Related Topics
- Stock, Tab 18, Deluxe Edition/Small Business Edition

Schedule D, Capital Gains and Losses
Use Schedule D, Form 1040, to report the following:
- The overall gain or loss figured from transactions reported on Form 8949, Sales and Other Dispositions of Capital Assets.
- Certain transactions not required to be reported on Form 8949.
- Capital gain distributions not reported directly on line 13, Form 1040.
- Gains and losses from the following forms.
  - Form 2439, Notice to Shareholder of Undistributed Long-Term Capital Gains.
  - Form 4684, Casualties and Thefts.
  - Form 4797, Sales of Business Property.
  - Form 6252, Installment Sale Income.
  - Form 6781, Gains and Losses From Section 1256 Contracts and Straddles.
  - Form 8824, Like-Kind Exchanges.
  - Partnerships, S corporations, estates, and trusts from Schedules K–1.
- Loss carryovers from previous years.

Form 8949, Sales and Other Dispositions of Capital Assets.
Taxpayers who sell stock or any other capital asset must file Form 8949. The form lists each transaction by type and totals are carried to Schedule D, Form 1040. Use Form 8949 to report the following transactions.
- Transactions reported on Form 1099-B, see next column.
- The sale or exchange of a capital asset 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.
- Nonbusiness bad debts.
- Worthlessness of a security.

A separate Part I (Short-Term transactions) and separate Part II (Long-Term transactions) of Form 8949 must be filed for each of the following categories.
- Form 1099-B showing basis reported to IRS (box A or D).
- Form 1099-B showing basis was not reported to IRS (box B or E).
- Transaction not reported on Form 1099-B (box C or F).

Capital assets. Most property a taxpayer owns and uses for personal or investment purposes is a capital asset. For example, a house, furniture, car, stocks, and bonds are capital assets.

Personal-use property. Gain from a sale or exchange of personal-use property is a capital gain. Loss from the sale or exchange of personal-use property is not deductible.

Investment property. Investment property is property held for the production of income or anticipated appreciation in value. A gain or loss from the sale or exchange of investment property (such as stocks and bonds) is a capital gain or loss.

Noncapital assets. A noncapital asset is property that is not a capital asset. The following kinds of property are not capital assets.
- Stock in trade or other property included in inventory or held mainly for sale to customers. (See copyrights and musical compositions, next column.)
- Accounts or notes receivable acquired in the ordinary course of a trade or business for services rendered, or from the sale of stock in trade or other property held mainly for sale to customers.
- Depreciable property used in a trade or business, even if it is fully depreciated.
- Real estate used in a trade or business.

- Copyrights, literary, musical, or artistic compositions, letters or memoranda, or similar property created by the taxpayer's personal efforts, prepared or produced for the taxpayer, or received from a person who created the property. See Capital Gains Treatment for Self-Created Musical Works, page 6-8.
- U.S. government publications that the taxpayer received from the government, other than by purchase at the normal sales price.
- Certain commodities derivative financial instruments held by a dealer.
- Certain hedging transactions entered into in the normal course of a trade or business.

Form 1099-B, Proceeds From Broker and Barter Exchange Transactions
A taxpayer receives Form 1099-B from the following transactions.
- Sale of stocks, bonds, commodities, regulated future contracts, foreign currency contracts, forward contracts, debt instruments, etc., for cash,
- Receipt of cash, stock, or other property from a corporation that had its stock acquired in an acquisition of control or had a substantial change in capital structure, or
- Exchange of property or services through a barter exchange.

Cost or other basis reporting. Cost or other basis must be reported on Form 1099-B if the security is a covered security. A covered security includes the following:
- Stock acquired for cash after 2010, except stock for which the average basis method is available.
- Stock for which the average basis method is available (i.e. mutual funds) and acquired for cash after 2011.
- A security transferred to an account if the broker receives a transfer statement reporting the security as a covered security.
- Certain debt instruments or options acquired for cash after 2013.
- A securities futures contract entered into after 2013.
- A security acquired due to a stock dividend, stock split, reorganization, redemption, stock conversion, recapitalization, corporate division, or other similar action, if the basis of the acquired security is determined from the basis of a covered security.

Noncovered security. A noncovered security is any security that is not a covered security.

Basis substantiation. Taxpayers may not estimate to substantiate basis of stock sold. If a taxpayer cannot prove basis with adequate records, the basis is zero. (Hoang, 11th Cir., May 6, 2014)

Holding Periods
Capital gains and losses must be separated according to how long the taxpayer held or owned the property. To determine how long property has been held or owned, begin counting on the date after the day the property was acquired and include the date of disposition. See Basis and Holding Period Rules chart, page 6-3.

Short-term. The holding period for short-term capital gains and losses is one year or less.

Nonbusiness bad debt. A nonbusiness bad debt is treated as a short-term capital loss. See Nonbusiness bad debt, Tab 8.

Long-term. The holding period for long-term capital gains and losses is more than one year.

Inherited property. Inherited property is considered held long-term regardless of actual time held by the beneficiary.
Capital Gain Tax Rates

Tax rates that apply to net capital gains are generally lower than tax rates that apply to other income and are referred to as maximum capital gain rates. Net capital gain is the amount by which net long-term capital gain for the year is more than net short-term capital loss. For 2014, the maximum capital gain rate is 20% for taxpayers in the top 39.6% regular tax bracket, 15% for taxpayers in the 25% to 35% tax brackets and 0% for taxpayers in the 10% or 25% tax bracket. See the 2014 Tax Rates: Capital Gain and Dividend Income, page 6-1.

Example: Fred is single and for 2014 has taxable income of $450,000. Included in taxable income are qualified dividends and net capital gains of $30,000. The maximum capital gain tax rate for Fred is 20% since he is in the 39.6% regular tax bracket. Fred’s tax for 2014 is calculated as follows.

- Taxable income: $450,000
- Qualified dividends and net capital gains: $30,000
- Maximum capital gain tax rate: 20%
- Capital gain tax: $6,000
- Taxable income minus qualified dividends and net capital gains: $30,000
- Regular tax on $420,000: $123,366
- Total tax using maximum capital gain tax rate: $129,366
- Regular tax on $450,000: $135,246

Fred’s tax on all taxable income is the smaller of the regular tax on $450,000 or the total tax using the maximum capital gain tax rate. Fred’s tax for 2014 is $129,366.

Note: Net short-term capital gains are taxed at ordinary income tax rates.

A 28% maximum capital gain rate specifically applies to all gains from the sales of collectibles and small business stock. See 28% Rate Gain, below. All unrecovered Section 1250 gain is taxed at a 25% maximum capital gain rate. See Unrecovered Section 1250 Gain, page 6-9.

If tax is figured using the maximum capital gain rate and the regular tax computation results in a lower tax, the regular tax computation applies.

Long-Term Capital Gain Maximum Tax Rates

For taxpayers with ordinary tax rate of: 2008 to 2012 2013 and after
- Top rate (39.6% after 2012) 15% 20%
- 25% to rate below top rate 15% 15%
- 10% or 15% 0% 0%

Qualified Dividend Income Tax Rates

For taxpayers with ordinary tax rate of: 2008 to 2012 2013 and after
- Top rate (39.6% after 2012) 15% 20%
- 25% to rate below top rate 15% 15%
- 10% or 15% 0% 0%

Capital Gains Treatment for Self-Created Musical Works

A taxpayer can elect to treat the sale or exchange of a musical composition or copyright in musical works created by the taxpayer’s personal efforts as a sale of a capital asset, subject to capital gains treatment. This is true even if the musical composition or copyright in musical works is otherwise considered inventory held mainly for sale to customers. The election is made when the taxpayer treats the sale as a sale of a capital asset on Form 8949.

28% Rate Gain

The 28% tax rate applies to gain from the sale or exchange of collectibles and the taxable part of gain from the sale of qualified small business stock (section 1202 exclusion).

Compute 28% rate gain. Taxpayers who have a net capital gain on Schedule D must complete the 28% Rate Gain Worksheet in the instructions for Schedule D.

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, or alcoholic beverages and certain other tangible property. Collectibles gain includes gain (but not loss) from the sale of an interest in a partnership, S corporation, or trust held for more than one year and attributable to unrealized appreciation of collectibles.

Gains on Small Business Stock

A taxpayer who sells qualified small business stock may be able to roll over the gain tax free or exclude part of the gain from income. See the instructions for Schedule D.

Qualified small business (QSB) stock. QSB stock is stock originally issued by a QSB after August 10, 1993, that meets all seven tests listed in IRS Pub. 550, Investment Income and Expenses. The tests include:

- The stock must be C corporation stock.
- The corporation must have total gross assets of $50 million or less at all times after August 9, 1993, up to and including the point immediately after the stock was issued.
- The stock was acquired at its original issue in exchange for money or other property (not including stock) or as pay for services. Certain individuals may meet the test if they acquired the stock through gift or inheritance.
- The corporation must have met the active business test and have been a C corporation during substantially all the time the taxpayer held the stock.

Note: The election to rollover or exclude part of the gain from income is not allowed to C corporations.

Rollover of gain (IRC section 1045). Taxpayers can elect to roll over a capital gain from the sale of QSB stock held longer than six months into other QSB stock. If this election is made, the gain from the sale is generally recognized only to the extent the amount realized is more than the cost of the replacement QSB stock bought within 60 days of the date of sale. The basis of the replacement QSB stock must be reduced by the gain not recognized.

Exclusion of gain (section 1202). A taxpayer can elect to exclude from gross income 50% of the gain from the sale or exchange of QSB stock held more than five years. The exclusion can be up to 60% for certain empowerment zone business stock. The gain from the stock of any one issuer that is eligible for the exclusion is limited to the greater of the following amounts.

- 10 times the taxpayer’s basis in all qualified stock of the issuer sold or exchanged during the year.
- $10 million ($5 million for MFJ) minus the gain from the stock of the same issuer used to figure the exclusion in earlier years.

Increased exclusion amount. The exclusion can be up to 75% for stock acquired after February 17, 2009, and up to 100% for stock acquired after September 27, 2010, and before January 1, 2014.

Losses on Small Business Stock

If statutory requirements are met, a loss on the sale of designated stock of a small business corporation is eligible for ordinary loss treatment up to $50,000 ($100,000 MFJ) per taxable year. (IRC §1244) On a joint return, the limit is $100,000 even if only one spouse has this type of loss. If a taxpayer has a loss of $110,000, and the spouse has no loss, the taxpayer can deduct $100,000 as ordinary loss. The remaining $10,000 is a capital loss.