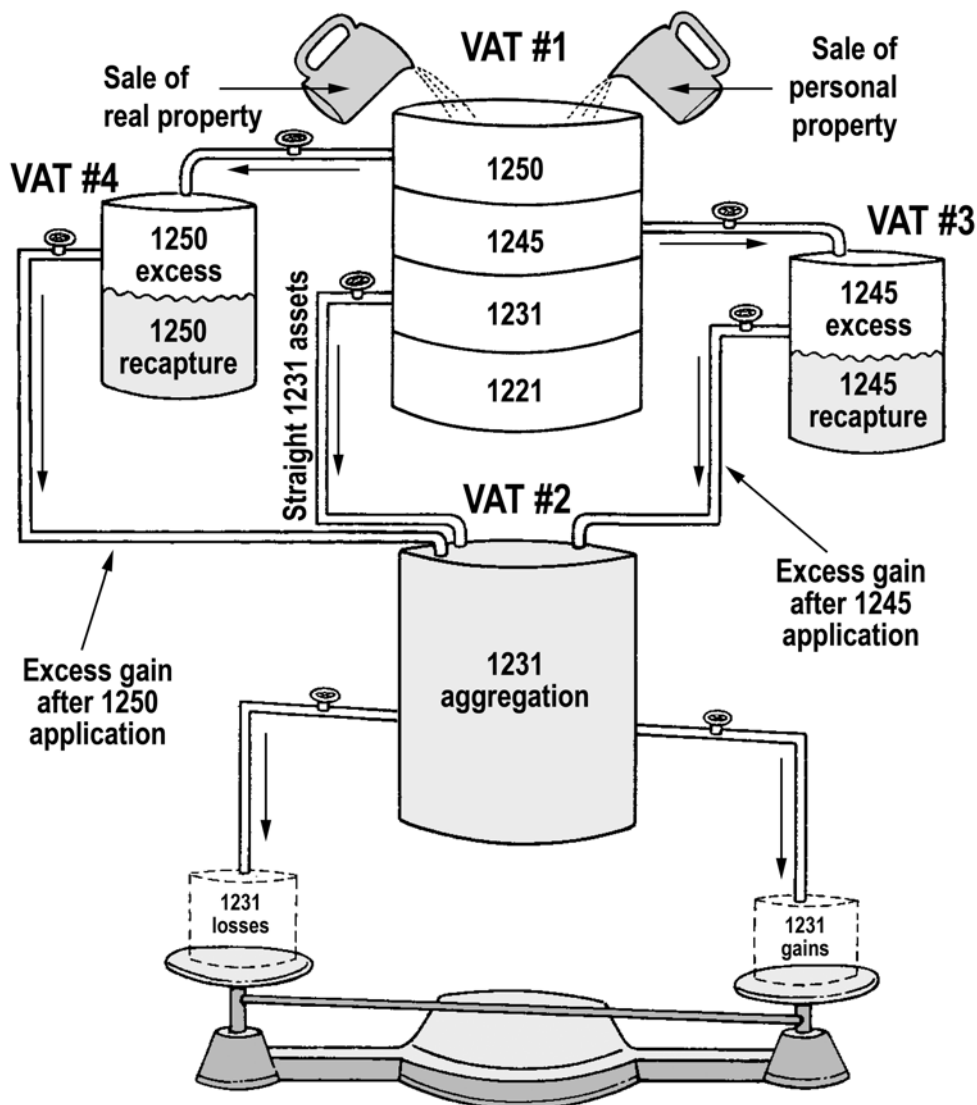


4. The final set of assets to address is §1250 assets. IRC §1250 recaptures gain on disposition of certain depreciable real property. It governs treatment of depreciable real property in the same way §1245 governs treatment of personal property. IRC §1250 recaptures depreciation taken in excess of straight-line depreciation. These transactions are entered on Form 4797, Part III. Any gain in excess of the recaptured portion is routed into vat #2 with the aggregated §1231 assets.

Note. Section 1250 dispositions creating a **loss** are not entered in Part III. They are placed directly into vat #2 with the §1231 aggregation.

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Diagram 5



5. All §1231 transactions are aggregated and gains and losses are compiled separately. The gains are accorded capital gains treatment, like the true capital assets under §1221. These transactions are also entered on Form 4797, Part I. Conversely, the losses are entered on Form 4797, Part II, or as an itemized deduction if a casualty was included.

Note. The 1995 and 1999 *University of Illinois Farm Income Tax School Workbooks* included chapters on Form 4797.