Instructions for Schedule D-1

Sales of Business Property

(Also, involuntary conversions and recapture amounts under IRC Sections 179 and 280F and R&TC Sections 17267.2, 17267.6, 17268, 24356.5, 24356.6, 24356.7, and 24356.8). References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2009,** and to the California Revenue and Taxation Code (R&TC).

General Information

In general, for taxable years beginning on or after January 1, 2010, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2009. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

Partnerships, Limited Liability Companies (LLCs) classified as partnerships, S corporations, and their partners, members, and shareholders, **must** follow the new procedures for reporting all sales or other dispositions of property for which the IRC Section 179 expense deduction was claimed. See Property Subject to IRC Section 179 Expense Deduction Recapture, under General Information B, Special Rules, for details.

A Purpose

Use Schedule D-1, Sales of Business Property, to report the sale or exchange of business property when the California basis of the asset(s) is different from the federal basis due to differences between California and federal law.

Complete and attach this form to your tax return **only** if your California gains or losses from the sale or exchange of assets used in a trade or business are different from your federal gains or losses. (For common examples of items to report on this schedule, see the instructions for federal Form 4797, Sales of Business Property.)

Use this form to report:

1. The sale or exchange of:
   - Trade or business property
   - Depreciable and amortizable property
   - Oil, gas, and geothermal property
   - IRC Section 126 property
2. The involuntary conversion (other than casualty or theft) of trade or business property and capital assets held in connection with a trade or business or a transaction entered into for profit.
3. The disposition of noncapital assets (other than inventory or property held primarily for sale to customers in the ordinary course of your trade or business).
4. The disposition of capital assets not reported on Schedule D (100, 100W, 100S, 540, or 540NR), Capital Gain or Loss Adjustment.
5. The recapture of IRC Section 179 and R&TC Sections 17267.2, 17267.6, and 17268 deductions for partners, members, and S corporation shareholders from property distributions by partnerships, LLCs classified as partnerships, and S corporations, respectively. See IRC Section 179 Recapture under General Information B, Special Rules, for the reporting requirements.
6. The computation of recapture amounts under IRC Sections 179 and 280F when the business use of IRC Section 179 or 280F property drops to 50% or less and for property that ceases to be "qualified property" under R&TC Sections 17267.2, 17267.6, 17268, 24356.5, 24356.6, 24356.7, and 24356.8.

B Special Rules

Combined Reporting Groups. Each corporation that is a member of a combined reporting group should complete this form to report its share of business gains and losses apportioned to California and its nonbusiness gains and losses that are allocated to California. For more information, see Cal. Code Regs., tit. 18 section 25106.5-2 and FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report.

Casualties and Thefts. Complete and attach federal Form 4684, Casualties and Thefts, using California amounts.

Exchange of "Like-Kind" Property. Complete and attach federal Form 8824, Like-Kind Exchanges, using California amounts.

Report the exchange of like-kind property, even if no gain or loss is recognized. Write "Like-Kind Exchange from Form 8824" as the property description, and enter the gain or loss, if any, from federal Form 8824 (using California amounts) on line 5 or line 16, whichever applies. If an exchange was made with a related party, write "Related Party Like-Kind Exchange" in the top margin of Schedule D-1.

Installment Sales. If you sold property at a gain and you will receive a payment in a tax year after the year of sale, you must report the sale on the installment method unless you elect not to do so.

For nonresidents, or part-year residents, who change their residency, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency, to help determine their taxable income from an installment sale.

Use form FTB 3805E, Installment Sale Income, to report the sale on the installment method. Also use form FTB 3805E to report any payment received in 2011 from a previous installment sale.

If you elect not to use the installment method for California, report the full amount of the gain on a timely filed tax return (including extensions).

Property Subject to IRC Section 179 Expense Deduction Recapture. Partnerships, LLCs classified as partnerships, and S corporations that sell or otherwise dispose of property for which an IRC Section 179 expense deduction was previously claimed and passed through to the partners, members, or S corporation shareholders must follow these instructions to report the transaction.

Partners, members, and S corporation shareholders who receive a Schedule K-1 (565, 568, or 100S), Share of Income, Deductions, Credits, etc., showing such disposition must also follow these instructions to report the transaction.

Partnerships, LLCs, and S Corporations. Taxpayers need to complete **two sets** of Schedule D-1 and Schedule D (100S). One set of Schedule D-1 and Schedule D (100S) will include the sale or disposition of both IRC Section 179 assets **and** the sale of non-Section 179 business assets, with the amount reported on Form 100S, Side 1, line 4.

The second set of Schedule D-1 and Schedule D (100S) will include the sale or disposition of non-Section 179 business assets only, with the amounts reported on the Schedules K (100S) and K-1 (100S).

Gains or losses from the sale or disposition of assets previously subject to the IRC Section 179 expense deduction are to be reported on Forms 565, Partnership Return of Income; 568, Limited Liability Company Return of Income; or 100S, S Corporation Franchise or Income Tax Return, and on the corresponding Schedules K (100S) and K-1 (100S).

- **Partnerships.** Follow the instructions for federal Form 4797 under "Disposition by a Partnership or S Corporation of Section 179 Property" to report the transaction on the partnership return (including the Schedules K (565) and K-1 (565) reporting requirements).
- **LLCs.** The gain on the property subject to the IRC Section 179 expense deduction recapture must be included in the total income for the LLC. Report the gain on property subject to the IRC Section 179 expense deduction recapture on Schedule K (565 or 568), line 10a.

  The LLC must provide the following information with respect to the disposition of business property if an IRC Section 179 expense deduction was claimed in prior years:
  - Description of the property.
  - Date the property was acquired and placed in service.
  - Date of the sale or other disposition of the property.
  - Gross sales price or amount realized.
  - Cost or other basis plus expense of sale (reduced as explained in the instructions for federal Form 4797, line 21).
  - Depreciation allowed or allowable (determined as described in the instructions for federal Form 4797, line 22, but excluding the Section 179 expense deduction).
  - Amount of IRC Section 179 expense deduction (if any).
  - A statement indicating if the disposition is due to a casualty or theft.
  - If this is an installment sale, any information needed to complete form FTB 3805E, Installment Sale Income.
- **S Corporations.** Gain on property subject to the IRC Section 179 expense deduction recapture must be included in the taxable income of the S corporation. To accomplish this, the S corporation should complete

two sets of Schedule D-1 and Schedule D (100S). One set of Schedule D-1 and Schedule D (100S) will include the gain or loss from the sale or disposition of IRC Section 179 assets as well as gain or loss from non-Section 179 business assets, and will be reported on Form 100S. Indicate at the top of this Schedule D-1 and Schedule D (100S) "IRC Sec. 179 and Business Assets." When completing Schedule D-1 and Schedule D (100S) for the Form 100S, skip any instructions to report the gain or loss on Schedule K (100S) or Schedule K-1 (100S).

The **second** set of Schedule D-1 and Schedule D (100S) is to report the gain or loss on non-Section 179 business assets for use on the Schedules K (100S) and K-1 (100S). To accomplish this, the S corporation should complete a Schedule D-1 and Schedule D (100S) with the gain or loss for the non-Section 179 business assets only. The amounts from this Schedule D-1 and Schedule D (100S) will be reported on Schedules K (100S) and K-1 (100S). Indicate at the top of this Schedule D-1 and Schedule D (100S) set, "Non-Section 179 Business Assets Only."

- **Schedule K and Schedule K-1 (565, 568, and 100S).** Details of the sale or other disposition must be separately reported on Schedule K and Schedule K-1(565, 568, or 100S) as supplemental information as instructed in federal Form 4797, under Disposition by a Partnership or S Corporation of Section 179 Property.

Partners, Members, and S corporation Shareholders. If you receive a Schedule K-1 (565, 568, or 100S) reporting the sale or other disposition of property for which an IRC Section 179 expense deduction was previously claimed, you must report your share of the transaction on Schedule D-1 or federal Form 4797. Follow the instructions in the federal Form 4797 under Disposition by a Partnership or S Corporation of Section 179 Property.

Passive Loss Limitations. If you are a nonresident or part-year resident, your calculation may change as a result of Assembly Bill 1115 (Stats. 2001, Ch. 920). Get FTB Pub. 1100.

If you have an overall loss from passive activities and you report a loss on an asset used in a passive activity, get form FTB 3801, Passive Activity Loss Limitations, or form FTB 3802, Corporate Passive Activity Loss and Credit Limitations, to see how much of the loss is allowed before entering it on Schedule D-1. Gains from assets used in a passive activity should be reported on Schedule D-1 but should also be reported on form FTB 3801 or form FTB 3802 to offset losses, if any, from other passive activities.

Unused passive activity credits are not allowable when you dispose of part of your interest in an activity. If you dispose of your entire interest in an activity, get the instructions for federal Form 4797 for more information.

IRC Section 197(f)(9)(B)(ii) Election. If you elected to recognize gain on the disposition of a Section 197 intangible and to pay the tax on the gain at the highest tax rate, report the additional tax on Form 540, line 63 (or the appropriate line of other income tax returns). Write "IRC Section 197" and the amount of the Section 197 tax on the dotted line to the left of the amount.

For information about at-risk rules and the exclusion of gain on the sale of a home used for business, get the instructions for federal Form 4797.

Specific Line Instructions

Part I

Use Part I to report sales or exchanges of trade or business property and certain involuntary conversions, such as condemnations of trade or business property and of capital assets held more than one year. If any of the recognized losses were from involuntary conversions arising from fire, storm, shipwreck, theft, or other casualty, and they exceed the recognized gains from the conversions, do not include them when figuring your nonrecapture net IRC Section 1231 losses. You may have to complete Part III before you complete Part I if depreciable and certain amortizable property, (farm, oil, or gas) was disposed of at a gain. For examples of IRC Section 1231 transactions, get the instructions for federal Form 4797.

Line 2, column (f) – Other basis means a basis other than cost. There are times when you cannot use the cost of the property as the basis. For example, in situations involving like-kind exchanges, the basis generally will be the basis of the property given up in the exchange. Under other circumstances, you may be required to use the fair market value of your property. However, you may have been required to reduce the basis for California purposes. For example, if you took the business expense deduction for enterprise zones (including former program areas) or a local agency military base recovery area, you may be required to make a basis adjustment. For more information about the differences in California and federal basis, get FTB Pub. 1001.

Line 8 – Part or all of your IRC Section 1231 gains on line 7 may be taxed as ordinary income instead of receiving capital gain treatment. These net IRC Section 1231 gains are treated as ordinary income to the extent of the "nonrecaptured IRC Section 1231 losses." The nonrecaptured IRC Section 1231 losses are net IRC Section 1231 losses deducted during the five preceding tax years that have not yet been applied against any net IRC Section 1231 gain to determine how much gain is ordinary income under these rules. Treat the amount of loss as a positive number.

Figuring the Prior Year Losses.
You had a net IRC Section 1231 loss if your IRC Section 1231 losses exceeded your IRC Section 1231 gains. Gains are included only to the extent taken into account in figuring gross income. Losses are included only to the extent taken into account in figuring taxable income, except that the limitation on capital losses does not apply. See IRC Sections 1231(c)(5) and 1231(a)(4).

Line 9 – If line 9 is zero, enter the amount from line 7 on line 12. All of your IRC Section 1231 gain is treated as ordinary income. For record keeping purposes, the amount on line 7 is also the amount of net IRC Section 1231 loss recaptured in 2011.

Part II

If a transaction is not reportable in Part I or Part III and the property is not a capital asset reportable on Schedule D (100, 100W, 100S, 540, or 540NR), report the transaction in Part II.

Line 10 – Report other ordinary gains and losses, including property held one year or less, on this line.

Individuals also report ordinary losses from the sale or exchange (including worthlessness) of IRC Section 1244 (small business) stock on this line.

Line 12 – If line 9 is zero, enter the amount from line 7. If line 9 is more than zero, enter the amount from line 8.

Line 15 – Enter any ordinary gain from installment sales from form FTB 3805E, line 25 or line 36. This line applies only to sales of IRC Sections 1252, 1254, and 1255 property and IRC Sections 1245 and 1250 property if you are still reporting ordinary gain from sales before June 7, 1984.

Line 18 – Enter the difference between ordinary federal gains or (losses) from line 18 on your tax return as follows:

Corporations: Form 100, California Corporation Franchise or Income Tax Return, or Form 100W, California Corporation Franchise or Income Tax Return - Water's-Edge Filers, line 8, other additions; or line 16, other deductions.

Exempt Organizations: Form 109, California Exempt Organization Business Income Tax Return, Part I, line 4b, net gain (loss).

S Corporations: Form 100S, line 7, other additions; or line 13, other deductions. Also, see instructions for Schedule K (100S), line 9 and line 10b.

Built-In Gains. For California purposes, when a C corporation elects to be an S corporation, certain items recognized in S corporation years are subject to the C corporation tax rate instead of the S corporation tax rate.

Built-in gains are reported on Schedule D (100S), S Corporation Capital Gains and Losses and Built-In Gains. Get the Form 100S Booklet for additional information.

Partnerships and Limited Liability Companies: See instructions for Schedule K and Schedule K-1 (565 or 568), lines 10a and 10b, and lines 11b and 11c.

Line 18a – If the amount of your California casualty and theft loss is not the same as the amount of your federal casualty and theft loss, enter the difference on Schedule CA (540 or 540NR), California Adjustments, line 41.

Line 21 – Compare your federal amount entered on line 19 with your California amount entered on line 20. If the amount on line 19 is more than the amount on line 20, enter the difference on line 21(a) and on Schedule CA (540 or 540NR), line 14, column B. If the amount on line 20 is more than the amount on line 19, enter the difference on line 21(b) and on Schedule CA (540 or 540NR), line 14, column C.

Part III

Generally, do not complete Part III for property held one year or less; use Part II instead.

Use Part III to compute recapture of depreciation and certain other items that must be reported as ordinary income upon the disposition of property. Complete line 22 through line 27 to determine the gain on the disposition of the property. If you have more than 4 transactions to report, use additional forms.

For examples of IRC Sections 1245, 1250, 1252, 1254, and 1255 property, see instructions for federal Form 4797.

Line 25 – Taxpayers other than partnerships, LLCs, or S corporations, complete the following steps to figure the amount to enter on line 25.

- **Add** depreciation or depletion allowed or allowable, amortization or Accelerated Cost Recovery System (ACRS) deductions if it is recovery property.
- **Add** the IRC Section 179 expense and R&TC Sections 17267.2, 17267.6, 17268, 24356.5, 24356.6, 24356.7, and 24356.8 expenses deducted.
- **Subtract** any IRC Sections 179 and 280F recapture amount included in gross income in a prior taxable year because the business use of the property dropped to 50% or less. Also, subtract any R&TC Sections 17267.2, 17267.6, 17268, 24356.5, 24356.6, 24356.7, and 24356.8 recapture amount included in gross income in a prior taxable year because the property ceased to be qualified property.

Use the amount claimed on your California tax return under R&TC Section 17201 when adding or subtracting IRC Section 179 expense.

You may have to include depreciation allowed or allowable on another asset (and recompute the basis amount for line 24) if you use its adjusted basis in determining the adjusted basis of the property described on line 22. An example is property acquired by a trade-in. (See Section 1.1245-2(a)(4) of the federal regulations.)

Partnerships, LLCs, and S corporations that sell, exchange, or otherwise dispose of property for which an IRC Section 179 expense deduction was previously passed through to the partners, members, or S corporation shareholders, see the instructions under General Information B, Special Rules.

In all other cases, partnerships and LLCs should enter the depreciation or depletion allowed or allowable or amortization on line 25. Enter any IRC Section 179 and R&TC Sections 17267.2, 17267.6, and 17268 expenses on Schedule K-1 (565 or 568), line 12.

In all other cases, S corporations should enter the depreciation or depletion allowed or allowable, amortization, ACRS or Modified Accelerated Cost Recovery System (MACRS) deductions on line 25. Enter any IRC Section 179 and R&TC Sections 17267.2, 17267.6, and 17268 expenses on Schedule K-1 (100S), line 11.

IRC Section 1245 Property
California law generally is the same as federal law. See federal Form 4797 for examples of IRC Section 1245 property.

IRC Section 1250 Property
California law generally is the same as federal law except for certain modifications to IRC Section 1250(b). See R&TC Section 18171.

Line 29a – Enter the additional depreciation for the period after December 31, 1976. For IRC Section 1250 property held more than one year, additional depreciation is the excess of actual depreciation over depreciation figured using the straight-line method. For IRC Section 1250 property held one year or less, all depreciation is additional depreciation.

Line 29b – Use 100% as the percentage for this line unless you have low-income rental property described in IRC Section 1250(a)(1)(B).

Line 29d – Enter the additional depreciation after December 31, 1970 and before January 1, 1977. If the straight-line depreciation is more than the additional depreciation after December 31, 1970 and before January 1, 1977, reduce line 29a by the excess amount, but not below zero.

Line 29f – Refer to the instructions for federal Form 4797, line 26f. California law generally follows IRC Section 291 except IRC Sections 291(a)(3) and 291(b)(1) have been modified. Enter the ordinary income amount computed according to the federal instructions using California figures.

IRC Section 1252 Property

Partnerships, skip line 30a through line 30c. Partners should enter on the applicable lines of Part III amounts subject to IRC Section 1252 according to instructions from the partnership.

You may have ordinary income on the disposition of certain farm land held more than one year but less than 10 years.

Gain from disposition of certain farm land is subject to ordinary income rules under IRC Section 1252 before being considered under IRC Section 1231 (Part I).

Line 30b – Enter 100% of line 30a on line 30b if your property was held for 10 years or longer. If your property was held for less than 10 years, use the same percentage required by federal law.

Part IV
Complete column (a) of line 36 through line 38 of Part IV to figure the amount to be recaptured if the following apply:

- You took a deduction under IRC Section 179 for property placed in service on or after January 1, 1987 [other than listed property, as defined in IRC Section 280F (d)(4)]; and
- The property was not used predominantly in your trade or business at any time; **or**
- You took a deduction under R&TC Section 17267.2, 17267.6, 17268, 24356.5, 24356.6, 24356.7, or 24356.8; and
- That property ceased to be qualified property before the close of the second taxable year after it was placed in service.

IRC Section 280F Property. If you have listed property that you placed in service in a prior year and the business use dropped to 50% or less this year, figure the amount to be recaptured. Complete column (b), line 36 through line 38, of Part IV.

If you have more than one property subject to the recapture rules, use separate statements to figure the recapture amounts for each property and attach the statements to your tax return.

Line 36, Column (a) – Enter the IRC Section 179 expense claimed on your California tax return under R&TC Section 17201, and R&TC Sections 17267.2, 17267.6, 17268, 24356.5, 24356.6, 24356.7, and 24356.8 expenses that were deducted when the property was placed in service.

Column (b) – Enter the recovery deductions allowable on the property in prior tax years. Any deduction allowable under IRC Section 179 on that property is treated as if that deduction was a recovery deduction under IRC Section 168.

Line 37, Column (a) – Enter the depreciation allowable on the IRC Section 179 amount from the time it was placed in service (on or after January 1, 1987) or, under R&TC Sections 17267.2, 17267.6, 17268, 24356.5, 24356.6, 24356.7, and 24356.8 from the time the property was placed in service to the current year.

Column (b) – Enter the recovery deductions that would have been allowed if the property had not been predominantly used in a qualified business. Figure the deductions from the year it was placed in service to the current year.

Line 38 – If the recapture amount on your federal Form 4797, Part IV, line 35, is different from the recapture amount on Schedule D-1, line 38, an adjustment is required on your California tax return as follows:

Individuals: Figure the difference between the federal amount and the California amount, and enter on the line for reporting the type of business income that resulted in the recapture on Schedule CA (540 or 540NR) as follows:

- If the federal amount is more than the California amount, enter the difference on Schedule CA, column B.
- If the California amount is more than the federal amount, enter the difference on Schedule CA, column C.

Corporations: Form 100 or Form 100W, line 8, other additions; or line 16, other deductions for the difference between California and federal recapture amounts.

S corporations: Form 100S, line 7, other additions; or line 13, other deductions for the difference between California and federal recapture amounts. Also, Schedules K (100S) and K-1 (100S), line 10b or line 12e.

Partnerships or Limited Liability Companies: Schedules K (565 or 568) and K-1 (565 or 568), lines 11b and 11c or line 13e.