

SUPPORTING STATEMENT
Internal Revenue Service
Form 4797, Sales of Business Property
OMB Control Number 1545-0184

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) Section 1231 provides that if the aggregate of certain sales of property, other than capital assets, result in a loss, they must be deducted in full.

The following IRC Sections address the gains from the disposition of the following types of property: 1245, Depreciable Property; 1250, Depreciable Realty; 1252, Farm Land; and 1254, interest in oil, gas, geothermal, or other mineral properties. These sections provide that a portion of certain property sold at a gain is taxable in full rather than at capital gain rates.

Section 179 provides that if section 1245 property is disposed of, section 179 expenses are 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 filed to report gains made from the sale or exchange of business property.

2. USE OF DATA

The data is used by the Internal Revenue Service (IRS) to verify the gains associated with the disposition of business property are accurately reported.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS is currently offering electronic filing of Form 4797.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available or use or adaption from another source.

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

The IRS proactively works with both internal and external stakeholders to minimize the burden on small businesses, while maintaining tax compliance. The Agency also seeks input regarding the burden estimates from the public via notices and tax product instructions. The forms can be filed electronically, which further reduces any burden to small businesses.

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

Consequences of less frequent collection of taxes and tax information would adversely affect the government's effectiveness and would reduce the oversight of the public in ensuring compliance with Internal Revenue Code and hinder the IRS from meeting its mission.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. **CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS TD 9187**

In response to the Federal Register notice dated January 15, 2021 (86 FR 4181), the agency received no comments during the comment period regarding these regulations.

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

No payment or gift has been provided to any respondents.

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**

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Business Master File (BMF)" system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. **ESTIMATED BURDEN OF INFORMATION COLLECTION**

The time needed to complete and file the forms will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and the estimated burden for business filers is approved under 1545-0123, and are included in the estimates shown in the instructions for their individual or business income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Authority	Form	# Respondents	# Responses Per Respondent	# Annual Responses	Hours Per Response	Total Burden
IRC 1231	4797	325,000	1	325,000	51.12	16,614,000
Totals		325,000		325,000		16,614,000

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0184 to these regulations.

1.268-1
1.1231-1

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start-up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>	<u>Printing and Distribution</u>	<u>Government Cost Estimate per Product</u>
Form 4797	42,649	713	43,362
Inst 4797	17,770	516	18,287
Grand Total	\$60,419	\$1,229	\$61,649
Table costs are based on 2020 actuals obtained from IRS Chief Financial Office and Media and Publications			
* New product costs will be included in the next collection update.			

15. REASONS FOR CHANGE IN BURDEN

Changes were made to the burden previously approved to update to reflect the most recent revisions to the form. Two new lines were added to the form, this resulted in an hourly increase of 159,250 (current burden estimate is 16,614,000 and the previously approved amount of 16,454,750).

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses for this IC	325000	0	0	0	0	325000
Annual IC Time Burden (Hours)	16,614,000	0	159,250	0	0	16,454,750

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

The IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form and/or regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

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.