

**Supporting Statement
(Form 4797)**

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 1231 of the Internal Revenue Code provides that if the aggregate of certain sales of property, other than capital assets, result in a loss, they must be deducted in full. For tax years beginning after 12-31-84, the net section 1231 gain for any tax year shall be treated as ordinary income to the extent of the non-recaptured net section 1231 losses for the 5 preceding tax years beginning after 12-31-81. Sections 1245, 1250, 1252, and 1254 provide that a portion of certain property sold at a gain is taxable in full rather than at capital gain rates. Section 1255 provides that if certain tax free payments received are subsequently sold, part of the sale is taxable as ordinary income.

Section 179 provides that if section 1245 property is disposed of, section 179 expense is treated as a depreciation deduction for purposes of section 1245 recapture rules. Section 291 provides that corporations that sell section 1250 property must include 20% of the excess (if any) of the amount which would be treated as ordinary income under section 1250. Section 48(g)(5) provides that for purposes of sections 1245 and 1250, 50% of the investment tax credit downward basis adjustment under section 48(g)(1) must be treated as a deduction for depreciation.

Form 4797 is needed to assure that the taxpayer is complying with these provisions of the law.

2. USE OF DATA

Form 4797 is used by IRS to verify that the proper amount of gains and losses are reported.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

We are currently offering electronic filing on Form 4797.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. **METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

Not applicable.

6. **CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

Not applicable.

7. **SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

Not applicable.

8. **CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 4797.

In response to the **Federal Register** notice (73 FR 28857), dated May 19, 2008, we received no comments during the comment period regarding Form 4797.

9. **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

Not applicable.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

	<u>Number of Responses</u>	<u>Time per Response</u>	<u>Total Hours</u>
Form 4797			1,987,307 50.63
			100,617,354
Worksheet			<u>6,650</u> 2.39
			<u>15,894</u>
Total			1,993,957
			100,633,248

Estimates of annualized cost to respondents for the hour burdens shown above are not available at this time.

We have reviewed the following regulations and have determined that the reporting requirements contained in them are entirely reflected on the form(s). The justification appearing in item 1 of the supporting statement applies both to these regulations and to the form(s). Please continue to assign OMB number 1545-0184 to these regulations.

1.268-1

1.123
1-1
and 2

1.1033(a)-2		1.1237-1(c)(5)
1.1033(g)-1(b)(2)(1)and(ii)	1.1242-1	
1.1039-1(b)(4)		1.1245-1 thru 6
1.1071-1(a)(3)		
		1.1250-1
		thru 5
1.1071-1(b)(2)(ii)	1.1251-1 thru 4	
1.1071-4		1.1082-
	3(c)	
1.1254-1 thru 5	1.1205-1 thru 5	
16A.1255-1 and 2	1.1014-4(c)	

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** notice dated May 19, 2008, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any responses from taxpayers on this subject. As a result, estimates of these cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists of the cost of printing this form. We estimate that the cost of printing the form is \$11,945.

15. REASONS FOR CHANGE IN BURDEN

There were no changes made to Form 4797 that resulted in any change to the burden previously reported to OMB.

We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

See attachment.

18. EXCEPTION TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.