

Instructions for Schedule D, Capital Gains and Losses

General Instructions

Changes To Note

Maximum Capital Gains Tax Rates. The Taxpayer Relief Act of 1997 generally reduced the tax rates that apply to net capital gain (the excess of net long-term capital gain over net short-term capital loss) for sales, exchanges, or conversions of assets (including installment payments received) after May 5, 1997. If you have a net capital gain, see new Part II of Schedule D to figure the tax on all of your taxable income, including capital gains at the new rates. Although you still have to complete Schedule D to see how the new rates apply to your situation, the following is a general summary of the new rates:

- 50% for net gain from sales, exchanges, etc., **and** after May 5, 1997, **and** before July 26, 1997, for assets held more than 1 year **and** **and** after July 26, 1997, for assets held more than 18 months. This rate is generally 10% for individuals whose tax rate on ordinary income is 50%.
- 20% for unrecaptured section 1250 gain (generally, the part of real estate capital gains attributable to depreciation). The 20% rate applies only to gain from sales, exchanges, etc., **and** after May 5, 1997, **and** before July 26, 1997, for assets held more than 1 year **and** **and** after July 26, 1997, for assets held more than 18 months.

- 20% for net gain from sales, exchanges, etc., **and** before May 7, 1997, **and** after July 26, 1997, from property held more than 1 year but not more than 18 months. This rate also applies to collectibles gains.

Capital Gain Distributions. Because of the change in the capital gains rates, capital gain distributions may now be reported on Schedule D in all cases. The initial trust or real estate investment trust must report to you the amount of the total distribution, if any, that is treated as 20% rate gain or unrecaptured section 1250 gain.

Constructive Sales Treatment for Certain Appreciated Positions. You may have to recognize gain if you enter into a constructive sale after June 5, 1997, of property in which you held an appreciated position (such as a "short sale against the box"). See page D-2.

Reliever of Gain From Qualified Stock. You may be able to postpone gain from the sale of qualified small business stock if you reinvest in another qualified small business stock during the 90-day period that begins on the date of the sale. See page D-3.

Additional Information. See Pub. 544 and Pub. 555 for more details. Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Schedule

Use Schedule D (Form 1040) to report:

- The sale or exchange of a capital asset (defined below).
- Gains from involuntary conversions (other than from casualty or theft) of capital assets not held for business or profit.
- Capital gain distributions.
- Nonbusiness bad debts.

Other Forms You May Have To File

Use Form 4797 to report the following:

- The sale or exchange of property used in a trade or business; depreciable and amortizable property; oil, gas, geothermal, or other mineral property; and section 125 property.

- 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.

- 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.

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

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

Use Form 2796 to report the sale of your main home.

Use Form 4564 to report involuntary conversions of property due to casualty or theft.

Use Form 6751 to report gains and losses from section 1259 contracts and straddles.

Use Form 8884 if you made one or more like-kind exchanges, a "but-for" exchange, or an exchange of property for property of a like kind. For exchanges of capital assets, include the gain or loss from Form 6524, if any, on line 4 or line 11 in column (f), and in column (g) if required.

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:

1. Stock in trade or other property included in inventory or held for sale to customers.
2. 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 any property described in 1.

3. Depreciable property used in your trade or business, even if it is fully depreciated.

4. Real estate used in your trade or business.

5. Copyrights, literary, musical, or artistic compositions; letters of memoranda, or similar property; **and** created by your personal efforts; **and** prepared or produced for you in the case of letters, memoranda, or similar property; or **and** that you received from someone who created them or for whom they were created, as mentioned in paragraph 5, in a way (such as by gift) that entitled you to the basis of the previous owner.

6. 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.

Capital Assets Held for Personal Use

Gain from the sale or exchange of this property is a capital gain. Report it on Schedule D, Part I or Part II. Losses from the sale or exchange of this property 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-C, 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. Report it on line 1 or 6, depending on how long you owned the home. Complete columns (a) through (e). Because the loss is not deductible, enter -0- in column (f), and column (g) if appropriate.

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 from property held more than 18 months, 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.

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