

**SCHEDULE D
(Form 1065)**

Capital Gains and Losses

OMB No. 1545-0099

Department of the Treasury
Internal Revenue Service

▶ Attach to Form 1065.

2001

Name of partnership

Employer identification number

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

| (a) Description of property (e.g., 100 shares of "Z" Co.) | (b) Date acquired (month, day, year) | (c) Date sold (month, day, year) | (d) Sales price (see instructions) | (e) Cost or other basis (see instructions) | (f) Gain or (loss) ((d) minus (e)) | |
|--|---|-------------------------------------|---------------------------------------|---|---------------------------------------|--|
| 1 | | | | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |
| 2 Short-term capital gain from installment sales from Form 6252, line 26 or 37 | | | | | 2 | |
| 3 Short-term capital gain (loss) from like-kind exchanges from Form 8824 | | | | | 3 | |
| 4 Partnership's share of net short-term capital gain (loss), including specially allocated short-term capital gains (losses), from other partnerships, estates, and trusts | | | | | 4 | |
| 5 Net short-term capital gain or (loss) . Combine lines 1 through 4 in column (f). Enter here and on Form 1065, Schedule K, line 4d or 7 | | | | | 5 | |

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

| (a) Description of property (e.g., 100 shares of "Z" Co.) | (b) Date acquired (month, day, year) | (c) Date sold (month, day, year) | (d) Sales price (see instructions) | (e) Cost or other basis (see instructions) | (f) Gain or (loss) ((d) minus (e)) | (g) 28% rate gain or (loss) *(see instr. below) |
|--|---|-------------------------------------|---------------------------------------|---|---------------------------------------|---|
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| 11 | | | | | | |
| 12 | | | | | | |
| 7 Long-term capital gain from installment sales from Form 6252, line 26 or 37 | | | | | 7 | |
| 8 Long-term capital gain (loss) from like-kind exchanges from Form 8824 | | | | | 8 | |
| 9 Partnership's share of net long-term capital gain (loss), including specially allocated long-term capital gains (losses), from other partnerships, estates, and trusts | | | | | 9 | |
| 10 Capital gain distributions | | | | | 10 | |
| 11 Combine lines 6 through 10 in column (g). Enter here and on Form 1065, Schedule K, line 4e(2) or 7 | | | | | 11 | |
| 12 Net long-term capital gain or (loss) . Combine lines 6 through 10 in column (f). Enter here and on Form 1065, Schedule K, line 4e(1) or 7 | | | | | 12 | |

*28% rate gain or (loss) includes all "collectibles gains and losses" (as defined in the instructions).

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Schedule

Use Schedule D (Form 1065) to report sales or exchanges of capital assets, capital gain distributions, and nonbusiness bad debts. Do not report on Schedule D capital gains (losses) specially allocated to any partners.

Enter capital gains (losses) specially allocated to the partnership as a partner in other partnerships and from estates and trusts on Schedule D, line 4 or 9, whichever applies. Enter capital gains (losses) of the partnership that are specially allocated to partners directly on line 4d, 4e(1), 4e(2), 4e(3), or 7 of Schedules K and K-1, whichever applies. See **How Income Is Shared Among Partners** in the Instructions for Form 1065 for more information.

Note: For more information, see **Pub. 544, Sales and Other Dispositions of Assets**.

Other Forms The Partnership May Have To File

Use **Form 4797, Sales of Business Property**, to report:

- Sales or exchanges of property used in a trade or business.
- Sales or exchanges of depreciable or amortizable property.
- Sales or other dispositions of securities or commodities held in connection with a trading business, if the partnership made a mark-to-market election (see page 5 of the instructions for Form 1065).
- Involuntary conversions (other than from casualties or thefts).
- The disposition of noncapital assets (other than inventory or property held primarily for sale to customers in the ordinary course of a trade or business).

Use **Form 4684, Casualties and Thefts**, to report involuntary conversions of property due to casualty or theft.

Use **Form 6781, Gains and Losses From Section 1256 Contracts and Straddles**, to report gains and losses from section 1256 contracts and straddles. If there are limited partners, see section 1256(e)(4) for the limitation on losses from hedging transactions.

Use **Form 8824, Like-Kind Exchanges**, if the partnership made one or more like-kind exchanges. A "like-kind exchange" occurs when business or investment property is exchanged for property of a like kind.

What Are Capital Assets?

Each item of property the partnership held (whether or not connected with its trade or business) is a capital asset **except**:

- Stock in trade or other property included in inventory or held mainly for sale to customers.
- Accounts or notes receivable acquired in the ordinary course of the trade or business for services rendered or from the sale of stock in trade or other property held mainly for sale to customers.

- Depreciable or real property used in the trade or business, even if it is fully depreciated.
- Certain copyrights; literary, musical, or artistic compositions; letters or memoranda; or similar property. See section 1221(a)(3).
- U.S. Government publications, including the Congressional Record, that the partnership received from the Government, other than by purchase at the normal sales price, or that the partnership got from another taxpayer who had received it in a similar way, if the partnership's basis is determined by reference to the previous owner.
- Certain commodities derivative financial instruments held by a dealer. See section 1221(a)(6).
- Certain hedging transactions entered into in the normal course of the trade or business. See section 1221(a)(7).
- Supplies regularly used in the trade or business.

Items for Special Treatment

- Transactions by a securities dealer. See section 1236.
- Bonds and other debt instruments. See **Pub. 550, Investment Income and Expenses**.
- 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 in which the partnership is a beneficiary, is treated as ordinary gain.
- Liquidating distributions from a corporation. See **Pub. 550** for details.
- Gain on the sale or exchange of stock in certain foreign corporations. See section 1248.
- Gain or loss on options to buy or sell, including closing transactions. See **Pub. 550** for details.
- Gain or loss from a short sale of property. See **Pub. 550** for details.
- Transfer of property to a political organization if the fair market value of the property exceeds the partnership's adjusted basis in such property. See section 84.
- 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 on such a disposition is reported as ordinary income on Form 4797. See section 1257 for details.
- Transfer of partnership assets and liabilities to a newly formed corporation in exchange for all of its stock. See **Rev. Rul. 84-111, 1984-2 C.B. 88**.
- Disposition of foreign investment in a U.S. real property interest. See section 897.
- Any loss from a sale or exchange of property between the partnership and certain related persons is not allowed, except for distributions in complete liquidation of a corporation. See sections 267 and 707(b) for details.
- Any loss from securities that are capital assets that become worthless during the year is treated as a loss from the sale or exchange of a capital asset on the last day of the tax year.
- Gain from the sale or exchange of stock in a collapsible corporation is not a capital gain. See section 341.
- Nonrecognition of gain on sale of stock to an employee stock ownership plan (ESOP) or an eligible cooperative. See section 1042 and Temporary Regulations section 1.1042-1T for rules under which the partnership may elect not to recognize gain from the sale of certain stock to an ESOP or an eligible cooperative.
- A nonbusiness bad debt must be treated as a short-term capital loss and can be deducted only in the year the debt becomes totally worthless. For each bad debt, enter the name of the debtor and "schedule attached" in column (a) of line 1 and the amount of the bad debt as a loss in column (f). Also attach a statement of facts to support each bad debt deduction.
- Any loss from a wash sale of stock or securities (including contracts or options to acquire or sell stock or securities) cannot be deducted unless the partnership is a dealer in stock or securities and the loss was sustained in a transaction made in the ordinary course of the partnership's trade or business. A wash sale occurs if the partnership acquires (by purchase or exchange), or has a contract or option to acquire, substantially identical stock or securities within 30 days before or after the date of the sale or exchange. See section 1091 for more information.
- If the partnership sold property at a gain and it will receive a payment in a tax year after the year of sale, it generally must report the sale on the installment method unless it elects not to. However, the installment method may not be used to report sales of stock or securities traded on an established securities market. Use **Form 6252, Installment Sale Income**, to report the sale on the installment method. Also use Form 6252 to report any payment received during the tax year from a sale made in an earlier year that was reported on the installment method.

If the partnership wants to elect out of the installment method for installment gain that is **not** specially allocated among the partners, it must report the full amount of the gain on a timely filed return (including extensions).

If the partnership wants to elect out of the installment method for installment gain that is specially allocated among the partners, it must do the following on a timely filed return (including extensions):

1. For a **short-term capital gain**, report the full amount of the gain on Schedule K, line 4d or 7.

For a **long-term capital gain**, report the full amount of the gain on Schedule K, line 4e(1) or 7. Report the 28% rate gain (i.e., collectibles gain, as defined on page 4) on line 4e(2). Report the qualified 5-year gain on line 4e(3).

2. Enter each partner's share of the full amount of the gain on Schedule K-1, line 4d, 4e(1), or 7, whichever applies. Report the 28% rate gain, if any, on line 4e(2). Report the qualified 5-year gain on line 4e(3).

If the partnership filed its original return on time without making the election, it may make the election on an amended return filed no later than 6 months after the due date of the return (excluding extensions). Write "Filed pursuant to section 301.9100-2" at the top of the amended return.

- A sale or other disposition of an interest in a partnership owning unrealized receivables or inventory items may result in ordinary gain or loss. See **Pub. 541**, Partnerships, for more details.
- Certain constructive ownership transactions. Gain in excess of the gain that would have been recognized if the partnership had held a financial asset directly during the term of a derivative contract must be treated as ordinary income. See section 1260 for details.

Special Rules for Traders in Securities

Traders in securities are engaged in the **business** of buying and selling securities for their own account. To be engaged in business as a trader in securities:

- The partnership must seek to **profit from daily market movements** in the prices of securities and not from dividends, interest, or capital appreciation.
- The partnership's trading activity must be substantial.
- The partnership must carry on the activity with **continuity** and **regularity**.

The following facts and circumstances should be considered in determining if a partnership's activity is a business:

- Typical holding periods for securities bought and sold.
- The frequency and dollar amount of the partnership's trades during the year.
- The extent to which the partners pursue the activity to produce income for a livelihood.
- The amount of time devoted to the activity.

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 on an attached statement containing all the same information for each sale in a similar format. However, if a trader made the mark-to-market election (see page 5 of the Instructions for Form 1065), each transaction is reported in Part II of Form 4797 instead of Schedule D. Regardless of whether a trader reports its gains and losses on Schedule D 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 Schedules K and K-1. See section 1402(i) 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 page 1 of Form 1065.

A trader also may hold securities for investment. The rules for investors generally will apply to those securities. Allocate interest and other expenses between the partnership's trading business and its investment securities. Investment interest expense is reported on line 14a of Schedules K and K-1.

Constructive Sale Treatment for Certain Appreciated Positions

Generally, the partnership must recognize gain (but not loss) on the date it enters into a constructive sale of any appreciated position in stock, a partnership interest, or certain debt instruments as if the position were disposed of at fair market value on that date.

The partnership is treated as making a constructive sale of an appreciated position when it (or a related person, in some cases) does **one** of the following:

- Enters into a short sale of the same or substantially identical property (that is, a "short sale against the box").
- Enters into an offsetting notional principal contract relating to the same or substantially identical property.
- Enters into a futures or forward contract to deliver the same or substantially identical property.
- Acquires the same or substantially identical property (if the appreciated position is a short sale, offsetting notional principal contract, or a futures or forward contract).

Exception. Generally, constructive sale treatment **does not** apply if:

- The partnership closed the transaction before the end of the 30th day after the end of the year in which it was entered into,
- The partnership held the appreciated position to which the transaction relates throughout the 60-day period starting on the date the transaction was closed, **and**
- At no time during that 60-day period was the partnership's risk of loss reduced by holding certain other positions.

For details and other exceptions to these rules, see **Pub. 550**.

Rollover of Gain From Qualified Stock

If the partnership sold qualified small business stock (defined below) it held for more than 6 months, it may postpone gain if it purchased other qualified small business stock during the 60-day period that began on the date of the sale. The partnership 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.

If the partnership chooses to postpone gain, report the entire gain realized on the sale on line 1 or 6. Directly below the line on which the partnership reported the gain, enter in column (a) "Section 1045 Rollover" and enter as a (loss) in column (f) the amount of the postponed gain.

Caution: *The partnership also must separately state the amount of the gain rolled over on qualified stock under section 1045 on Form 1065, Schedule K, line 7, because each partner must determine if he or she qualifies for the rollover at the partner level. Also, the partnership must separately state on that line (and not on Schedule D) any gain that would qualify for the section 1045 rollover at the partner level instead of the partnership level (because a partner was entitled to purchase replacement stock) and any gain on qualified stock that could qualify for the 50% exclusion under section 1202.*

To be **qualified small business stock**, the stock must meet **all** of the following tests:

- It must be stock in a C corporation (that is, not S corporation stock).
- It must have been originally issued after August 10, 1993.
- As of the date the stock was issued, the corporation was a qualified small business. A qualified small business is 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.
- The partnership 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, the partnership may meet the test if it acquired the stock from another person who met this test (such as by gift or at death) or through a conversion or exchange of qualified business stock by the holder.
- During substantially all the time the partnership held the stock:

1. The corporation was a C corporation,
2. 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
3. The corporation **was not** a foreign corporation, domestic international sales corporation (DISC), former DISC, corporation that has made (or that has a subsidiary that has made) a section 936 election, regulated investment company (RIC), real estate investment trust (REIT), real estate mortgage investment conduit (REMIC), financial asset securitization investment trust (FASIT), or cooperative.

Note: A specialized small business investment company (SSBIC) is treated as having met test 2 above.

A **qualified business** is any business **other than** the following:

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

Election To Recognize Gain On Assets Held on January 1, 2001

Partnerships may elect to treat certain assets held on January 1, 2001, as having been sold and then reacquired on the same date. The purpose of the election is to make future gain on the asset eligible for an 18% (instead of 20%) capital gain tax rate at the partner level. The 18% rate is applicable to the extent the gain would otherwise be taxed to the partner at 20% if the holding period of the asset begins after December 31, 2000, and the asset is held for more than five years.

Any readily tradable stock (that is a capital asset) not sold before January 2, 2001, for which the election is made is deemed to have been sold on January 2, 2001, at its closing market price on that date and reacquired on that date for the same amount. For this purpose, readily tradable stock includes shares issued by an open-end mutual fund. Any other capital asset held on January 1, 2001, for which the election is made is deemed to have been sold and reacquired on January 1, 2001, for its fair market value on that date. Any gain on a deemed sale must be recognized. A loss from a deemed sale is **not** allowed in any tax year, but the asset will be eligible for the 18% rate on future gain. The basis in the reacquired asset is its closing market price or fair market value, whichever applies, on the date of the deemed sale, whether the deemed sale results in a gain or unallowed loss.

If the partnership makes the election with respect to an interest in another pass-through entity and that pass-through entity makes the election with respect to assets it holds, that pass-through entity's election will be considered to immediately precede the partnership's election for deemed sales that occur on the same day. For purposes of this election, pass-through entities include mutual funds (or other regulated investment companies), REITs, partnerships, estates, trusts, and common trust funds.

To make the election, report the deemed sale(s) on Schedule D for the tax year that includes the date of the deemed sale (calendar year partnerships make the election on their 2001 tax returns). If the deemed sale results in a loss, enter zero instead of the amount of the loss. Make the election on a share-by-share or asset-by-asset basis. Attach a statement to the return stating that the partnership is making an election under section 311 of the Taxpayer Relief Act of 1997 and listing the asset(s) for which the election is being made. File Form 1065 no later than its due date (including extensions). However, if the return was filed without making the election for any asset, the election can still be made by filing an amended return within 6 months of the original due date (excluding extensions). Write "Election Under Section 311 of the Taxpayer Relief Act of 1997" at the top of the amended return. Once made, an election for any asset is irrevocable.

Note: This election does not apply to any asset which is disposed of (in a transaction in which gain or loss is recognized in whole or in part) before the close of the 1-year period beginning on the date that the asset would have been treated as sold under this election.

Specific Instructions

Columns (b) and (c)—Date Acquired and Date Sold

Use the trade dates for date acquired and date sold for stocks and bonds traded on an exchange or over-the-counter market.

Column (d)—Sales Price

Enter in this column either the gross sales price or the net sales price from the sale. On sales of stocks and bonds, report the gross amount as reported to the partnership by the partnership's broker on **Form 1099-B**, Proceeds From Broker and Barter Exchange Transactions, or similar statement. However, if the broker advised the partnership that gross proceeds (gross sales price) less commissions and option premiums were reported to the IRS, enter that net amount in column (d).

Column (e)—Cost or Other Basis

In general, the cost or other basis is the cost of the property plus purchase commissions and improvements and minus depreciation, amortization, and depletion. If the partnership got the property in a tax-free exchange, involuntary conversion, or wash sale of stock, it may not be able to use the actual cash cost as the basis. If the partnership does not use cash cost, attach an explanation of the basis.

If the partnership sold stock, adjust the basis by subtracting all the stock-related nontaxable distributions received before the sale. This includes nontaxable distributions from utility company stock and mutual funds. Also adjust the basis for any stock splits or stock dividends.

If a charitable contribution deduction is passed through to a partner because of a bargain sale of property to a charitable organization, the adjusted basis for determining gain from the sale is an amount that has the same ratio to the adjusted basis as the amount realized has to the fair market value.

See section 852(f) for the treatment of certain load charges incurred in acquiring stock in a mutual fund with a reinvestment right.

If the gross sales price is reported in column (d), increase the cost or other basis by any expense of sale, such as broker's fees, commissions, or option premiums, before making an entry in column (e).

For more details, see **Pub. 551**, Basis of Assets.

Column (f)—Gain or (Loss)

Make a separate entry in this column for each transaction reported on lines 1 and 6 and any other line(s) that applies to the partnership. For lines 1 and 6, subtract the amount in column (e) from the amount in column (d). Enter negative amounts in parentheses.

Column (g)—28% Rate Gain or (Loss)

Enter in column (g) **only** the amount, if any, from Part II, column (f), that is from collectibles gains and losses. 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.

Also include gain (but not loss) from the sale or exchange of an interest in a partnership or trust held for more than 1 year and attributable to unrealized appreciation of collectibles. For details, see Regulations section 1.1(h)-1. Also attach the statement required under Regulations section 1.1(h)-1(e).

Lines 4 and 9—Capital Gains and Losses From Other Partnerships, Estates, and Trusts

See the Schedule K-1 or other information supplied to you by the other partnership, estate, or trust.

Line 10—Capital Gain Distributions

On line 10, column (f), report the **total** amount of (a) capital gain distributions and (b) the partnership's share of undistributed capital gains from a RIC or REIT. On line 10, column (g), report the 28% rate gain portion of these amounts. Report the partnership's share of taxes paid on undistributed capital gains by a RIC or REIT on a statement attached to Form 1065 for Schedule K, line 24 (and each partner's share in the line 25 Supplemental Information space of Schedule K-1).

