



## **Federal IRS Income Tax Form for Tax Year 2008 (1/1/2008-12/31/2008)**

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**SCHEDULE D  
(Form 1040)**

Department of the Treasury  
Internal Revenue Service (99)

**Capital Gains and Losses**

▶ Attach to Form 1040 or Form 1040NR. ▶ See Instructions for Schedule D (Form 1040).

▶ Use Schedule D-1 to list additional transactions for lines 1 and 8.

OMB No. 1545-0074

**2008**

Attachment  
Sequence No. **12**

Name(s) shown on return

Your social security number

**Part I Short-Term Capital Gains and Losses—Assets Held One Year or Less**

(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Sales price (see page D-7 of the instructions)	(e) Cost or other basis (see page D-7 of the instructions)	(f) Gain or (loss) Subtract (e) from (d)
1					
2	Enter your short-term totals, if any, from Schedule D-1, line 2 . . . . .				2
3	<b>Total short-term sales price amounts.</b> Add lines 1 and 2 in column (d) . . . . .				3
4	Short-term gain from Form 6252 and short-term gain or (loss) from Forms 4684, 6781, and 8824 . . . . .				4
5	Net short-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1 . . . . .				5
6	Short-term capital loss carryover. Enter the amount, if any, from line 8 of your <b>Capital Loss Carryover Worksheet</b> on page D-7 of the instructions . . . . .				6 ( )
7	<b>Net short-term capital gain or (loss).</b> Combine lines 1 through 6 in column (f) . . . . .				7

**Part II Long-Term Capital Gains and Losses—Assets Held More Than One Year**

(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold (Mo., day, yr.)	(d) Sales price (see page D-7 of the instructions)	(e) Cost or other basis (see page D-7 of the instructions)	(f) Gain or (loss) Subtract (e) from (d)
8					
9	Enter your long-term totals, if any, from Schedule D-1, line 9 . . . . .				9
10	<b>Total long-term sales price amounts.</b> Add lines 8 and 9 in column (d) . . . . .				10
11	Gain from Form 4797, Part I; long-term gain from Forms 2439 and 6252; and long-term gain or (loss) from Forms 4684, 6781, and 8824 . . . . .				11
12	Net long-term gain or (loss) from partnerships, S corporations, estates, and trusts from Schedule(s) K-1 . . . . .				12
13	Capital gain distributions. See page D-2 of the instructions . . . . .				13
14	Long-term capital loss carryover. Enter the amount, if any, from line 13 of your <b>Capital Loss Carryover Worksheet</b> on page D-7 of the instructions . . . . .				14 ( )
15	<b>Net long-term capital gain or (loss).</b> Combine lines 8 through 14 in column (f). Then go to Part III on the back . . . . .				15

**Part III Summary**

<p><b>16</b> Combine lines 7 and 15 and enter the result. . . . .</p> <p>If line 16 is:</p> <ul style="list-style-type: none"> <li>● A <b>gain</b>, enter the amount from line 16 on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 17 below.</li> <li>● A <b>loss</b>, skip lines 17 through 20 below. Then go to line 21. Also be sure to complete line 22.</li> <li>● <b>Zero</b>, skip lines 17 through 21 below and enter -0- on Form 1040, line 13, or Form 1040NR, line 14. Then go to line 22.</li> </ul> <p><b>17</b> Are lines 15 and 16 <b>both</b> gains?</p> <p><input type="checkbox"/> <b>Yes.</b> Go to line 18.</p> <p><input type="checkbox"/> <b>No.</b> Skip lines 18 through 21, and go to line 22.</p> <p><b>18</b> Enter the amount, if any, from line 7 of the <b>28% Rate Gain Worksheet</b> on page D-8 of the instructions . . . . . ▶</p> <p><b>19</b> Enter the amount, if any, from line 18 of the <b>Unrecaptured Section 1250 Gain Worksheet</b> on page D-9 of the instructions . . . . . ▶</p> <p><b>20</b> Are lines 18 and 19 <b>both</b> zero or blank?</p> <p><input type="checkbox"/> <b>Yes.</b> Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the <b>Qualified Dividends and Capital Gain Tax Worksheet</b> on page 38 of the Instructions for Form 1040 (or in the Instructions for Form 1040NR). <b>Do not</b> complete lines 21 and 22 below.</p> <p><input type="checkbox"/> <b>No.</b> Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the <b>Schedule D Tax Worksheet</b> on page D-10 of the instructions. <b>Do not</b> complete lines 21 and 22 below.</p> <p><b>21</b> If line 16 is a loss, enter here and on Form 1040, line 13, or Form 1040NR, line 14, the <b>smaller</b> of:</p> <ul style="list-style-type: none"> <li>● The loss on line 16 or</li> <li>● (\$3,000), or if married filing separately, (\$1,500) } . . . . .</li> </ul> <p><b>Note.</b> When figuring which amount is smaller, treat both amounts as positive numbers.</p> <p><b>22</b> Do you have qualified dividends on Form 1040, line 9b, or Form 1040NR, line 10b?</p> <p><input type="checkbox"/> <b>Yes.</b> Complete Form 1040 through line 43, or Form 1040NR through line 40. Then complete the <b>Qualified Dividends and Capital Gain Tax Worksheet</b> on page 38 of the Instructions for Form 1040 (or in the Instructions for Form 1040NR).</p> <p><input type="checkbox"/> <b>No.</b> Complete the rest of Form 1040 or Form 1040NR.</p>	<p><b>16</b></p> <p><b>18</b></p> <p><b>19</b></p> <p><b>21</b> ( )</p>		
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# 2008 Instructions for Schedule D

## Capital Gains and Losses

Use Schedule D (Form 1040) to report the following.

- The sale or exchange of a capital asset (defined on this page) not reported on another form or schedule.
- Gains from involuntary conversions (other than from casualty or theft) of capital assets not held for business or profit.
- Capital gain distributions not reported directly on Form 1040, line 13 (or effectively connected capital gain distributions not reported directly on Form 1040NR, line 14).
- Nonbusiness bad debts.

**Additional information.** See Pub. 544 and Pub. 550 for more details. For a comprehensive filled-in example of Schedule D, see Pub. 550.

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

### What's New

**Tax rate on qualified dividends and net capital gain reduced.** The 5% tax rate on qualified dividends and net capital gain is reduced to zero. The line on last year's Schedule D Tax Worksheet that reflected the 5% rate has been deleted.

**Sale of your home.** A surviving spouse may be able to exclude up to \$500,000 of gain from the sale or exchange of a main home after 2007. Also, the election to suspend the 5-year test period for ownership and use of a main home now can be made by Peace Corps employees and volunteers serving outside the United States. See *Sale of Your Home* on page D-2.

**Deemed sales by expatriates.** If you give up your citizenship after June 16, 2008, you may be treated as having sold all your property for its fair market value on the day before you gave up your citizenship. This also applies to long-term U.S. residents who cease to be lawful permanent residents. For details, exceptions, and rules for reporting these deemed sales, see Pub. 519 and Form 8854.

### General Instructions

#### Other Forms You May Have To File

Use Form 4797 to report the following.

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 property; and
  - d. Section 126 property.
2. The involuntary conversion (other than from casualty or theft) of property used in a trade or business and capital assets held for business or profit.

3. The disposition of noncapital assets other than inventory or property held primarily for sale to customers in the ordinary course of your trade or business.

4. Ordinary loss on the sale, exchange, or worthlessness of small business investment company (section 1242) stock.

5. Ordinary loss on the sale, exchange, or worthlessness of small business (section 1244) stock.

6. Ordinary gain or loss on securities held in connection with your trading business, if you previously made a mark-to-market election. See *Traders in Securities* on page D-3.

Use Form 4684 to report involuntary conversions of property due to casualty or theft.

Use Form 6781 to report gains and losses from section 1256 contracts and straddles.

Use Form 8824 to report like-kind exchanges. A like-kind exchange occurs when you exchange business or investment property for property of a like kind.

#### Capital Asset

Most property you own and use for personal purposes, pleasure, or investment is a capital asset. For example, your house, furniture, car, stocks, and bonds are capital assets. A capital asset is any property held by you except the following.

- Stock in trade or other property included in inventory or held mainly for sale to customers. But see the *Tip* on this page.
- Accounts or notes receivable for services performed in the ordinary course of your trade or business or as an employee, or from the sale of stock in trade or other property held mainly for sale to customers.
- Depreciable property used in your trade or business, even if it is fully depreciated.
- Real estate used in your trade or business.
- Copyrights, literary, musical, or artistic compositions, letters or memoranda, or similar property (a) created by your personal efforts; (b) prepared or produced for you (in the case of letters, memoranda, or

similar property); or (c) that you received from someone who created them or for whom they were created, as mentioned in (a) or (b), in a way (such as by gift) that entitled you to the basis of the previous owner. But see the *Tip* on this page.

- U.S. Government publications, including the Congressional Record, that you received from the Government, other than by purchase at the normal sales price, or that you got from someone who had received it in a similar way, if your basis is determined by reference to the previous owner's basis.

- Certain commodities derivative financial instruments held by a dealer. See section 1221(a)(6).

- Certain hedging transactions entered into in the normal course of your trade or business. See section 1221(a)(7).

- Supplies regularly used in your trade or business.



*You can elect to treat as capital assets certain musical compositions or copyrights you sold or exchanged. See Pub. 550 for details.*

#### Basis and Recordkeeping

Basis is the amount of your investment in property for tax purposes. You need to know your basis to figure any gain or loss on the sale or other disposition of the property. You must keep accurate records that show the basis and adjusted basis of your property. Your records should show the purchase price, including commissions; increases to basis, such as the cost of improvements; and decreases to basis, such as depreciation, nondividend distributions on stock, and stock splits.

For more information on basis, see page D-7 and these publications.

- Pub. 551, Basis of Assets.
- Pub. 550, Investment Income and Expenses (Including Capital Gains and Losses).
- Pub. 564, Mutual Fund Distributions.

If you lost or did not keep records to determine your basis in securities, contact your broker for help.



The IRS partners with companies that offer Schedule D software that can import trades from many brokerage firms and accounting software to help you keep track of your adjusted basis in securities. To find out more, go to [www.irs.gov/efile](http://www.irs.gov/efile).

## Short Term or Long Term

Separate your capital gains and losses according to how long you held or owned the property. The holding period for short-term capital gains and losses is 1 year or less. The holding period for long-term capital gains and losses is more than 1 year. To figure the holding period, begin counting on the day after you received the property and include the day you disposed of it.

If you disposed of property that you acquired by inheritance, report the disposition as a long-term gain or loss, regardless of how long you held the property.

A nonbusiness bad debt must be treated as a short-term capital loss. See Pub. 550 for what qualifies as a nonbusiness bad debt and how to enter it on Schedule D.

## Capital Gain Distributions

These distributions are paid by a mutual fund (or other regulated investment company) or real estate investment trust from its net realized long-term capital gains. Distributions of net realized short-term capital gains are not treated as capital gains. Instead, they are included on Form 1099-DIV as ordinary dividends.

Enter on line 13 the total capital gain distributions paid to you during the year, regardless of how long you held your investment. This amount is shown in box 2a of Form 1099-DIV.

If there is an amount in box 2b, include that amount on line 11 of the Unrecaptured Section 1250 Gain Worksheet on page D-9 if you complete line 19 of Schedule D.

If there is an amount in box 2c, see *Exclusion of Gain on Qualified Small Business (QSB) Stock* on page D-4.

If there is an amount in box 2d, include that amount on line 4 of the 28% Rate Gain Worksheet on page D-8 if you complete line 18 of Schedule D.

If you received capital gain distributions as a nominee (that is, they were paid to you but actually belong to someone else), report on line 13 only the amount that belongs to you. Attach a statement showing the full amount you received and the amount you received as a nominee. See the Instructions for Schedule B for filing requirements for Forms 1099-DIV and 1096.

## Sale of Your Home

If you sold or exchanged your main home, do not report it on your tax return unless your gain is more than your exclusion amount. Your exclusion amount is zero if:

- You acquired your home in a like-kind exchange in which all or part of the gain was not recognized, and
- You sold or exchanged the home during the 5-year period beginning on the date you acquired it.

Generally, if you meet the two following tests, you can exclude up to \$250,000 of gain. If both you and your spouse meet these tests and you file a joint return, you can exclude up to \$500,000 of gain (but only one spouse needs to meet the ownership requirement in *Test 1*).

**Test 1.** You owned and used the home as your main home for 2 years or more during the 5-year period ending on the date you sold or exchanged your home.

**Test 2.** You have not excluded gain on the sale or exchange of another main home during the 2-year period ending on the date of the sale or exchange of your home.

Even if you do not meet one or both of the above two tests, you still can claim an exclusion if you sold or exchanged the home because of a change in place of employment, health, or certain unforeseen circumstances. In this case, the maximum amount of gain you can exclude is reduced.

If your spouse died before the sale or exchange, you can exclude up to \$500,000 of gain if:

- The sale or exchange is no later than 2 years after your spouse's death,
- Just before your spouse's death, both spouses met the use requirement of *Test 1*, at least one spouse met the ownership requirement of *Test 1*, and both spouses met *Test 2*, and
- You did not remarry before the sale or exchange.

You can choose to have the 5-year test period for ownership and use in *Test 1* above suspended during any period you or your spouse serve outside the United States as a Peace Corps volunteer or serve on qualified official extended duty as a member of the uniformed services or Foreign Service of the United States, as an employee of the intelligence community, or outside the United States as an employee of the Peace Corps. This means you may be able to meet *Test 1* even if, because of your service, you did not actually use the home as your main home for at least the required 2 years during the 5-year period ending on the date of sale.

See Pub. 523 for details, including how to report any taxable gain if:

- You (or your spouse if married) used any part of the home for business or rental purposes after May 6, 1997, or
- Your gain is more than your exclusion amount.

## Partnership Interests

A sale or other disposition of an interest in a partnership may result in ordinary income, collectibles gain (28% rate gain), or unrecaptured section 1250 gain. For details on 28% rate gain, see the instructions for line 18 on page D-8. For details on unrecaptured section 1250 gain, see the instructions for line 19 beginning on page D-8.

## Capital Assets Held for Personal Use

Generally, gain from the sale or exchange of a capital asset held for personal use is a

capital gain. Report it on Schedule D, Part I or Part II. However, if you converted depreciable property to personal use, all or part of the gain on the sale or exchange of that property may have to be recaptured as ordinary income. Use Part III of Form 4797 to figure the amount of ordinary income recapture. The recapture amount is included on line 31 (and line 13) of Form 4797. Do not enter any gain for this property on line 32 of Form 4797. If you are not completing Part III for any other properties, enter "N/A" on line 32. If the total gain is more than the recapture amount, enter "From Form 4797" in column (a) of line 1 or line 8 of Schedule D, skip columns (b) through (e), and in column (f) enter the excess of the total gain over the recapture amount.

Loss from the sale or exchange of a capital asset held for personal use is not deductible. But if you had a loss from the sale or exchange of real estate held for personal use for which you received a Form 1099-S, you must report the transaction on Schedule D even though the loss is not deductible. For example, you have a loss on the sale of a vacation home that is not your main home and you received a Form 1099-S for the transaction. Report the transaction on line 1 or 8, depending on how long you owned the home. Complete columns (a) through (e). Because the loss is not deductible, enter -0- in column (f).

## Capital Losses

You can deduct capital losses up to the amount of your capital gains plus \$3,000 (\$1,500 if married filing separately). You may be able to use capital losses that exceed this limit in future years. For details, see the instructions for line 21 on page D-9. Be sure to report all of your capital gains and losses (except nondeductible losses) even if you cannot use all of your losses in 2008.

## Nondeductible Losses

Do not deduct a loss from the direct or indirect sale or exchange of property between any of the following.

- Members of a family.
- A corporation and an individual owning more than 50% of the corporation's stock (unless the loss is from a distribution in complete liquidation of a corporation).
- A grantor and a fiduciary of a trust.
- A fiduciary and a beneficiary of the same trust.
- A fiduciary and a beneficiary of another trust created by the same grantor.
- An executor of an estate and a beneficiary of that estate, unless the sale or exchange was to satisfy a pecuniary bequest (that is, a bequest of a sum of money).
- An individual and a tax-exempt organization controlled by the individual or the individual's family.

See Pub. 544 for more details on sales and exchanges between related parties.

If you disposed of (a) an asset used in an activity to which the at-risk rules apply or (b) any part of your interest in an activity to which the at-risk rules apply, and you have

amounts in the activity for which you are not at risk, see the Instructions for Form 6198.

If the loss is allowable under the at-risk rules, it then may be subject to the passive activity rules. See Form 8582 and its instructions for details on reporting capital gains and losses from a passive activity.

## Items for Special Treatment

- Transactions by a securities dealer. See section 1236.
- Bonds and other debt instruments. See Pub. 550.
- Certain real estate subdivided for sale that may be considered a capital asset. See section 1237.
- Gain on the sale of depreciable property to a more than 50% owned entity or to a trust of which you are a beneficiary. See Pub. 544.
- Gain on the disposition of stock in an interest charge domestic international sales corporation. See section 995(c).
- Gain on the sale or exchange of stock in certain foreign corporations. See section 1248.
- Transfer of property to a partnership that would be treated as an investment company if it were incorporated. See Pub. 541.
- Sales of stock received under a qualified public utility dividend reinvestment plan. See Pub. 550.
- Transfer of appreciated property to a political organization. See section 84.
- If you give up your U.S. citizenship after June 16, 2008, you may be treated as having sold all your property for its fair market value on the day before you gave up your citizenship. This also applies to long-term U.S. residents who cease to be lawful permanent residents after June 16, 2008. For details, exceptions, and rules for reporting these deemed sales, see Pub. 519 and Form 8854.
- In general, no gain or loss is recognized on the transfer of property from an individual to a spouse or a former spouse if the transfer is incident to a divorce. See Pub. 504.
- Amounts received on the retirement of a debt instrument generally are treated as received in exchange for the debt instrument. See Pub. 550.
- Any loss on the disposition of converted wetland or highly erodible cropland that is first used for farming after March 1, 1986, is reported as a long-term capital loss on Schedule D, but any gain is reported as ordinary income on Form 4797.
- If qualified dividends that you reported on Form 1040, line 9b, or Form 1040NR, line 10b, include extraordinary dividends, any loss on the sale or exchange of the stock is a long-term capital loss to the extent of the extraordinary dividends. An extraordinary dividend is a dividend that equals or exceeds 10% (5% in the case of preferred stock) of your basis in the stock.
- Amounts received by shareholders in corporate liquidations. See Pub. 550.

- Cash received in lieu of fractional shares of stock as a result of a stock split or stock dividend. See Pub. 550.

- Load charges to acquire stock in a regulated investment company (including a mutual fund), which may not be taken into account in determining gain or loss on certain dispositions of the stock if reinvestment rights were exercised. See Pub. 564.

- The sale or exchange of S corporation stock or an interest in a trust held for more than 1 year, which may result in collectibles gain (28% rate gain). See the instructions for line 18 on page D-8.

- Gain or loss on the disposition of securities futures contracts. See Pub. 550.

- Gain on the constructive sale of certain appreciated financial positions. See Pub. 550.

- Certain constructive ownership transactions. Gain in excess of the gain you would have recognized if you had held a financial asset directly during the term of a derivative contract must be treated as ordinary income. See section 1260. If any portion of the constructive ownership transaction was open in any prior year, you may have to pay interest. See section 1260(b) for details, including how to figure the interest. Include the interest as an additional tax on Form 1040, line 61 (or Form 1040NR, line 57). Write "Section 1260(b) interest" and the amount of the interest to the left of line 61 (or Form 1040NR, line 57). This interest is not deductible.

- The sale of publicly traded securities, if you elect to postpone gain by purchasing common stock or a partnership interest in a specialized small business investment company during the 60-day period that began on the date of the sale. See Pub. 550.

- The sale of qualified securities, held for at least 3 years, to an employee stock ownership plan or eligible worker-owned cooperative, if you elect to postpone gain by purchasing qualified replacement property. See Pub. 550.

- Gain or loss from the disposition of stock or other securities in an investment club. See Pub. 550.

## Wash Sales

A wash sale occurs when you sell or otherwise dispose of stock or securities (including a contract or option to acquire or sell stock or securities) at a loss and, within 30 days before or after the sale or disposition, you:

1. Buy substantially identical stock or securities,
2. Acquire substantially identical stock or securities in a fully taxable trade,
3. Enter into a contract or option to acquire substantially identical stock or securities, or
4. Acquire substantially identical stock or securities for your individual retirement arrangement (IRA) or Roth IRA.

You cannot deduct losses from wash sales unless the loss was incurred in the ordinary course of your business as a dealer in stock or securities. The basis of the substantially identical property (or contract or

option to acquire such property) is its cost increased by the disallowed loss (except in the case of (4) above). For more details on wash sales, see Pub. 550.

Report a wash sale transaction on line 1 or 8. Enter the full amount of the (loss) in column (f). Directly below the line on which you reported the loss, enter "Wash Sale" in column (a), and enter as a positive amount in column (f) the amount of the loss not allowed.

## Traders in Securities

You are a trader in securities if you are engaged in the business of buying and selling securities for your own account. To be engaged in business as a trader in securities, all of the following statements must be true.

- You must seek to profit from daily market movements in the prices of securities and not from dividends, interest, or capital appreciation.
- Your activity must be substantial.
- You must carry on the activity with continuity and regularity.

The following facts and circumstances should be considered in determining if your activity is a business.

- Typical holding periods for securities bought and sold.
- The frequency and dollar amount of your trades during the year.
- The extent to which you pursue the activity to produce income for a livelihood.
- The amount of time you devote to the activity.

You are considered an investor, and not a trader, if your activity does not meet the above definition of a business. It does not matter whether you call yourself a trader or a "day trader."

Like an investor, a trader must report each sale of securities (taking into account commissions and any other costs of acquiring or disposing of the securities) on Schedule D or D-1 or on an attached statement containing all the same information for each sale in a similar format. However, if a trader previously made the mark-to-market election (see page D-4), each transaction is reported in Part II of Form 4797 instead of Schedules D and D-1. Regardless of whether a trader reports his or her gains and losses on Schedules D and D-1 or Form 4797, the gain or loss from the disposition of securities is not taken into account when figuring net earnings from self-employment on Schedule SE. See the Instructions for Schedule SE for an exception that applies to section 1256 contracts.

The limitation on investment interest expense that applies to investors does not apply to interest paid or incurred in a trading business. A trader reports interest expense and other expenses (excluding commissions and other costs of acquiring or disposing of securities) from a trading business on Schedule C (instead of Schedule A).

A trader also may hold securities for investment. The rules for investors generally will apply to those securities. Allocate

interest and other expenses between your trading business and your investment securities.

### Mark-To-Market Election for Traders

A trader may make an election under section 475(f) to report all gains and losses from securities held in connection with a trading business as ordinary income (or loss), including those from securities held at the end of the year. Securities held at the end of the year are "marked to market" by treating them as if they were sold (and reacquired) for fair market value on the last business day of the year. Generally, the election must be made by the due date (not including extensions) of the tax return for the year prior to the year for which the election becomes effective. To be effective for 2008, the election must have been made by April 15, 2008.

Starting with the year the election becomes effective, a trader reports all gains and losses from securities held in connection with the trading business, including securities held at the end of the year, in Part II of Form 4797. If you previously made the election, see the Instructions for Form 4797. For details on making the mark-to-market election for 2009, see Pub. 550 or Rev. Proc. 99-17, 1999-1 C.B. 503. You can find Rev. Proc. 99-17 on page 52 of Internal Revenue Bulletin 1999-7 at [www.irs.gov/pub/irs-irbs/irb99-07.pdf](http://www.irs.gov/pub/irs-irbs/irb99-07.pdf).

If you hold securities for investment, you must identify them as such in your records on the day you acquired them (for example, by holding the securities in a separate brokerage account). Securities held for investment are not marked-to-market.

### Short Sales

A short sale is a contract to sell property you borrowed for delivery to a buyer. At a later date, you either buy substantially identical property and deliver it to the lender or deliver property that you held but did not want to transfer at the time of the sale. Usually, your holding period is the amount of time you actually held the property eventually delivered to the lender to close the short sale. However, your gain when closing a short sale is short term if you (a) held substantially identical property for 1 year or less on the date of the short sale, or (b) acquired property substantially identical to the property sold short after the short sale but on or before the date you close the short sale. If you held substantially identical property for more than 1 year on the date of a short sale, any loss realized on the short sale is a long-term capital loss, even if the property used to close the short sale was held 1 year or less.

### Gain or Loss From Options

Report on Schedule D gain or loss from the closing or expiration of an option that is not a section 1256 contract but is a capital asset in your hands. If an option you purchased expired, enter the expiration date in column (c) and enter "EXPIRED" in column (d). If an option that was granted (written) expired, enter the expiration date in column (b) and enter "EXPIRED" in column (e).

Fill in the other columns as appropriate. See Pub. 550 for details.

### Undistributed Capital Gains

Include on line 11 the amount from box 1a of Form 2439. This represents your share of the undistributed long-term capital gains of the regulated investment company (including a mutual fund) or real estate investment trust.

If there is an amount in box 1b, include that amount on line 11 of the Unrecaptured Section 1250 Gain Worksheet on page D-9 if you complete line 19 of Schedule D.

If there is an amount in box 1c, see *Exclusion of Gain on Qualified Small Business (QSB) Stock* on this page.

If there is an amount in box 1d, include that amount on line 4 of the 28% Rate Gain Worksheet on page D-8 if you complete line 18 of Schedule D.

Enter on Form 1040, line 68, or Form 1040NR, line 63, the tax paid as shown in box 2 of Form 2439. Also check the box for Form 2439. Add to the basis of your stock the excess of the amount included in income over the amount of the credit for the tax paid. See Pub. 550 for details.

### Installment Sales

If you sold property (other than publicly traded stocks or securities) at a gain and you will receive a payment in a tax year after the year of sale, you generally must report the sale on the installment method unless you elect not to. Use Form 6252 to report the sale on the installment method. Also use Form 6252 to report any payment received in 2008 from a sale made in an earlier year that you reported on the installment method.

To elect out of the installment method, report the full amount of the gain on Schedule D on a timely filed return (including extensions) for the year of the sale. If your original return was filed on time, you can make the election on an amended return filed no later than 6 months after the due date of your return (excluding extensions). Write "Filed pursuant to section 301.9100-2" at the top of the amended return.

### Demutualization of Life Insurance Companies

Demutualization of a life insurance company occurs when a mutual life insurance company changes to a stock company. If you were a policyholder or annuitant of the mutual company, you may have received either stock in the stock company or cash in exchange for your equity interest in the mutual company. The basis of your equity interest in the mutual company is considered to be zero.

If the demutualization transaction qualifies as a tax-free reorganization, no gain is recognized on the exchange of your equity interest in the mutual company for stock. The company can advise you if the transaction is a tax-free reorganization. Because the basis of your equity interest in the mutual company is considered to be zero, your basis in the stock received is zero. Your

holding period for the new stock includes the period you held an equity interest in the mutual company. If you received cash in exchange for your equity interest, you must recognize a capital gain in an amount equal to the cash received. If you held the equity interest for more than 1 year, report the gain as a long-term capital gain on line 8. If you held the equity interest for 1 year or less, report the gain as a short-term capital gain on line 1.

If the demutualization transaction does not qualify as a tax-free reorganization, you must recognize a capital gain in an amount equal to the cash and fair market value of the stock received. If you held the equity interest for more than 1 year, report the gain as a long-term capital gain on line 8. If you held the equity interest for 1 year or less, report the gain as a short-term capital gain on line 1. Your holding period for the new stock begins on the day after you received the stock.

### Exclusion of Gain on Qualified Small Business (QSB) Stock

Section 1202 allows for an exclusion of up to 50% of the eligible gain on the sale or exchange of QSB stock. The section 1202 exclusion applies only to QSB stock held for more than 5 years. The exclusion can be up to 60% for certain empowerment zone business stock. See *Empowerment Zone Business Stock* on page D-5.

To be QSB stock, the stock must meet all of the following tests.

1. It must be stock in a C corporation (that is, not S corporation stock).
2. It must have been originally issued after August 10, 1993.
3. As of the date the stock was issued, the corporation was a domestic C corporation with total gross assets of \$50 million or less (a) at all times after August 9, 1993, and before the stock was issued, and (b) immediately after the stock was issued. Gross assets include those of any predecessor of the corporation. All corporations that are members of the same parent-subsidiary controlled group are treated as one corporation.
4. You must have acquired the stock at its original issue (either directly or through an underwriter), either in exchange for money or other property or as pay for services (other than as an underwriter) to the corporation. In certain cases, you may meet the test if you acquired the stock from another person who met the test (such as by gift or inheritance) or through a conversion or exchange of QSB stock you held.
5. During substantially all the time you held the stock:
  - a. The corporation was a C corporation,
  - b. At least 80% of the value of the corporation's assets were used in the active conduct of one or more qualified businesses (defined below), and
  - c. The corporation was not a foreign corporation, DISC, former DISC, regulated investment company, real estate investment trust, REMIC, FASIT, cooperative, or

a corporation that has made (or that has a subsidiary that has made) a section 936 election.



**SSBIC.** A specialized small business investment company (SSBIC) is treated as having met test 5b.

### Qualified Business

A qualified business is any business that is not one of the following.

- A business involving services performed in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, or brokerage services.
- A business whose principal asset is the reputation or skill of one or more employees.
- A banking, insurance, financing, leasing, investing, or similar business.
- A farming business (including the raising or harvesting of trees).
- A business involving the production of products for which percentage depletion can be claimed.
- A business of operating a hotel, motel, restaurant, or similar business.

For more details about limits and additional requirements that may apply, see section 1202.

### Empowerment Zone Business Stock

You generally can exclude up to 60% of your gain if you meet the following additional requirements.

1. The stock you sold or exchanged was stock in a corporation that qualified as an empowerment zone business during substantially all of the time you held the stock.
2. You acquired the stock after December 21, 2000.

Requirement 1 will still be met if the corporation ceased to qualify after the 5-year period that began on the date you acquired the stock. However, the gain that qualifies for the 60% exclusion cannot be more than the gain you would have had if you had sold the stock on the date the corporation ceased to qualify.

For more information about empowerment zone businesses, see Pub. 954.

### Pass-Through Entities

If you held an interest in a pass-through entity (a partnership, S corporation, or mutual fund or other regulated investment company) that sold QSB stock, to qualify for the exclusion you must have held the interest on the date the pass-through entity acquired the QSB stock and at all times thereafter until the stock was sold.

### How To Report

Report on line 8 the entire gain realized on the sale of QSB stock. Complete all columns as indicated. Directly below the line on which you reported the gain, enter in column (a) "Section 1202 exclusion" and enter as a loss in column (f) the amount of the allowable exclusion. If you are com-

pleting line 18 of Schedule D, enter as a positive number the amount of your allowable exclusion on line 2 of the 28% Rate Gain Worksheet on page D-8; if you excluded 60% of the gain, enter  $\frac{2}{3}$  of the exclusion.

**Gain from Form 1099-DIV.** If you received a Form 1099-DIV with a gain in box 2c, part or all of that gain (which is also included in box 2a) may be eligible for the section 1202 exclusion. In column (a) of line 8, enter the name of the corporation whose stock was sold. In column (f), enter the amount of your allowable exclusion as a loss. If you are completing line 18 of Schedule D, enter as a positive number the amount of your allowable exclusion on line 2 of the 28% Rate Gain Worksheet on page D-8; if you excluded 60% of the gain, enter  $\frac{2}{3}$  of the exclusion.

**Gain from Form 2439.** If you received a Form 2439 with a gain in box 1c, part or all of that gain (which is also included in box 1a) may be eligible for the section 1202 exclusion. In column (a) of line 8, enter the name of the corporation whose stock was sold. In column (f), enter the amount of your allowable exclusion as a loss. If you are completing line 18 of Schedule D, enter as a positive number the amount of your allowable exclusion on line 2 of the 28% Rate Gain Worksheet on page D-8; if you excluded 60% of the gain, enter  $\frac{2}{3}$  of the exclusion.

**Gain from an installment sale of QSB stock.** If all payments are not received in the year of sale, a sale of QSB stock that is not traded on an established securities market generally is treated as an installment sale and is reported on Form 6252. Figure the allowable section 1202 exclusion for the year by multiplying the total amount of the exclusion by a fraction, the numerator of which is the amount of eligible gain to be recognized for the tax year and the denominator of which is the total amount of eligible gain. In column (a) of line 8, enter the name of the corporation whose stock was sold. In column (f), enter the amount of your allowable exclusion as a loss. If you are completing line 18 of Schedule D, enter as a positive number the amount of your allowable exclusion on line 2 of the 28% Rate Gain Worksheet on page D-8; if you excluded 60% of the gain, enter  $\frac{2}{3}$  of the exclusion.

**Alternative minimum tax.** You must enter 7% of your allowable exclusion for the year on line 13 of Form 6251.

### Rollover of Gain From QSB Stock

If you sold QSB stock (defined beginning on page D-4) that you held for more than 6 months, you can elect to postpone gain if you purchase other QSB stock during the 60-day period that began on the date of the sale. A pass-through entity also can make the election to postpone gain. The benefit of the postponed gain applies to your share of the entity's postponed gain if you held an interest in the entity for the entire period the entity held the QSB stock. If a pass-through entity sold QSB stock held for more than 6 months and you held an interest in the en-

tity for the entire period the entity held the stock, you also can elect to postpone gain if you, rather than the pass-through entity, purchase the replacement QSB stock within the 60-day period. If you were a partner in a partnership that sold or bought QSB stock, see box 11 of the Schedule K-1 (Form 1065) sent to you by the partnership and Regulations section 1.1045-1.

You must recognize gain to the extent the sale proceeds exceed the cost of the replacement stock. Reduce the basis of the replacement stock by any postponed gain.

You must make the election no later than the due date (including extensions) for filing your tax return for the tax year in which the QSB stock was sold. If your original return was filed on time, you can make the election on an amended return filed no later than 6 months after the due date of your return (excluding extensions). Write "Filed pursuant to section 301.9100-2" at the top of the amended return.

To make the election, report the entire gain realized on the sale on line 1 or 8. Directly below the line on which you reported the gain, enter in column (a) "Section 1045 rollover," and enter the amount of the postponed gain as a (loss) in column (f).

### Rollover of Gain From Empowerment Zone Assets

If you sold a qualified empowerment zone asset that you held for more than 1 year, you may be able to elect to postpone part or all of the gain that you would otherwise include on Schedule D. If you make the election, the gain on the sale generally is recognized only to the extent, if any, that the amount realized on the sale exceeds the cost of qualified empowerment zone assets (replacement property) you purchased during the 60-day period beginning on the date of the sale. The following rules apply.

- No portion of the cost of the replacement property may be taken into account to the extent the cost is taken into account to exclude gain on a different empowerment zone asset.
- The replacement property must qualify as an empowerment zone asset with respect to the same empowerment zone as the asset sold.
- You must reduce the basis of the replacement property by the amount of postponed gain.
- This election does not apply to any gain (a) treated as ordinary income or (b) attributable to real property, or an intangible asset, that is not an integral part of an enterprise zone business.
- The District of Columbia enterprise zone is not treated as an empowerment zone for this purpose.
- The election is irrevocable without IRS consent.

See Pub. 954 for the definition of empowerment zone and enterprise zone business. You can find out if your business is located within an empowerment zone by using the RC/EZ/EC Address Locator at [www.hud.gov/crlocator](http://www.hud.gov/crlocator).



Qualified empowerment zone assets are:

1. Tangible property, if:
  - a. You acquired the property after December 21, 2000,
  - b. The original use of the property in the empowerment zone began with you, and
  - c. Substantially all of the use of the property, during substantially all of the time that you held it, was in your enterprise zone business; and
2. Stock in a domestic corporation or a capital or profits interest in a domestic partnership, if:
  - a. You acquired the stock or partnership interest after December 21, 2000, solely in exchange for cash, from the corporation at its original issue (directly or through an underwriter) or from the partnership;
  - b. The business was an enterprise zone business (or a new business being organized as an enterprise zone business) as of the time you acquired the stock or partnership interest; and
  - c. The business qualified as an enterprise zone business during substantially all of the time you held the stock or partnership interest.

**How to report.** Report the entire gain realized from the sale as you otherwise would without regard to the election. On Schedule D, line 8, enter "Section 1397B Rollover" in column (a) and enter as a loss in column (f) the amount of gain included on Schedule D that you are electing to postpone. If you are reporting the sale directly on Schedule D, line 8, use the line directly below the line on which you are reporting the sale.

See section 1397B for more details.

## Exclusion of Gain From DC Zone Assets

If you sold or exchanged a District of Columbia Enterprise Zone (DC Zone) asset that you acquired after 1997 and held for more than 5 years, you may be able to exclude the amount of qualified capital gain that you would otherwise include on Schedule D. The exclusion applies to an interest in, or property of, certain businesses operating in the District of Columbia.

**DC Zone asset.** A DC Zone asset is any of the following.

- DC Zone business stock.
- DC Zone partnership interest.
- DC Zone business property.

**Qualified capital gain.** Qualified capital gain is any gain recognized on the sale or exchange of a DC Zone asset that is a capital asset or property used in a trade or business. It does not include any of the following gains.

- Gain treated as ordinary income under section 1245.
- Section 1250 gain figured as if section 1250 applied to all depreciation rather than the additional depreciation.

- Gain attributable to real property, or an intangible asset, that is not an integral part of a DC Zone business.

- Gain from a related-party transaction. See *Sales and Exchanges Between Related Persons* in chapter 2 of Pub. 544.

See Pub. 954 and section 1400B for more details on DC Zone assets and special rules.

**How to report.** Report the entire gain realized from the sale or exchange as you otherwise would without regard to the exclusion. On Schedule D, line 8, enter "DC Zone Asset" in column (a) and enter as a loss in column (f) the amount of the allowable exclusion. If you are reporting the sale directly on Schedule D, line 8, use the line directly below the line on which you are reporting the sale.

## Exclusion of Gain From Qualified Community Assets

If you sold or exchanged a qualified community asset that you acquired after 2001 and held for more than 5 years, you may be able to exclude the qualified capital gain that you would otherwise include on Schedule D. The exclusion applies to an interest in, or property of, certain renewal community businesses.

**Qualified community asset.** A qualified community asset is any of the following.

- Qualified community stock.
- Qualified community partnership interest.
- Qualified community business property.

**Qualified capital gain.** Qualified capital gain is any gain recognized on the sale or exchange of a qualified community asset but does not include any of the following.

- Gain treated as ordinary income under section 1245.
- Section 1250 gain figured as if section 1250 applied to all depreciation rather than the additional depreciation.
- Gain attributable to real property, or an intangible asset, that is not an integral part of a qualified community business.
- Gain from a related-party transaction. See *Sales and Exchanges Between Related Persons* in chapter 2 of Pub. 544.

See Pub. 954 and section 1400F for more details and special rules.

**How to report.** Report the entire gain realized from the sale or exchange as you otherwise would without regard to the exclusion. On Schedule D, line 8, enter "Qualified Community Asset" in column (a) and enter as a loss in column (f) the amount of the allowable exclusion. If you are reporting the sale directly on Schedule D, line 8, use the line directly below the line on which you are reporting the sale.

## Specific Instructions

### Lines 1 and 8

Enter all sales and exchanges of capital assets, including stocks, bonds, etc., and real

estate (if not reported on Form 4684, 4797, 6252, 6781, or 8824). But do not report the sale or exchange of your main home unless required (see page D-2). Include these transactions even if you did not receive a Form 1099-B or 1099-S (or substitute statement) for the transaction. You can use stock ticker symbols or abbreviations to describe the property as long as they are based on the descriptions of the property as shown on Form 1099-B or 1099-S (or substitute statement).

You must enter the details of each transaction on a separate line of Schedule D. If you have more than five transactions to report on line 1 or line 8, you can report the additional transactions on Schedule D-1. Instead of reporting your transactions on Schedules D and D-1, you can report them on an attached statement containing all the same information as Schedules D and D-1 and in a similar format. Use as many Schedules D-1 or attached statements as you need. Enter on Schedule D, lines 2 and 9, the combined totals from all your Schedules D-1 or the attached statements. Do not enter "available upon request" and summary totals in lieu of reporting the details of each transaction on Schedules D and D-1 or attached statements.



*Add the following amounts reported to you for 2008 on Forms 1099-B and 1099-S (or substitute statements) that you are not reporting on another form or schedule included with your return: (a) proceeds from transactions involving stocks, bonds, and other securities; and (b) gross proceeds from real estate transactions (other than the sale of your main home if you are not required to report it). If this total is more than the total of lines 3 and 10, attach an explanation of the difference (for example, you were the nominee for the actual owner of the property).*

### Column (b)—Date Acquired

Enter in this column the date you acquired the asset. Use the trade date for stocks and bonds traded on an exchange or over-the-counter market. For stock or other property sold short, enter the date the stock or property was delivered to the broker or lender to close the short sale.

The date acquired for an asset you held on January 1, 2001, for which you made an election to recognize any gain in a deemed sale is the date of the deemed sale and reacquisition.

If you disposed of property that you acquired by inheritance, report the gain or (loss) on line 8 and enter "INHERITED" in column (b) instead of the date you acquired the property.

If you sold a block of stock (or similar property) that you acquired through several different purchases, you may report the sale on one line and enter "VARIOUS" in column (b). However, you still must report the short-term gain or (loss) on the sale in Part I and the long-term gain or (loss) in Part II.

### Column (c)—Date Sold

Enter in this column the date you sold the asset. Use the trade date for stocks and bonds traded on an exchange or

over-the-counter market. For stock or other property sold short, enter the date you sold the stock or property you borrowed to open the short sale transaction.

**Column (d)—Sales Price**

Enter in this column either the gross sales price or the net sales price from the sale. If you sold stocks or bonds and you received a Form 1099-B (or substitute statement) from your broker that shows gross sales price, enter that amount in column (d). But if Form 1099-B (or substitute statement) indicates that gross proceeds minus commissions and option premiums were reported to the IRS, enter that net amount in column (d). If you enter the net amount in column (d), do not include the commissions and option premiums from the sale in column (e).

You should not have received a Form 1099-B (or substitute statement) for a transaction merely representing the return of your original investment in a nontransferable obligation, such as a savings bond or a certificate of deposit. But if you did, report the amount shown on Form 1099-B (or substitute statement) in both columns (d) and (e).



*Be sure to add all sales price entries on lines 1 and 8, column (d), to amounts on lines 2 and 9, column (d). Enter the totals on lines 3 and 10.*

**Column (e)—Cost or Other Basis**

In general, the cost or other basis is the cost of the property plus purchase commissions and improvements, minus depreciation, amortization, and depletion. If you inherited the property, got it as a gift, or received it in a tax-free exchange, involuntary conversion, or “wash sale” of stock, you may

not be able to use the actual cost as the basis. If you do not use the actual cost, attach an explanation of your basis.

If you sold stock, adjust your basis by subtracting all the nondividend distributions you received before the sale. Also adjust your basis for any stock splits. See Pub. 550 for details.

If you elected to recognize gain on an asset held on January 1, 2001, your basis in the asset is its closing market price or fair market value, whichever applies, on the date of the deemed sale and reacquisition, whether the deemed sale resulted in a gain or an unallowed loss.

You may elect to use an average basis for all shares of a mutual fund (or other regulated investment company) if you acquired the shares at various times and prices and you left the shares on deposit in an account handled by a custodian or agent who acquired or redeemed those shares. If you are reporting an average basis, include “AVGB” in column (a) of Schedule D. For details on making the election and how to figure average basis, see Pub. 564.

The basis of property acquired by gift is generally the basis of the property in the hands of the donor. The basis of property acquired from a decedent is generally the fair market value at the date of death. See Pub. 551 for details.

Increase the cost or other basis of an original issue discount (OID) debt instrument by the amount of OID that has been included in gross income for that instrument. See Pub. 550 for details.

If a charitable contribution deduction is allowed because of a bargain sale of property to a charitable organization, the adjusted basis for purposes of determining gain from the sale is the amount that has the

same ratio to the adjusted basis as the amount realized has to the fair market value. See Pub. 544 for details.

Increase your cost or other basis by any expense of sale, such as broker’s fees, commissions, state and local transfer taxes, and option premiums, before making an entry in column (e), unless you reported the net sales price in column (d).

For more details, see Pub. 551.

**Column (f)—Gain or (Loss)**

You must make a separate entry in this column for each transaction reported on lines 1 and 8 and any other line(s) that applies to you. For lines 1 and 8, subtract the amount in column (e) from the amount in column (d). Enter negative amounts in parentheses.

**Line 18**

If you checked “Yes” on line 17, complete the worksheet below if either of the following apply for 2008.

- You reported in Part II a section 1202 exclusion from the eligible gain on qualified small business stock (see page D-4).
- You reported in Part II a collectibles gain or (loss). A collectibles gain or (loss) is any long-term gain or deductible long-term loss from the sale or exchange of a collectible that is a capital asset.

Collectibles include works of art, rugs, antiques, metals (such as gold, silver, and platinum bullion), gems, stamps, coins, alcoholic beverages, and certain other tangible property.

Include on the worksheet any gain (but not loss) from the sale or exchange of an interest in a partnership, S corporation, or trust held for more than 1 year and attributable to unrealized appreciation of col-

**Capital Loss Carryover Worksheet—Lines 6 and 14**

Keep for Your Records



Use this worksheet to figure your capital loss carryovers from 2007 to 2008 if your 2007 Schedule D, line 21, is a loss and (a) that loss is a smaller loss than the loss on your 2007 Schedule D, line 16, or (b) the amount on your 2007 Form 1040, line 41 (or your 2007 Form 1040NR, line 38, if applicable), is less than zero. Otherwise, you do not have any carryovers.

1. Enter the amount from your 2007 Form 1040, line 41, or your 2007 Form 1040NR, line 38. If a loss, enclose the amount in parentheses . . . . .	1.	<input type="text"/>
2. Enter the loss from your 2007 Schedule D, line 21, as a positive amount . . . . .	2.	<input type="text"/>
3. Combine lines 1 and 2. If zero or less, enter -0- . . . . .	3.	<input type="text"/>
4. Enter the <b>smaller</b> of line 2 or line 3 . . . . .	4.	<input type="text"/>
<b>If line 7 of your 2007 Schedule D is a loss, go to line 5; otherwise, enter -0- on line 5 and go to line 9.</b>		
5. Enter the loss from your 2007 Schedule D, line 7, as a positive amount . . . . .	5.	<input type="text"/>
6. Enter any gain from your 2007 Schedule D, line 15. If a loss, enter -0- . . . . .	6.	<input type="text"/>
7. Add lines 4 and 6 . . . . .	7.	<input type="text"/>
8. <b>Short-term capital loss carryover for 2008.</b> Subtract line 7 from line 5. If zero or less, enter -0-. If more than zero, also enter this amount on Schedule D, line 6 . . . . .	8.	<input type="text"/>
<b>If line 15 of your 2007 Schedule D is a loss, go to line 9; otherwise, skip lines 9 through 13.</b>		
9. Enter the loss from your 2007 Schedule D, line 15, as a positive amount . . . . .	9.	<input type="text"/>
10. Enter any gain from your 2007 Schedule D, line 7. If a loss, enter -0- . . . . .	10.	<input type="text"/>
11. Subtract line 5 from line 4. If zero or less, enter -0- . . . . .	11.	<input type="text"/>
12. Add lines 10 and 11 . . . . .	12.	<input type="text"/>
13. <b>Long-term capital loss carryover for 2008.</b> Subtract line 12 from line 9. If zero or less, enter -0-. If more than zero, also enter this amount on Schedule D, line 14 . . . . .	13.	<input type="text"/>

lectibles. For details, see Regulations section 1.1(h)-1. Also, attach the statement required under Regulations section 1.1(h)-1(e).

### Line 19

If you checked "Yes" on line 17, complete the worksheet on page D-9 if any of the following apply for 2008.

- You sold or otherwise disposed of section 1250 property (generally, real property that you depreciated) held more than 1 year.
- You received installment payments for section 1250 property held more than 1 year for which you are reporting gain on the installment method.
- You received a Schedule K-1 from an estate or trust, partnership, or S corporation that shows "unrecaptured section 1250 gain."
- You received a Form 1099-DIV or Form 2439 from a real estate investment trust or regulated investment company (including a mutual fund) that reports "unrecaptured section 1250 gain."
- You reported a long-term capital gain from the sale or exchange of an interest in a partnership that owned section 1250 property.

### Instructions for the Unrecaptured Section 1250 Gain Worksheet

**Lines 1 through 3.** If you had more than one property described on line 1, complete lines 1 through 3 for each property on a separate worksheet. Enter the total of the line 3 amounts for all properties on line 3 and go to line 4.

**Line 4.** To figure the amount to enter on line 4, follow the steps below for each installment sale of trade or business property held more than 1 year.

**Step 1.** Figure the smaller of (a) the depreciation allowed or allowable, or (b) the total gain for the sale. This is the smaller of line 22 or line 24 of your 2008 Form 4797 (or the comparable lines of Form 4797 for the year of sale) for the property.

**Step 2.** Reduce the amount figured in step 1 by any section 1250 ordinary income recapture for the sale. This is the amount from line 26g of your 2008 Form 4797 (or the comparable line of Form 4797 for the year of sale) for the property. The result is your total unrecaptured section 1250 gain that must be allocated to the installment payments received from the sale.

**Step 3.** Generally, the amount of section 1231 gain on each installment payment is treated as unrecaptured section 1250 gain until the total unrecaptured section 1250 gain figured in step 2 has been used in full. Figure the amount of gain treated as unrecaptured section 1250 gain for installment payments received in 2008 as the smaller of (a) the amount from line 26 or line 37 of your 2008 Form 6252, whichever applies, or (b) the amount of unrecaptured section 1250 gain remaining to be reported. This amount is generally the total unrecaptured section 1250 gain for the sale reduced by all gain reported in prior years (excluding section 1250 ordinary income recapture). However, if you chose not to treat all of the gain from payments received after May 6, 1997, and before August 24, 1999, as unrecaptured section 1250 gain, use only the amount you chose to treat as unrecaptured section 1250 gain for those payments to reduce the total unrecaptured section 1250 gain remaining to be reported for the sale. Include this amount on line 4.

**Line 10.** Include on line 10 your share of the partnership's unrecaptured section 1250 gain that would result if the partnership had transferred all of its section 1250 property in a fully taxable transaction immediately before you sold or exchanged your interest in that partnership. If you recognized less than all of the realized gain, the partnership will be treated as having transferred only a proportionate amount of each section 1250 property. For details, see Regulations section 1.1(h)-1. Also attach the statement required under Regulations section 1.1(h)-1(e).

**Line 12.** An example of an amount to include on line 12 is unrecaptured section 1250 gain from the sale of a vacation home

you previously used as a rental property but converted to personal use prior to the sale. To figure the amount to enter on line 12, follow the applicable instructions below.

**Installment sales.** To figure the amount to include on line 12, follow the steps below for each installment sale of property held more than 1 year for which you did not make an entry in Part I of your Form 4797 for the year of sale.

- Step 1. Figure the smaller of (a) the depreciation allowed or allowable, or (b) the total gain for the sale. This is the smaller of line 22 or line 24 of your 2008 Form 4797 (or the comparable lines of Form 4797 for the year of sale) for the property.
- Step 2. Reduce the amount figured in step 1 by any section 1250 ordinary income recapture for the sale. This is the amount from line 26g of your 2008 Form 4797 (or the comparable line of Form 4797 for the year of sale) for the property. The result is your total unrecaptured section 1250 gain that must be allocated to the installment payments received from the sale.
- Step 3. Generally, the amount of capital gain on each installment payment is treated as unrecaptured section 1250 gain until the total unrecaptured section 1250 gain figured in step 2 has been used in full. Figure the amount of gain treated as unrecaptured section 1250 gain for installment payments received in 2008 as the smaller of (a) the amount from line 26 or line 37 of your 2008 Form 6252, whichever applies, or (b) the amount of unrecaptured section 1250 gain remaining to be reported. This amount is generally the total unrecaptured section 1250 gain for the sale reduced by all gain reported in prior years (excluding section 1250 ordinary income recapture). However, if you chose not to treat all of the gain from payments received after May 6, 1997, and before August 24, 1999, as unrecaptured section 1250 gain, use only the amount you chose to treat as unrecaptured section 1250 gain for those payments to reduce the total unrecaptured section 1250 gain remaining to be reported for the sale. Include this amount on line 12.

## 28% Rate Gain Worksheet—Line 18

Keep for Your Records



1. Enter the total of all collectibles gain or (loss) from items you reported on line 8, column (f), of Schedules D and D-1	1.	_____
2. Enter as a positive number the amount of any section 1202 exclusion you reported on line 8, column (f), of Schedules D and D-1, for which you excluded 50% of the gain, plus 2/3 of any section 1202 exclusion you reported on line 8, column (f), of Schedules D and D-1, for which you excluded 60% of the gain	2.	_____
3. Enter the total of all collectibles gain or (loss) from Form 4684, line 4 (but only if Form 4684, line 15, is more than zero); Form 6252; Form 6781, Part II; and Form 8824	3.	_____
4. Enter the total of any collectibles gain reported to you on:		
• Form 1099-DIV, box 2d;	}	_____
• Form 2439, box 1d; and		
• Schedule K-1 from a partnership, S corporation, estate, or trust.		
5. Enter your long-term capital loss carryovers from Schedule D, line 14, and Schedule K-1 (Form 1041), box 11, code C	5.	(_____)
6. If Schedule D, line 7, is a (loss), enter that (loss) here. Otherwise, enter -0-	6.	(_____)
7. Combine lines 1 through 6. If zero or less, enter -0-. If more than zero, also enter this amount on Schedule D, line 18	7.	_____

**Other sales or dispositions of section 1250 property.** For each sale of property held more than 1 year (for which you did not make an entry in Part I of Form 4797), figure the smaller of (a) the depreciation allowed or allowable, or (b) the total gain for the sale. This is the smaller of line 22 or line 24 of Form 4797 for the property. Next, reduce that amount by any section 1250 ordinary income recapture for the sale. This is the amount from line 26g of Form 4797 for the property. The result is the total unrecaptured section 1250 gain for the sale. Include this amount on line 12.

**Line 21**

You have a capital loss carryover from 2008 to 2009 if you have a loss on line 16 and either:

- That loss is more than the loss on line 21, or
- The amount on Form 1040, line 41 (or Form 1040NR, line 38, if applicable) is less than zero.

To figure any capital loss carryover to 2009, you will use the Capital Loss Carry-

over Worksheet in the 2009 Instructions for Schedule D. If you want to figure your carryover now, see Pub. 550.



*You will need a copy of your 2008 Form 1040 and Schedule D to figure your capital loss carryover to 2009.*

**Unrecaptured Section 1250 Gain Worksheet—Line 19**

Keep for Your Records



**If you are not reporting a gain on Form 4797, line 7, skip lines 1 through 9 and go to line 10.**

1. If you have a section 1250 property in Part III of Form 4797 for which you made an entry in Part I of Form 4797 (but not on Form 6252), enter the <b>smaller</b> of line 22 or line 24 of Form 4797 for that property. If you did not have any such property, go to line 4. If you had more than one such property, see instructions . . . . .	1.	
2. Enter the amount from Form 4797, line 26g, for the property for which you made an entry on line 1 . . . . .	2.	
3. Subtract line 2 from line 1 . . . . .	3.	
4. Enter the total unrecaptured section 1250 gain included on line 26 or line 37 of Form(s) 6252 from installment sales of trade or business property held more than 1 year (see instructions) . . . . .	4.	
5. Enter the total of any amounts reported to you on a Schedule K-1 from a partnership or an S corporation as "unrecaptured section 1250 gain" . . . . .	5.	
6. Add lines 3 through 5 . . . . .	6.	
7. Enter the <b>smaller</b> of line 6 or the gain from Form 4797, line 7 . . . . .	7.	
8. Enter the amount, if any, from Form 4797, line 8 . . . . .	8.	
9. Subtract line 8 from line 7. If zero or less, enter -0- . . . . .	9.	
10. Enter the amount of any gain from the sale or exchange of an interest in a partnership attributable to unrecaptured section 1250 gain (see instructions) . . . . .	10.	
11. Enter the total of any amounts reported to you on a Schedule K-1, Form 1099-DIV, or Form 2439 as "unrecaptured section 1250 gain" from an estate, trust, real estate investment trust, or mutual fund (or other regulated investment company) . . . . .	11.	
12. Enter the total of any unrecaptured section 1250 gain from sales (including installment sales) or other dispositions of section 1250 property held more than 1 year for which you did not make an entry in Part I of Form 4797 for the year of sale (see instructions) . . . . .	12.	
13. Add lines 9 through 12 . . . . .	13.	
14. If you had any section 1202 gain or collectibles gain or (loss), enter the total of lines 1 through 4 of the <b>28% Rate Gain Worksheet</b> on page D-8. Otherwise, enter -0- . . . . .	14.	
15. Enter the (loss), if any, from Schedule D, line 7. If Schedule D, line 7, is zero or a gain, enter -0- . . . . .	15.	( )
16. Enter your long-term capital loss carryovers from Schedule D, line 14, and Schedule K-1 (Form 1041), box 11, code C* . . . . .	16.	( )
17. Combine lines 14 through 16. If the result is a (loss), enter it as a positive amount. If the result is zero or a gain, enter -0- . . . . .	17.	
18. <b>Unrecaptured section 1250 gain.</b> Subtract line 17 from line 13. If zero or less, enter -0-. If more than zero, enter the result here and on Schedule D, line 19 . . . . .	18.	

\*If you are filing Form 2555 or 2555-EZ (relating to foreign earned income), see the footnote in the Foreign Earned Income Tax Worksheet on page 37 of the Form 1040 instructions before completing this line.



Complete this worksheet only if line 18 or line 19 of Schedule D is more than zero. Otherwise, complete the Qualified Dividends and Capital Gain Tax Worksheet on page 38 of the Instructions for Form 1040 (or in the Instructions for Form 1040NR) to figure your tax.

- Exception: Do not** use the Qualified Dividends and Capital Gain Tax Worksheet or this worksheet to figure your tax if:
- Line 15 or line 16 of Schedule D is zero or less **and** you have no qualified dividends on Form 1040, line 9b (or Form 1040NR, line 10b); or
  - Form 1040, line 43 (or Form 1040NR, line 40) is zero or less.

Instead, see the instructions for Form 1040, line 44 (or Form 1040NR, line 41).

1.	Enter your taxable income from Form 1040, line 43 (or Form 1040NR, line 40). (However, if you are filing Form 2555 or 2555-EZ (relating to foreign earned income), enter instead the amount from line 3 of the Foreign Earned Income Tax Worksheet on page 37 of the Form 1040 instructions) . . . . .	1.	<input type="text"/>
2.	Enter your qualified dividends from Form 1040, line 9b (or Form 1040NR, line 10b)* . . . . .	2.	<input type="text"/>
3.	Enter the amount from Form 4952 (used to figure investment interest expense deduction), line 4g . . . . .	3.	<input type="text"/>
4.	Enter the amount from Form 4952, line 4e** . . . . .	4.	<input type="text"/>
5.	Subtract line 4 from line 3. If zero or less, enter -0- . . . . .	5.	<input type="text"/>
6.	Subtract line 5 from line 2. If zero or less, enter -0- . . . . .	6.	<input type="text"/>
7.	Enter the <b>smaller</b> of line 15 or line 16 of Schedule D . . . . .	7.	<input type="text"/>
8.	Enter the <b>smaller</b> of line 3 or line 4 . . . . .	8.	<input type="text"/>
9.	Subtract line 8 from line 7. If zero or less, enter -0-* . . . . .	9.	<input type="text"/>
10.	Add lines 6 and 9 . . . . .	10.	<input type="text"/>
11.	Add lines 18 and 19 of Schedule D* . . . . .	11.	<input type="text"/>
12.	Enter the <b>smaller</b> of line 9 or line 11 . . . . .	12.	<input type="text"/>
13.	Subtract line 12 from line 10 . . . . .	13.	<input type="text"/>
14.	Subtract line 13 from line 1. If zero or less, enter -0- . . . . .	14.	<input type="text"/>
15.	Enter the <b>smaller</b> of:		
	• The amount on line 1 or		
	• \$32,550 if single or married filing separately;		
	• \$65,100 if married filing jointly or qualifying widow(er); or		
	• \$43,650 if head of household	15.	<input type="text"/>
16.	Enter the <b>smaller</b> of line 14 or line 15 . . . . .	16.	<input type="text"/>
17.	Subtract line 10 from line 1. If zero or less, enter -0- . . . . .	17.	<input type="text"/>
18.	Enter the <b>larger</b> of line 16 or line 17 . . . . .	18.	<input type="text"/>
	<b>If lines 15 and 16 are the same, skip line 19 and go to line 20. Otherwise, go to line 19.</b>		
19.	Subtract line 16 from line 15 . . . . .	19.	<input type="text"/>
	<b>If lines 1 and 15 are the same, skip lines 20 through 32 and go to line 33. Otherwise, go to line 20.</b>		
20.	Enter the <b>smaller</b> of line 1 or line 13 . . . . .	20.	<input type="text"/>
21.	Enter the amount from line 19 (if line 19 is blank, enter -0-) . . . . .	21.	<input type="text"/>
22.	Subtract line 21 from line 20. If zero or less, enter -0- . . . . .	22.	<input type="text"/>
23.	Multiply line 22 by 15% (.15) . . . . .	23.	<input type="text"/>
	<b>If Schedule D, line 19, is zero or blank, skip lines 24 through 29 and go to line 30. Otherwise, go to line 24.</b>		
24.	Enter the <b>smaller</b> of line 9 above or Schedule D, line 19 . . . . .	24.	<input type="text"/>
25.	Add lines 10 and 18 . . . . .	25.	<input type="text"/>
26.	Enter the amount from line 1 above . . . . .	26.	<input type="text"/>
27.	Subtract line 26 from line 25. If zero or less, enter -0- . . . . .	27.	<input type="text"/>
28.	Subtract line 27 from line 24. If zero or less, enter -0- . . . . .	28.	<input type="text"/>
29.	Multiply line 28 by 25% (.25) . . . . .	29.	<input type="text"/>
	<b>If Schedule D, line 18, is zero or blank, skip lines 30 through 32 and go to line 33. Otherwise, go to line 30.</b>		
30.	Add lines 18, 19, 22, and 28 . . . . .	30.	<input type="text"/>
31.	Subtract line 30 from line 1 . . . . .	31.	<input type="text"/>
32.	Multiply line 31 by 28% (.28) . . . . .	32.	<input type="text"/>
33.	Figure the tax on the amount on <b>line 18</b> . Use the Tax Table or Tax Computation Worksheet, whichever applies . . . . .	33.	<input type="text"/>
34.	Add lines 23, 29, 32, and 33 . . . . .	34.	<input type="text"/>
35.	Figure the tax on the amount on <b>line 1</b> . Use the Tax Table or Tax Computation Worksheet, whichever applies . . . . .	35.	<input type="text"/>
36.	<b>Tax on all taxable income (including capital gains and qualified dividends).</b> Enter the <b>smaller</b> of line 34 or line 35. Also include this amount on Form 1040, line 44 (or Form 1040NR, line 41). (If you are filing Form 2555 or 2555-EZ, do not enter this amount on Form 1040, line 44. Instead, enter it on line 4 of the Foreign Earned Income Tax Worksheet in the Form 1040 instructions) . . . . .	36.	<input type="text"/>

\*If you are filing Form 2555 or 2555-EZ, see the footnote in the Foreign Earned Income Tax Worksheet on page 37 of the Form 1040 instructions before completing this line.

\*\*If applicable, enter instead the smaller amount you entered on the dotted line next to line 4e of Form 4952.