

Gain from Disposition of Depreciable Property Under Sections 1245 and 1250

Fiscal Year 1969-70

(Attach to Form 1065 for 1969)

Department of the Treasury Internal Revenue Service

The Tax Reform Act of 1969 could affect a partnership filing Form 1065 for a fiscal year beginning in 1969 and ending in 1970.

Name of partnership Employer Identification Number

SUBSTITUTE THIS SUPPLEMENTAL SCHEDULE FOR PART I, 1969 SCHEDULE D (FORM 1065)

Gain from Disposition of Depreciable Property Under Section 1245 (assets held more than 6 months—see instructions)

Table with 5 main columns: a. Kind of property..., b. Date acquired..., c. Date sold..., d. Gross sales price, e. Cost or other basis... Includes summary rows 2 and 3.

Gain from Disposition of Depreciable Property Under Section 1250 (assets held more than 6 months—see instructions). If held 1 year or less, see instructions for columns "i" and "j".

Table with 5 main columns: a. Kind of property..., b. Date acquired..., c. Date sold..., d. Gross sales price, e. Cost or other basis... Includes additional depreciation columns i, j and summary rows 5 and 6.

Summary of Gains Under Sections 1245 and 1250

Summary rows 7-12: 7 Ordinary gain from line 2, 8 Ordinary gain from line 5, 9 Total ordinary gain, 10 Other gain from line 3, 11 Other gain from line 6, 12 Total other gain.

# Instructions

(References are to the Internal Revenue Code)

This form and the accompanying instructions supplement the 1969 Schedule D (Form 1065); specifically, property under sections 1245 and 1250. Certain other changes made by the Tax Reform Act of 1969 are covered in the latter part of these supplemental instructions.

Every sale or exchange of property must be reported in detail even though no gain or loss is indicated.

In general, all or part of the gain on a disposition of depreciable property may be required to be reported as ordinary income under the provisions of sections 1245 and 1250. The remainder of the gain may or may not be subject to capital gain treatment depending on the circumstances.

## Specific Instructions for Sections 1245 and 1250 Property

Gain from disposition of depreciable property held more than 6 months. (Section 1245).—(Report any gain from such property held 6 months or less in Part IV, 1969 Schedule D (Form 1065).)

In general, when section 1245 property (as defined below) is disposed of, gain will be treated as ordinary income to the extent of depreciation allowed (or allowable) after 1961. The balance of the gain, if any, is to be combined with gains and losses from section 1231 property.

Section 1245 property is property which is depreciable (or subject to amortization under section 185) and is either—

- (a) tangible and intangible personal property (except livestock),
- (b) elevators and escalators,
- (c) real property (other than property described in (d)) subject to amortization under section 169 or 185, or
- (d) tangible real property (except buildings and their structural components) if used as an integral part of certain business activities or as a research or storage facility in connection with such activities. These business activities are manufacturing, production, extraction, or furnishing transportation, communications or certain other public utility services.

See section 1245(b) for exceptions and limitations involving: (a) disposition by gift, (b) certain tax-free transactions, (c) like kind exchanges, involuntary conversions, (d) sales or exchanges to effectuate FCC policies and exchanges to comply with SEC orders, (e) transfers at death, and (f) property distributed by a partnership to a partner.

*Line 1, column 1.*—In the case of elevators and escalators, enter depreciation allowed or allowable after June 30, 1963. See section 1245 (a) (2)(D) in the case of disposition of pollution control facilities or railroad grading and tunnel bores.

Gain from disposition of depreciable property held more than 6 months. (Section 1250).—(Report any gain from such property held 6 months or less in Part IV, 1969 Schedule D (Form 1065).)

In general, when section 1250 property (as defined below) is disposed of, all or a portion of the "additional depreciation" will be treated as ordinary income. The balance of the gain, if any, is to be combined with gains and losses from section 1231 property.

Section 1250 property is depreciable real property other than section 1245 property.

See section 1250(d) for exceptions and limitations involving: (a) disposition by gift, (b) certain tax-free transactions, (c) like kind exchanges, involuntary conversions, (d) sales or exchanges to effectuate FCC policies and exchanges to comply with SEC orders, (e) disposition of qualified low-income housing, (f) transfers at death, (g) property distributed by a partnership to a partner, and (h) disposition of principal residence.

*Line 4, columns i and j, additional depreciation.*—In the case of section 1250 property held 1 year or less, additional depreciation is the total amount of depreciation claimed. In such case, omit columns (k) through (o) and enter in column (p) the lesser of the amount of gain (column h) or the total amount of depreciation claimed (column f).

For property held more than 1 year, additional depreciation is the excess of actual depreciation attributable to periods after December 31, 1963, over depreciation computed for the same period using the straight line method. Enter in column (i) the additional depreciation for the period after December 31, 1963, and before January 1, 1970, and in column (j) the additional depreciation for the period after December 31, 1969.

For additional depreciation attributable to rehabilitation expenditures, see section 1250(b)(4).

Where substantial improvements have been made, see section 1250(f).

*Line 4, column l, applicable percentage.*—For dispositions before January 1, 1970, enter zero in column (l). For dispositions after December 31, 1969, enter 100% of column (k) in column (l) except as follows:

(1) In the case of section 1250 property disposed of pursuant to a written contract that was, on July 24, 1969, and at all times thereafter, binding on the owner of the property, the applicable percentage is 100% minus 1 percentage point for each full month the property was held after the date it was held 20 full months;

(2) In the case of section 1250 property constructed, reconstructed, or acquired by the taxpayer before January 1, 1975, with respect to which a mortgage is insured under section 221(d)(3) or 236 of the National Housing Act, or housing is financed or assisted by direct loan or tax abatement under similar provisions of the State or local laws, and with respect to which the owner is subject to the restriction described in section 1039(b)(1)(B), the applicable percentage is 100% minus 1 percentage point for each full month the property was held after the date it was held 20 full months;

(3) In the case of residential rental property (as defined in section 167(j)(2)(B)) other than that covered by (1) and (2) above, the applicable percentage is 100% minus 1 percentage point for each full month the property was held after the date it was held 100 full months; and

(4) In the case of section 1250 property for which a depreciation deduction for rehabilitation expenditures was allowed under section 167(k), the applicable percentage is 100% minus 1 percentage point for each full month in excess of 100 full months after the date on which the property was placed in service.

*Line 4, column o, applicable percentage.*—The applicable percentage is 100% minus 1 percentage point for each full month the property was held after the date it was held 20 full months.

## Other Changes Made by Tax Reform Act of 1969

**Sale of property to a charitable organization.**—If a charitable contribution deduction is allowed by reason of a sale after December 19, 1969, of property to a charitable organization, the adjusted

basis for determining gain from the sale is that percentage of the adjusted basis that the amount realized is to the fair market value of the property.

**Exchange of livestock of different sexes.**—Livestock of different sexes are not property of a like kind and thus may not be exchanged on a tax-free basis. (See section 1031.)

**Installment sales.**—The installment method of reporting profits on certain sales of real property and on casual sales of personal property in excess of \$1,000 is available only if payments received in the year of sale do not exceed 30 percent of the selling price. For sales or other dispositions made after May 27, 1969, which are not subject to a binding written contract entered into on or before May 27, 1969, include as payments for purposes of the 30 percent rule a bond or other evidence of indebtedness which is payable on demand, or which is issued by a corporation or governmental unit (a) with interest coupons, (b) in registered form if readily tradeable in an established securities market, or (c) in any other form designed to render such bond or other evidence of indebtedness readily tradeable in an established securities market. (See section 453.)

**Change in installment reporting.**—A dealer in personal property may now switch from the installment method of reporting to the accrual method without obtaining permission. Such a change may be made by filing a notice of revocation of election to report on the installment method. The notice should be filed any time before the expiration of 3 years following the date of the filing of the tax return for the year of change. (See section 453.)

**Sales and other dispositions of letters, memoros, etc., occurring after July 25, 1969.**—Ordinary income will be realized upon the sale or exchange of letters, memorandums or similar property by a person whose personal efforts created such property, or for whom such property was prepared or produced. The same rule applies if the person received such property in the form of a gift from the creator or preparer of the property. (See section 1221.)

**Sales of life estates occurring after October 9, 1969.**—The entire amount received on the sale or other disposition of a life (or term of years) interest in property or an income interest in a trust acquired by gift, bequest, inheritance or a transfer in trust, is to be taxable, not just the excess of the amount received over the seller's basis for his interest.

This rule does not apply where a life interest is disposed of as part of a single transaction in which the entire fee interest is transferred to any other persons. This occurs, for example, where a life tenant and a remainderman join in the sale of the entire property interest. In such case the gain realized by the life tenant is to be measured by the excess of the proceeds received on the sale over his basis for his interest. (See section 1001.)

**Low-income housing project sales.**—Taxpayers may elect to avoid recognition of gain on certain "approved dispositions" of "qualified housing projects" after October 9, 1969. See section 1039 for definitions and basis with respect to which an election may be made.

**Total distributions from qualified pension, etc., plans.**—See sections 402(a)(5), 403(a)(2)(C), and 72(n)(i) for limitations on capital gains treatment for lump-sum distributions from qualified employees' trusts.

**Transfers of franchises, trademarks, and trade names.**—A transfer of franchise, trademark, or trade name after December 31, 1969, is not to be treated as a sale or exchange of a capital asset if the transferor retains any significant power, right, or continuing interest with respect to the subject matter of the franchise, trademark, or trade name transferred. See section 1253 for definitions, contingent payments, and exceptions.