

Chapter 1: Form 4797

Introduction C1
Reporting Transactions on Form 4797 C5

Disposition of IRC §179 Property
by a Pass-Through Entity C39

Corrections were made to this workbook through January of 2014. No subsequent modifications were made.

INTRODUCTION

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

Form 4797 is used to report the following activity.¹

1. The sale or exchange of:
 - a. Property used in a trade or business;
 - b. Depreciable and amortizable property;
 - c. Oil, gas, geothermal, or other mineral properties; and
 - d. Cost-sharing payment property described in IRC §126.
2. The involuntary conversion (from other than casualty or theft) of property used in a trade or business and capital assets held in connection with a trade or business or a transaction entered into for profit
3. The disposition of noncapital assets (other than inventory or property primarily held for sale to customers)
4. The disposition of capital assets not reported on Schedule D, *Capital Gains and Losses*
5. The gain or loss for partners and S corporation shareholders from certain IRC §179 property dispositions by partnerships and S corporations
6. The computation of recapture amounts under IRC §§179 and 280F(b)(2) when the business use decreases to 50% or less

One of the reasons that preparers have problems completing Form 4797 is that the form refers to Code sections without defining the assets covered by the sections and without explaining what the tax consequences are being classified under a particular section. Therefore, this chapter begins with a brief explanation of the three most common Code sections used to classify assets whose disposition is reported on Form 4797.

IRC §1231 TRANSACTIONS

IRC §1231 generally covers the sale of land, buildings, and equipment that are used in a business. Depending on the circumstances, gains from the disposition of such property may be treated as ordinary income or as long-term capital gains.

¹ Instructions for Form 4797.

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If the disposition of property results in a net loss, it is treated as an ordinary loss under §1231. As such, the loss is fully deductible for purposes of determining adjusted gross income (AGI) on Form 1040. Therefore, §1231 generally provides the most advantageous tax treatment for the taxpayer because net gains may be treated as long-term capital gains and net losses are treated as ordinary losses (subject to the 5-year recapture rule, which is explained later in this chapter).

The following **are** §1231 transactions.²

1. Sales or exchanges of real or depreciable property **used in a trade or business and held for more than one year**
2. Cutting of timber that the taxpayer elects to treat as a sale or exchange under §631(a)
3. Disposal of timber with a retained economic interest that is treated as a sale under §631(b)
4. Disposal of coal or domestic iron ore with a retained economic interest that is treated as a sale under §631(c)
5. Sales or exchanges of cattle and horses used in a trade or business for draft, breeding, dairy, or sporting purposes and held for 24 months or more
6. Sales or exchanges of other livestock used in a trade or business for draft, breeding, dairy, or sporting purposes and held for 12 months or more
7. Sales or exchanges of unharvested crops that are:
 - a. On land used in the trade or business and held for more than one year, and
 - b. Sold or exchanged at the same time and to the same person as the land
8. Involuntary conversions of:
 - a. Trade or business property, or
 - b. Capital assets held more than one year in connection with a trade or business or a transaction entered into for profit

Excluded Transactions

IRC §1231 transactions **do not include** sales or exchanges of the following types of property.³

1. Inventory or property held primarily for sale to customers
2. A copyright; a literary, musical, or artistic composition; or a letter, memorandum, or similar property that was:
 - a. Created by the taxpayer's personal efforts;
 - b. Prepared or produced for the taxpayer (in the case of a letter, memorandum, or similar property); or
 - c. Acquired from a person described in (a) or (b) in a transaction that gave the taxpayer a carryover basis in the property
3. A U.S. government publication that the taxpayer received from the U.S. government at the price it is offered to the public and that is held by:
 - a. The taxpayer who received the publication, or
 - b. A taxpayer who acquired the property from a person who received the publication in a transaction that gave the taxpayer a carryover basis in the property

² Instructions for Form 4797.

³ IRC §1231(b)(1).

RECAPTURE PROVISIONS

The gain or losses on assets that qualify as §1231 assets may also be subject to special rules under IRC §§1245 and 1250. For example, the recapture provisions discussed later may cause some or all of the gain on an asset held long term to be taxed as ordinary income instead of as long-term capital gains.

IRC §1245 Property

In general, §1245 property is property that is subject to an allowance for depreciation and is one of the following.

1. Personal property
2. Single-purpose agricultural and horticultural structures
3. Other tangible property (not including a building or its structural components) that is used:
 - a. As an integral part of production, manufacturing, or extraction; or
 - b. For furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services
4. Storage facilities (not including a building or its structural components) used in connection with the distribution of petroleum or petroleum products
5. Railroad grading or tunnel bore

In addition, IRC §197 intangibles (e.g., goodwill, patents, copyrights, and noncompete agreements) are treated as §1245 property. If the taxpayer disposes of more than one amortizable §197 intangible in a transaction or series of related transactions, all of the intangibles are considered as one asset. This provision does not apply if the adjusted basis of a §197 intangible exceeds its fair market value (FMV).⁴

IRC §1245 requires **the lesser of the gain realized or the depreciation allowed or allowable to be recaptured as ordinary income** upon the sale or other transfer of §1245 property. Thus, all gain on §1245 property is treated as ordinary gain unless the amount received on the disposition of the property is more than its original cost. **The portion of the sales price that exceeds the original cost, if any, is §1231 gain.** If property is disposed of at a loss, the §1245 recapture rules do not apply; instead, the loss is generally a §1231 loss unless the form of disposition is a casualty.

For purposes of §1245, the following are **treated as depreciation**.⁵

1. Deductions allowed or allowable for depreciation (including bonus depreciation), amortization, depletion, or preproductive expenses
2. The amount claimed as a deduction under §179

Note. Any §179 expense claimed but not allowed due to income limitations at the entity level is not considered depreciation allowed or allowable for purposes of §1245 depreciation recapture.

3. The commercial revitalization deduction for buildings placed in service before 2010
4. The basis reduction for claiming the IRC §50(c) investment credit
5. The deduction for qualified clean-fuel vehicle property or refueling property

⁴ IRC §1245(b)(8).

⁵ Instructions for Form 4797.

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6. Deductions claimed under §190,⁶ §193,⁷ or §1253(d)(2) or (3),⁸ as in effect before the Omnibus Reconciliation Act of 1993
7. The basis reduction for any qualified plug-in electric or qualified electric vehicle credit
8. The basis reduction for the employer-provided childcare facility credit
9. The deduction for qualified energy efficient commercial building property
10. The basis reduction for the alternative motor vehicle credit
11. The basis reduction for the alternative fuel vehicle refueling property credit
12. Excluded debt forgiveness income in which an election was made to reduce basis in depreciable assets

IRC §1250 Property

IRC §1250 property includes all depreciable real property that is not subject to §1245. IRC §1250 property includes three types of depreciable real property.

1. Intangible real property (e.g., a leasehold of land)
2. Buildings and their structural components
3. All other tangible real property **except**:
 - a. Property used as an integral part of a specified activity or as a specified facility, or
 - b. Single-purpose agricultural or horticultural structures

The gain realized on a §1250 asset may be subject to three different tax treatments.

1. The portion of the gain attributable to accumulated depreciation allowed or allowable using the straight-line method is called the **unrecaptured** gain and is taxed at a **maximum** of 25%. See the Schedule D instructions for more information.
2. The portion attributable to accumulated depreciation **in excess** of the straight-line method is called the **recaptured** gain and is taxed as ordinary income. For example, bonus depreciation can cause accumulated depreciation to exceed the amount allowed under the straight-line method.
3. The portion in excess of the original cost basis is treated as capital gain.

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. See the instructions to Form 4797 for more information.

⁶ Removal of architectural and transportation barriers to the handicapped and elderly.

⁷ Deduction for tertiary injectant expenses.

⁸ Transfers of franchises, trademarks, and trade names.

REPORTING TRANSACTIONS ON FORM 4797

Form 4797 is divided into the following four parts.

- **Part I** is used to report the sales or exchanges of property **held for more than one year** that was used in a trade or business and involuntary conversions not resulting from casualty or theft (IRC §1231 gains and losses).
- **Part II** is used to report ordinary gains and losses from property held **one year or less**.
- **Part III** is used to report the portion of gains from dispositions of property that are subject to recapture (e.g., IRC §§1245 and 1250 gains) and certain other items that must be reported as ordinary income upon the disposition of property.
- **Part IV** is used to report recapture amounts under IRC §§179 and 280F(b)(2) when business use drops to 50% or less.

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

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FORM 4797, PART I

Part I is used to report sales or exchanges of **property used in a trade or business** and **involuntary conversions** not resulting from 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, taxpayers can deduct the net loss from §1231 transactions against ordinary income and report the net gains from these transactions as long-term capital gains.⁹

Property Used in a Trade or Business

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

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 IRC §162) and be either:
 - a. Depreciable personal property, or
 - b. Real property.
3. It **cannot be inventory or property that is held for sale** in the ordinary course of business.¹⁰

If the disposition is subject to depreciation recapture under §§1245, 1250, 1252,¹¹ 1254,¹² or 1255,¹³ it is reported on Form 4797, Part III; otherwise, it is reported on Part I, line 2.

⁹ IRC §1231(a).

¹⁰ IRC §1231(b)(1).

¹¹ Gain from disposition of farm land.

¹² Gain from disposition of interest in oil, gas, geothermal, or other mineral properties.

¹³ Gain from disposition of certain cost-sharing payments property.

Example 1. Sharon Hix's only §1231 transaction for 2012 was the sale of land **used in her business**. She purchased the land on October 20, 2005, for \$20,000. She sold it on November 8, 2012, for \$30,000 and paid her broker a \$1,400 commission. Sharon 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. ▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797 .	OMB No. 1545-0184 <div style="font-size: 2em; font-weight: bold; text-align: center;">2012</div> Attachment Sequence No. 27
Department of the Treasury Internal Revenue Service		
Name(s) shown on return Sharon Hix		Identifying number 999-88-7777
1 Enter the gross proceeds from sales or exchanges reported to you for 2012 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)

2	(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)	
	Land	10/20/05	11/08/12	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	

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	
17	Combine lines 10 through 16						17	
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	

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Involuntary Conversions

Under §1231, involuntary conversions include conversions of property or capital assets held more than one year in connection with a trade or business or a transaction entered into for profit. These transactions may result from one of the following.¹⁴

1. Part or total destruction
2. Theft or seizure
3. Requisition or condemnation or the threat or imminence of requisition or condemnation

Involuntary conversions are excluded from §1231 treatment if:

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

¹⁴ IRC §1231(a)(3)(A)(ii).

Example 2. On July 10, 2012, the city acquired by condemnation 10 acres of land held by David Paulson to build a new street. David purchased the land as an investment on December 13, 2003, for \$100,000. He paid an attorney \$5,000 to represent him in the eminent domain proceedings. He received \$75,000 from the city. David should report the transaction as shown on the following Form 4797.

Form 4797 Department of the Treasury Internal Revenue Service	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ▶ Attach to your tax return. ▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797 .	OMB No. 1545-0184 <div style="font-size: 2em; font-weight: bold; text-align: center;">2012</div> Attachment Sequence No. 27						
Name(s) shown on return David Paulson		Identifying number 111-22-3333						
1 Enter the gross proceeds from sales or exchanges reported to you for 2012 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions)		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)								
2	(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)	
	Land	12/13/2003	07/10/2012	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							11	(30,000)
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	(30,000)
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	(30,000)

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 130861 **Form 4797** (2012)

After completing Form 4797, David enters "\$30,000" on Form 1040, line 14 (other gains or losses). The loss is fully deductible for purposes of determining David's AGI.

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Recapture of IRC §1231 Losses from Prior Years

IRC §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**.¹⁵ The term “recapture” for this purpose 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 of Form 4797.

Example 3. Ranija had the following §1231 gains and losses for the previous five years.

Year	Gain (Loss)
2007	(\$10,000)
2008	(10,000)
2009	15,000
2010	10,000
2011	(7,000)

In 2012, Ranija had \$10,000 of §1231 gain. She calculates her recapture as follows.

Year	Gain (Loss)	Loss Recapture	Ordinary Income (Loss)	Unrecaptured Loss Remaining	Capital Gain
2007	(\$10,000)	\$ 0	(\$10,000)	(\$10,000)	\$ 0
2008	(10,000)	0	(10,000)	(20,000)	0
2009	15,000	15,000	15,000	(5,000)	0
2010	10,000	5,000	5,000	0	5,000
2011	(7,000)	0	(7,000)	(7,000)	0
2012	10,000	7,000	7,000	0	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. Ranija’s net gains of \$15,000 in 2009 and \$10,000 in 2010 caused her to recapture all of the \$20,000 in net losses from 2007 and 2008. Therefore, her only unrecaptured loss that is carried to 2012 is the \$7,000 net loss from 2011. Because of this unrecaptured loss, Ranija must **recognize \$7,000 of 2012’s \$10,000 gain as ordinary income. The remaining \$3,000 is long-term capital gain.** Relevant portions of Ranija’s Form 4797 follow.

Form 4797 Department of the Treasury Internal Revenue Service	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ▶ Attach to your tax return. ▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797 .	OMB No. 1545-0184 2012 Attachment Sequence No. 27
	Name(s) shown on return Ranija	Identifying number 555-55-5555

¹⁵ IRC §1231(c).

For Example 3

6 Gain, if any, from	6	
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.	7	10,000
8 Nonrecaptured net section 1231 losses from prior years (see instructions)	8	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 Gain, if any, from line 7 or amount from line 8, if applicable	12	7,000
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	7,000
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	7,000

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 13086I

Form **4797** (2012)

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 Schedules K-1 from partnerships and S corporations also transfer to Part I.

Note. Depreciation recapture from like-kind exchanges and from installment sales is discussed in more detail later in this chapter.

Any long-term gain from Form 4797, Part III, line 32, is brought forward to Part I, **line 6**. (See **Example 10**.)

Any unrecaptured net §1231 loss from prior years is reported on line 8 and is subtracted from line 7. The net is reported on **line 9**. If line 9 is more than zero, the amount from line 8 is entered on Part II, line 12, as illustrated in **Example 3**. Any gain reported on line 9 is then transferred to the long-term portion (Part II) of Schedule D, *Capital Gains and Losses*.

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FORM 4797, PART II

Form 4797, Part II, is used to report gains and losses from the sale of assets that 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 on Part I or III of Form 4797, Schedule D, or Schedules C or 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 are not subject to self-employment (SE) tax. The net gain or loss from Part II is usually carried to an individual's Form 1040, line 14 (other gains or losses). To the extent a net loss includes losses from a casualty or theft of (nonbusiness) income-producing property, that portion of the net loss is carried to the individual's Schedule A, line 28 (other miscellaneous deductions). Any portion of the loss attributable to property used by an employee is reported on Schedule A, line 23 (other expenses).

Note. Amounts reported on Schedule A, line 23, are subject to the 2%-of-AGI limitation. Line 28 amounts are not subject to the 2%-of-AGI limitation.

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, 2012, Kyle sold a widget-making machine that he **used in his business** for \$10,000. He purchased the machine on September 13, 2011, for \$9,000 and claimed \$2,389 of depreciation. In addition, the city condemned a 5-acre parcel of land on May 17, 2012, and paid Kyle \$25,000. He purchased the five acres on August 18, 2011, for \$30,000. Kyle paid an attorney \$500 to represent him in the condemnation.

These two transactions are reported as shown on Form 4797.

Form 4797 Department of the Treasury Internal Revenue Service	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ▶ Attach to your tax return. ▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797 .	OMB No. 1545-0184 2012 Attachment Sequence No. 27				
Name(s) shown on return Kyle		Identifying number 123-45-6789				
Total gross proceeds from sales or exchanges reported to you for 2012 on Form(s) 1099-B or 1099-S (or capital gain on the sale of certain assets) 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):						
Widget machine	09/13/11	03/22/12	10,000	2,389	9,000	3,389
5 acres land	08/18/11	05/17/12	25,000		30,500	(5,500)

Observation. Depreciable property **held for more than a year** that is sold at a **gain** is **not** reported on line 2; rather, it is reported in Part III. Depreciable property **held for one year or less** is reported on Part II, line 10. The difference in treatment arises because all gain reported on line 10 is taxed at ordinary income rates. Therefore, there is no need to sort out the ordinary gain from depreciation recapture.

The net §1231 losses calculated in Part I are carried to **line 11** in Part II and combined with other gains and losses given ordinary tax treatment.

Example 5. Kyle from **Example 4** also sold 10 acres of land in 2012 that was used in his business. He purchased the land on October 20, 1996, for \$30,000. It was sold for \$20,000 on November 8, 2012. He paid a broker a \$1,400 commission on the sale. This sale is reported in Part I of 4797. Kyle's Form 4797 for 2012 follows.

Form 4797	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ▶ Attach to your tax return. ▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797 .	OMB No. 1545-0184 <div style="font-size: 2em; font-weight: bold; text-align: center;">2012</div> Attachment Sequence No. 27					
Department of the Treasury Internal Revenue Service							
Name(s) shown on return Kyle		Identifying number 123-45-6789					
1 Enter the gross proceeds from sales or exchanges reported to you for 2012 on Form(s) 1099-B or 1099-S (or substitute statement) that you are including on line 2, 10, or 20 (see instructions)		1 45,000					
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)							
2	(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)
	10 acres land	10/20/96	11/08/12	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: 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.							7 (11,400)
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):				
	Widget machine	09/13/11	03/22/12	10,000	2,389	9,000	3,389
	5 acres land	08/18/11	05/17/12	25,000		30,500	(5,500)
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 (13,511)
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 "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 (13,511)

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 13086I Form **4797** (2012)

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 line 14 of Form 1040 and is not subject to the \$3,000 capital loss limitation.

2013 Workbook

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, storms, floods, tornadoes, vandalism, earthquakes, and other casualties.

Note. Further information and details on the tax rules associated with casualties can be found in IRS Pub. 547, *Casualties, Disasters, and Thefts*.

Casualty gains or losses are reported on Form 4684, *Casualties and Thefts*. The involuntary conversion due to a casualty is transferred to Form 4797, Parts II and 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 that does not qualify for §1231 treatment. This includes transactions from **two** categories.

1. Property that is held one year or less
2. Net loss from casualties and thefts of property used in connection with a trade or business

Example 6. Property held one year or less. On July 24, 2012, a flood destroyed Lamont's extrusion machine and meat cutting machine that were **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
Extrusion machine	9/19/2011	\$10,000	\$9,500	\$0	\$9,500
Meat cutting machine	9/30/2011	3,000	4,100	0	4,100

Lamont reports the disposition of these assets on Form 4684, as follows.

Name(s) shown on tax return. Do not enter name and identifying number if shown on other side. Lamont	Identifying number 121-21-2121
--	--

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 **Extrusion machine 09/19/2011**

Property B **Meat cutting machine 09/30/2011**

Property C

Property D

	Properties			
	A	B	C	D
20 Cost or adjusted basis of each property	20	10,000	3,000	
21 Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3	21	9,500	4,100	
Note: If line 20 is more than line 21, skip line 22.				
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		1,100	
23 Fair market value before casualty or theft	23	9,500		
24 Fair market value after casualty or theft	24	0		
25 Subtract line 24 from line 23	25	9,500		
26 Enter the smaller of line 20 or line 25	26	10,000		
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-	27	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)	28			500

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 Flood 07/24/2012	(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 Form 1040NR, Schedule A, line 14, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Form 1040NR, Schedule A, line 9. Estates and trusts, partnerships, and S corporations, see instructions			

Note. Line 21 of Form 4684 requires the taxpayer to report insurance or other reimbursements regardless of whether they file a claim. If the taxpayer does not file a timely insurance claim, the loss is not allowed.¹⁶

¹⁶ IRC § 165(h)(5)(E).

2013 Workbook

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

Form 4797 Department of the Treasury Internal Revenue Service	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ► Attach to your tax return. ► Information about Form 4797 and its separate instructions is at www.irs.gov/form4797 .	OMB No. 1545-0184 2012 Attachment Sequence No. 27					
Name(s) shown on return Lamont		Identifying number 121-21-2121					
1 Enter the gross proceeds from sales or exchanges reported to you for 2012 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)							
2	(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)
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: 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.						7
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
17	Combine lines 10 through 16						17

Example 7. Net loss from casualties and thefts of property used in connection with a trade or business. Philip owns land that was damaged by a hurricane on August 26, 2012. The land was used in his business. The basis of the land on the date of the hurricane was \$20,000. There was no insurance on the land, which had an FMV of \$35,000 before the hurricane and \$25,000 after the hurricane.

Philip should report the transactions as shown on the following Form 4684. The \$10,000 loss is then transferred to line 14 of Form 4797.

For Example 7

Form 4684 (2012)

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
Philip	333-44-3333

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 **Land 02/01/2000**

Property B _____

Property C _____

Property D _____

	Properties			
	A	B	C	D
20 Cost or adjusted basis of each property	20	20,000		
21 Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3	21			
Note: If line 20 is more than line 21, skip line 22.				
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	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	26	10,000		
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-	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 includable 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 Form 1040NR, Schedule A, line 14, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Form 1040NR, Schedule A, line 9. 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 Hurricane 08/26/2012	(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
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		(10,000)
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 Form 1040NR, Schedule A, line 14, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Form 1040NR, Schedule A, line 9. 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 (2012)

2013 Workbook

Example 8. Net loss from casualties and thefts of property used in connection with a trade or business.

As a result of a flood on June 30, 2012, Mackenzie's walk-in cooler (§1245 property) was destroyed. She acquired the cooler on July 1, 1990, and used it in her business. The cooler had an FMV of \$15,000 before the flood. The original cost was \$18,000 and it was fully depreciated, so her basis was zero. She received \$15,000 from the insurance company for the loss of the cooler but decided not to replace it.

Mackenzie recognized a \$15,000 gain as a result of receiving \$15,000 from the insurance company for her zero-basis cooler. She cannot defer the gain because she did not replace the cooler. Mackenzie reports the \$15,000 as shown on the following Forms 4684 and 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 and is then entered on line 13 of Part II. The capital gain of zero from line 32 of Form 4797 is carried back to line 33 of Form 4684.

For Example 8

Form 4684 (2012)

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

Mackenzie

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 **Walk-in cooler 07/01/1990**

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	15,000			
Note: If line 20 is more than line 21, skip line 22.				
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)

(a) Identify casualty or theft	(b) Losses from casualties or thefts		(c) Gains from casualties or thefts includable 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 _____	()	()	
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 Form 1040NR, Schedule A, line 14, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Form 1040NR, Schedule A, line 9. 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		0	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 Form 1040NR, Schedule A, line 14, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Form 1040NR, Schedule A, line 9. 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 (2012)

2013 Workbook

For Example 8

Form **4797**

Department of the Treasury
Internal Revenue Service

Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))

▶ Attach to your tax return.

▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797.

OMB No. 1545-0184

2012

Attachment
Sequence No. **27**

Name(s) shown on return Mackenzie	Identifying number 987-65-4321
---	--

1 Enter the gross proceeds from sales or exchanges reported to you for 2012 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)

2	(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)

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** (2012)

For Example 8

Form 4797 (2012)

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 Walk-in cooler (from line 22 of Form 4684)	07/01/1990	06/30/2012		
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, mining exploration costs, and depletion (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** (2012)

Other Part II Transactions

Line 15 of Form 4797 is used to report ordinary gain 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.

Note. More information on the reporting of gain from installment sales is provided later in this chapter.

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

Note. More information on the reporting of income recognized in a like-kind exchange is provided later in this chapter.

Line 18a must be completed by individual taxpayers if **both** of the following circumstances exist.

- There is a loss on Form 4797, line 11.
- There is a loss on Form 4684, line 35, column (b)(ii).

The part of the loss on line 18a that is from income-producing property is then entered on Schedule A, line 28 (miscellaneous itemized deduction not subject to the 2%-of-AGI floor). The part of the loss that is from property used by a taxpayer in their capacity as an employee is entered on Schedule A, line 23 (miscellaneous itemized deduction subject to the 2%-of-AGI floor).

After subtracting the loss, if any, on line 18a from the amount on line 17, the individual taxpayer reports the remaining amount on line 14 of Form 1040.

Example 9. On January 15, 2012, a fire destroyed a building Liam used in his business and a painting that he held as an investment. He purchased the building on June 22, 1996. 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, 2004, for \$90,000. It was worth \$120,000 at the time of the fire and was not insured.

On February 22, 2012, Liam sold a parcel of land he used in his business. He purchased the land on May 10, 2002, for \$350,000 and sold it for \$100,000. He paid a broker \$7,000 to handle the sale.

The \$90,000 loss on the painting and the \$200,000 gain on the building are reported 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 28 (other miscellaneous deduction not subject to the 2% floor). The remainder of the \$147,000 net loss is reported on Form 4797, Part II, line 18b, and carried to Form 1040, line 14.

For Example 9

Form 4684 (2012)

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

Liam

999-88-7777

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 06/22/1996**

Property B **Painting 10/03/2004**

Property C _____

Property D _____

	Properties			
	A	B	C	D
20 Cost or adjusted basis of each property	20	70,000	90,000	
21 Insurance or other reimbursement (whether or not you filed a claim). See the instructions for line 3	21	270,000		
Note: If line 20 is more than line 21, skip line 22.				
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	200,000		
23 Fair market value before casualty or theft	23		120,000	
24 Fair market value after casualty or theft	24		0	
25 Subtract line 24 from line 23	25		120,000	
26 Enter the smaller of line 20 or line 25	26		90,000	
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-	27		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)	28			90,000

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 includable 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 _____		()	()	
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 Form 1040NR, Schedule A, line 14, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Form 1040NR, Schedule A, line 9. 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 01/15/2012		()	(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 Form 1040NR, Schedule A, line 14, and enter the amount from property used as an employee on Schedule A (Form 1040), line 23, or Form 1040NR, Schedule A, line 9. 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 (2012)

2013 Workbook

For Example 9

Form **4797**

Department of the Treasury
Internal Revenue Service

Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))

▶ Attach to your tax return.

▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797.

OMB No. 1545-0184

2012

Attachment
Sequence No. **27**

Name(s) shown on return

Liam

Identifying number

999-88-7777

1 Enter the gross proceeds from sales or exchanges reported to you for 2012 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)

2	(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)
	Land	05/10/2002	02/22/2012	100,000		357,000	(257,000)

3 Gain, if any, from Form 4684, line 39 **3** **110,000**

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** **(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) **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** **(147,000)**

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** **(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

18a **(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

18b **(57,000)**

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 130861

Form **4797** (2012)

FORM 4797, PART III

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 of IRC §§1245 and 1250;
2. The soil and water conservation recapture rules of IRC §1252;
3. The rules under IRC §1254 for recapturing intangible drilling and development costs, expenditures for development of mines and other natural deposits, and mining exploration costs; and
4. The rules under IRC §1255 for recapturing cost-sharing payments that were excluded from income under IRC §126.

Example 10. During 2012, Sorrenta sold a 1-ton truck and a cement mixer that she used in her construction business. Both the truck and the cement mixer are §1245 property. In 2008, 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	Adjusted Basis	Gain on Sale	§1245 Recapture	§1231 Gain
Truck, 1-ton	\$4,000	\$15,000	\$15,000	\$ 0	\$4,000	\$4,000	\$ 0
Cement mixer	1,500	1,000	475	525	975	475	500
Totals					\$4,975	\$4,475	\$500

Because the gain realized on the sale of the 1-ton truck is less than the depreciation allowed, the entire amount of the gain is treated as ordinary income under the §1245 recapture rules. However, the gain on the sale of the cement mixer is greater than the depreciation allowed; therefore, the gain in excess of the §1245 recapture is a §1231 gain and is taxed at capital gain rates (\$975 total gain – \$475 recapture = \$500 capital gain).

Sorrenta reports these transactions as shown on Form 4797, Part III. The ordinary income of \$4,475 from §1245 recapture is then entered on line 13 of Part II. The §1231 gain of \$500 is entered on line 6 of Part I.

2013 Workbook

For Example 10

Form 4797 (2012)

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)	05/01/2008	06/30/2012		
B Cement mixer	03/15/2010	04/20/2012		
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	0	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, mining exploration costs, and depletion (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** (2012)

For Example 10

Form 4797	Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2)) ▶ Attach to your tax return. ▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797 .	OMB No. 1545-0184 <div style="font-size: 24px; font-weight: bold; text-align: center;">2012</div> Attachment Sequence No. 27
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Name(s) shown on return Sorrenta	Identifying number 333-22-4444
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1 Enter the gross proceeds from sales or exchanges reported to you for 2012 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)

2	(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)

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	500
7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:	7	500

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	4,475
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	4,475

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	4,475

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 13086i Form **4797** (2012)

Observation. The §179 deduction that Sorrenta claimed in 2008 reduced her Schedule C income and therefore reduced her SE tax. The §1245 recapture reported in 2012 is not reported on Schedule C and does not increase her SE tax.

2013 Workbook

FORM 4797, PART IV

A conversion of property from business to personal use or the disposal of business property may require the recapture of some or all of the previously claimed IRC §179 deductions on that property. 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 the property is reduced to 50% or less during the recovery period. Disposals reported in a fully taxable transaction are not subject to these recapture provisions.¹⁷

The recapture amount equals the §179 expense deduction taken minus the MACRS depreciation that would have been allowed on the expensed amount from the time the property was placed in service up to and including the year of recapture.¹⁸ The §179 expense deduction is reported on line 33(a) and the recomputed depreciation is reported on line 34(a). The difference is entered on line 35(a) and is then reported as “other income” on the schedule on which the original deduction was taken.

Note. A disposition of property that is subject to depreciation recapture under §1245 is **not** also subject to §179 recapture.¹⁹

Part IV is also used to recapture depreciation on **listed property** when the business use decreases to 50% or less as required under IRC §280F(b)(2). The recapture amount for each unit of property must be computed separately and shown on a statement attached to Form 4797. The total is entered in Part IV.

For 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 allowable if the property had not been used more than 50% in a qualified business is computed and reported on line 34(b). The difference is entered on line 35(b) and then reported as “other income” on the schedule on which the original deduction was taken.

Note. The recapture amount reported on Schedule C or F increases SE income. It **also** increases the basis of the property.

Example 11. Lauren purchased a car for \$20,000 in June 2009. She used the car exclusively in her delivery service business until 2012, when she reduced the size of the business. During 2012, she only used the car 50% for the business, which she operated as a sole proprietorship. Therefore, the depreciation on Lauren’s car must be recalculated using the straight-line method over a 5-year recovery period.²⁰ Lauren’s tax return preparer calculates the §280F(b)(2) recapture amount as follows.

MACRS depreciation claimed 2009–2011	\$10,610
Recomputed straight-line depreciation 2009–2011	(8,850)
Excess depreciation	\$1,760

Note. See IRS Pub. 463, *Travel, Entertainment, Gift, and Car Expenses*, and IRS Pub. 946, *How To Depreciate Property*, for more details on recapture of excess depreciation.

¹⁷ Treas. Reg. §1.179-1(e)(2).

¹⁸ See Treas. Reg. §1.179-1(e)(1).

¹⁹ Treas. Reg. §1.179-1(e)(3).

²⁰ IRS Pub. 463, *Travel, Entertainment, Gift, and Car Expenses*.

Part IV of Lauren’s Form 4797 follows. She reports \$1,760 as other income on Form 1040, Schedule C; thus, this amount increases her SE income.

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	10,610
34 Recaptured depreciation (see instructions)	34	8,850
35 Recapture amount. Subtract line 34 from line 33. See the instructions for where to report	35	1,760

Form **4797** (2012)

DEPRECIATION RECAPTURE ON 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 2012, Aisha traded equipment with a cost of \$35,000, an adjusted basis of \$22,000, and an FMV of \$40,000 in exchange for equipment with an FMV of \$25,000. She also received \$15,000 in boot. The trade qualifies as a like-kind exchange. The gain recognized on the exchange is as follows.

FMV of replacement property	\$25,000
Boot received	15,000
Adjusted basis of equipment relinquished	<u>(22,000)</u>
Gain realized	\$18,000
Gain recognized	\$15,000

Gain recognized on a like-kind exchange is limited to the lesser of the gain realized or boot received. Aisha received \$15,000 in boot; therefore, the deferred gain is \$3,000 (\$18,000 – \$15,000), which is recognized upon disposition of the replacement equipment.

Aisha reports the exchange on Form 8824 and Form 4797 as follows. The §1245 gain is limited to the depreciation allowed on the equipment relinquished (\$35,000 cost – \$22,000 adjusted basis = \$13,000) and is reported on line 21 of Form 8824 and line 16 of Form 4797. The gain recognized in excess of the depreciation claimed is §1231 gain (\$15,000 gain recognized – \$13,000 depreciation = \$2,000) and is reported on line 22 of Form 8824 and line 5 of Form 4797.

2013 Workbook

For Example 12

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

2012
Attachment
Sequence No. **109**

Name(s) shown on tax return

Aisha

Identifying number

555-44-1234

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:

2 Description of like-kind property received:

3 Date like-kind property given up was originally acquired (month, day, year) **3** **MM** **03/12/2010** **YY**

4 Date you actually transferred your property to other party (month, day, year) **4** **MM** **06/15/2012** **YY**

5 Date like-kind property you received was identified by written notice to another party (month, day, year). See instructions for 45-day written identification requirement **5** **MM** **06/15/2012** **YY**

6 Date you actually received the like-kind property from other party (month, day, year). See instructions **6** **MM** **06/15/2012** **YY**

Form 8824 (2012)

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	

Deferral of Gain From Section 1043 Conflict-of-Interest Sales

For Example 12

Form **4797**

Department of the Treasury
Internal Revenue Service

Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))

▶ Attach to your tax return.

▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797.

OMB No. 1545-0184

2012

Attachment
Sequence No. **27**

Name(s) shown on return

Aisha

Identifying number

555-44-1234

1 Enter the gross proceeds from sales or exchanges reported to you for 2012 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)

2	(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)

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.

Cat. No. 13086i

Form **4797** (2012)

2013 Workbook

Example 13. In 2010, Desmond traded equipment with a cost of \$80,000, an adjusted basis of zero, and an FMV of \$100,000 for equipment with an FMV of \$200,000. Desmond paid boot of \$100,000 for the replacement equipment. The trade qualifies as a like-kind exchange.

FMV of replacement property	\$200,000
Boot paid	(100,000)
Adjusted basis of equipment relinquished	<u>(0)</u>
Gain realized	\$100,000
Gain recognized	\$ 0

Because Desmond did not **receive** any boot, he does not recognize any gain on the like-kind exchange. His basis in the replacement equipment is \$100,000, which consists of the boot paid.

In 2012, Desmond sold the replacement equipment for \$200,000. The equipment has an adjusted basis of \$19,200 (\$100,000 boot paid – \$50,000 bonus depreciation – \$30,800 MACRS depreciation + \$80,000 original cost of relinquished property – \$80,000 accumulated depreciation on relinquished property).

Desmond's Form 4797 follows. The §1245 depreciation recapture of \$160,800 (\$80,000 depreciation on relinquished equipment + \$80,800 depreciation on replacement equipment) is reported in Part III and then entered on line 13 of Part II. The §1231 gain of \$20,000 (\$180,800 total gain – \$160,800 §1245 recapture) is reported on line 6.

For Example 13

Form 4797 Department of the Treasury Internal Revenue Service	<h3 style="margin: 0;">Sales of Business Property</h3> <p style="margin: 0;">(Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))</p> <p style="margin: 0;">▶ Attach to your tax return.</p> <p style="margin: 0;">▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797.</p>	OMB No. 1545-0184 <h2 style="margin: 0;">2012</h2> Attachment Sequence No. 27					
Name(s) shown on return Desmond		Identifying number 111-22-3333					
1 Enter the gross proceeds from sales or exchanges reported to you for 2012 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)							
2	(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)
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	20,000
7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows:						7	20,000
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	160,800
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	
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

2013 Workbook

For Example 13

Form 4797 (2012)

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	06/01/2010	09/01/2012		
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	200,000		
21 Cost or other basis plus expense of sale	21	180,000		
22 Depreciation (or depletion) allowed or allowable	22	160,800		
23 Adjusted basis. Subtract line 22 from line 21.	23	19,200		
24 Total gain. Subtract line 23 from line 20	24	180,800		
25 If section 1245 property:				
a Depreciation allowed or allowable from line 22	25a	160,800		
b Enter the smaller of line 24 or 25a	25b	160,800		
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, mining exploration costs, and depletion (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	180,800
31 Add property columns A through D, lines 25b, 26g, 27c, 28b, and 29b. Enter here and on line 13	31	160,800
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	20,000

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** (2012)

DEPRECIATION RECAPTURE ON INSTALLMENT SALES

An installment **sale** is a sale of property in which the taxpayer receives at least one payment after the tax year of the sale. Under the installment **method** of reporting an installment sale, the taxpayer generally reports the gain on a sale as payments are received instead of reporting all of the gain in the year of sale. The portion of each payment that the taxpayer includes in income each year is equal to the installment received during the tax year multiplied by the gross profit ratio. The installment method of reporting installment sales is mandatory unless the taxpayer elects out.

Note. Additional information on installment sales can be found in IRS Pub. 537, *Installment Sales*.

IRC §1245 Property

For §1245 property, the general rule that taxpayers pro rate the gain on an installment sale over the life of the payments does not apply to the portion of the gain attributable to depreciation allowed or allowable. The depreciation recapture is taxable in the year of the sale, regardless of whether an installment payment was received that year.

Example 14. In 2012, Sue Ellen sold business equipment for a total price of \$75,000. She received a \$5,000 down payment in 2012, and she will receive the remainder in \$10,000 installments over the next seven years. In addition to the \$10,000 principal payments, she will also receive interest on the outstanding balance at the applicable federal rate in effect in the month of the sale.

Sue Ellen originally paid \$71,000 for the equipment in 2009. The accumulated depreciation was \$16,000 at the time of the sale. Her remaining basis was, therefore, \$55,000 (\$71,000 – \$16,000).

Her total gain on the sale was \$20,000 (\$75,000 sales price – \$55,000 basis). The sale is reported in part III of Form 4797. The depreciation recapture of \$16,000 is carried to line 13 in part II and is taxed as ordinary income in 2012. The \$16,000 also flows to line 12 of Form 6252, *Installment Sale Income*, where it is added to the basis of the equipment to determine the amount of gain recognized under the installment method.

Part II of Form 6252 is used to calculate the taxable portion of each installment payment. Each year that Sue Ellen receives any payments, she will multiply the payments by the gross profit percentage of 5.33% (\$4,000 gain ÷ \$75,000 sales price). She will also report the interest she receives on Schedule B, *Interest and Ordinary Dividends*.

In 2012, Sue Ellen received \$5,000. The taxable portion of this payment is \$267 (\$5,000 × 5.33%). She must recognize this gain in addition to the \$16,000 depreciation recapture.

IRC §1250 Property

For §1250 property, only the amount of the gain attributable to depreciation in excess of straight-line is subject to depreciation recapture. The amount attributable to depreciation allowable under the straight-line method is taxed pro-ratably as payments are received.

Note. The straight-line depreciation component is not taxed as long-term capital gain, even if the asset was held long-term. It is taxed as ordinary income up to a maximum rate of 25%. See the instructions for Schedule D for more information.

Example 15. On January 1, 2012, Zachary sold a building that he used in his business for \$125,000. He received \$10,000 in 2012 and will receive the remainder of the sale price over the next five years.

The building was originally purchased for \$100,000 on November 1, 2010. The building qualified for bonus depreciation, so Zachary deducted 100% of the cost in 2010.

Zachary would have claimed \$6,000 depreciation under the straight-line method (rounded for the purpose of this example).

2013 Workbook

The following is the calculation of Zachary's depreciation recapture reportable in 2012.

Total depreciation claimed	\$100,000
Less: depreciation calculated using the straight-line method	(6,000)
\$1250 depreciation recapture income	\$ 94,000

Zachary's tax return preparer reported the transaction as shown on the following Forms 6252 and 4797.

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. ▶ Instructions and more are at www.irs.gov/form6252 .	OMB No. 1545-0228 2012 Attachment Sequence No. 79
Name(s) shown on return Zachary		Identifying number 999-88-9999
1 Description of property ▶ Building 2a Date acquired (mm/dd/yyyy) ▶ 11/01/2010 b Date sold (mm/dd/yyyy) ▶ 01/01/2012 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		5 125,000
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		7 125,000
8 Cost or other basis of property sold		8 100,000
9 Depreciation allowed or allowable		9 100,000
10 Adjusted basis. Subtract line 9 from line 8		10 0
11 Commissions and other expenses of sale		11
12 Income recapture from Form 4797, Part III (see instructions)		12 94,000
13 Add lines 10, 11, and 12		13 94,000
14 Subtract line 13 from line 5. If zero or less, do not complete the rest of this form (see instructions)		14 31,000
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 31,000
17 Subtract line 13 from line 6. If zero or less, enter -0-		17 0
18 Contract price. Add line 7 and line 17		18 125,000
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 .2480
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 2,480
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 2,480

Note. Line 25 of Form 6252 is only applicable to §§1252, 1254, and 1255 property.

All of the income on Line 26 is reported as ordinary income subject to a maximum rate of 25% in 2012 because the total depreciation allowable under the straight-line method is greater than the amount of gain claimed to date. Once a total of \$6,000 of the gain has been reported as gain subject to the maximum 25% rate, the remainder will be subject to the long-term capital gain rates in effect during each year that the installment payments are received.

For Example 15

Form 4797 (2012)

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	11/01/2010	01/01/2012		
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	125,000		
21 Cost or other basis plus expense of sale	21	100,000		
22 Depreciation (or depletion) allowed or allowable	22	100,000		
23 Adjusted basis. Subtract line 22 from line 21.	23	0		
24 Total gain. Subtract line 23 from line 20	24	125,000		
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	94,000		
b Applicable percentage multiplied by the smaller of line 24 or line 26a (see instructions)	26b	94,000		
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	31,000		
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	94,000		
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, mining exploration costs, and depletion (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	125,000		
31 Add property columns A through D, lines 25b, 26g, 27c, 28b, and 29b. Enter here and on line 13	31	94,000		
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 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		

Form **4797** (2012)

2013 Workbook

For Example 15

Form **4797**

Department of the Treasury
Internal Revenue Service

Sales of Business Property (Also Involuntary Conversions and Recapture Amounts Under Sections 179 and 280F(b)(2))

▶ Attach to your tax return.

▶ Information about Form 4797 and its separate instructions is at www.irs.gov/form4797.

OMB No. 1545-0184

2012

Attachment
Sequence No. **27**

Name(s) shown on return

Zachary

Identifying number

999-88-9999

1 Enter the gross proceeds from sales or exchanges reported to you for 2012 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)

2	(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)

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** **2,480**

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** **0**

7 Combine lines 2 through 6. Enter the gain or (loss) here and on the appropriate line as follows: **7** **2,480**

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** **94,000**

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** **94,000**

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** **94,000**

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 130861

Form **4797** (2012)

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

If a §179 expense deduction was previously claimed and passed through to partners or shareholders, special rules apply when the partnership or S corporation sells, exchanges, or otherwise disposes of the §179 property. The partner or shareholder must report their share of the transaction on Form 4797, 4684, 6252, or 8824. This is the case regardless of whether the taxpayer was a partner or shareholder at the time the §179 deduction was claimed.

The Form 4797 instructions include a worksheet used to calculate any reduction in the carryforward amount 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, excluding the §179 expense deduction
- The partner's or shareholder's share of the §179 expense deduction passed through for 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 if the taxpayer was not a partner or shareholder for the tax year in which it was passed through or the taxpayer did not deduct all or part of the §179 expense because of the dollar or taxable income limitations. The tax year in which it was passed through is 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 to this effect, along with 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 (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 subsequent tax years.)
- Any information needed by the partner or shareholder to complete Form 8824, if the disposition involved property relinquished in an exchange involving like-kind property made during the partnership's or S corporation's tax year

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

Observation. Individuals can have unused §179 expense deductions for various reasons, including the taxable income limitation, the maximum §179 cost limitation, or the annual maximum §179 expense limitation.

2013 Workbook

Example 16. Latrelle is a partner in Boing 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 2012 Schedule K-1 from Boing reports the following supplemental information for an asset sale on which a §179 expense deduction was claimed. The equipment was acquired on June 5, 2004, and sold on February 12, 2012.

	Boing Partnership	Latrelle's 50% Share
Sale price	\$1,800	\$ 900
Cost	2,000	1,000
§179 expense deduction	1,800	900
Regular depreciation	200	100

Latrelle's tax return preparer completes the following worksheet from the Form 4797 instructions. The relevant portion of Latrelle's Form 4797 is also shown.

Worksheet for Partners and S Corporation Shareholders To Figure Gain or Loss on Dispositions of Property for Which a Section 179 Deduction Was Claimed			
			<i>Keep for Your Records</i>
Caution: See the <i>worksheet instructions</i> 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.

For Example 16

Form 4797 (2012)

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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	06/05/2004	02/12/2012
B		
C		
D		

		Property A	Property B	Property C	Property D
These columns relate to the properties on lines 19A through 19D. ▶					
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			

After the tax return preparer completes the worksheet, Latrelle learns that he will only be taxed on \$200 of the possible \$900 gain. However, his carryover §179 expense deduction is eliminated.

2013 Workbook