

If you had a gain and can exclude part or all of it, enter "H" in column (f). Enter the exclusion as a negative number (in parentheses) in column (g). See the instructions for Form 8949, columns (f), (g), and (h). Complete all columns.

If you had a loss but have to report the sale or exchange because you got a Form 1099-S, see *Non deductible Losses*, later, for instructions about how to report it.

See Pub. 523 for additional details, including how to figure and report any taxable gain if:

- You (or your spouse if married) used any part of the home for business or rental purposes after May 6, 1997, or
- There was a period of time after 2008 when the home was not your main home.

Partnership Interests

A sale or other disposition of an interest in a partnership may result in ordinary income, collectibles gain (28% rate gain), or unreaptured section 1250 gain. For details on 28% rate gain, see the instructions for line 18 of Schedule D. For details on unreaptured section 1250 gain, see the instructions for line 19 of Schedule D.

Capital Assets Held for Personal Use

Generally, gain from the sale or exchange of a capital asset held for personal use is a capital gain. Report it on Form 8949, Part I or Part II, with box C checked. However, if you converted depreciable property to personal use, all or part of the gain on the sale or exchange of that property may have to be recaptured as ordinary income. Use Part III of Form 4797 to figure the amount of ordinary income recapture. The recapture amount is included on line 31 (and line 13) of Form 4797. Do not enter any gain from this property on line 32 of Form 4797. If you are not completing Part III for any other properties, enter "N/A" on line 32. If the total gain is more than the recapture amount, enter "From Form 4797" in column (a) of Part I of Form 8949 (if the transaction is short term) or Part II of Form 8949 (if the transaction is long term), and skip columns (b) and (c). In column (d), enter the excess of the total gain over the recapture amount. Leave columns (e)

through (g) blank. Complete column (h). Be sure to check box C at the top of Part I or Part II of this Form 8949 (depending on how long you held the asset).

Loss from the sale or exchange of a capital asset held for personal use is not deductible. But if you had a loss from the sale or exchange of real estate held for personal use for which you received a Form 1099-S, you must report the transaction on Form 8949 even though the loss is not deductible. For example, you have a loss on the sale of a vacation home that is not your main home and you received a Form 1099-S for the transaction. Report the transaction in Part I or Part II of Form 8949, depending on how long you owned the home. Complete all columns. Because the loss is not deductible, enter "L" in column (f). Enter the difference between column (d) and column (e) as a positive amount in column (g). Then complete column (h). For example, if you entered \$5,000 in column (d) and \$6,000 in column (e), enter \$1,000 in column (g). Then enter -0- (\$5,000 - \$6,000 + \$1,000) in column (h). Be sure to check box C at the top of Part I or Part II of this Form 8949 (depending on how long you owned the home).

Capital Losses

You can deduct capital losses up to the amount of your capital gains plus \$3,000 (\$1,500 if married filing separately). You may be able to use capital losses that exceed this limit in future years. For details, see the instructions for line 21. Be sure to report all of your capital gains and losses even if you cannot use all of your losses in 2012.

Non deductible Losses

Do not deduct a loss from the direct or indirect sale or exchange of property between any of the following.

- Members of a family.
- A corporation and an individual owning more than 50% of the corporation's stock (unless the loss is from a distribution in complete liquidation of a corporation).
- A grantor and a fiduciary of a trust.
- A fiduciary and a beneficiary of the same trust.
- A fiduciary and a beneficiary of another trust created by the same grantor.

- An executor of an estate and a beneficiary of that estate, unless the sale or exchange was to satisfy a pecuniary bequest (that is, a bequest of a sum of money).

- An individual and a tax-exempt organization controlled by the individual or the individual's family.

See Pub. 544 for more details on sales and exchanges between related parties.

Report a transaction that results in a non deductible loss in Part I or Part II of Form 8949, depending on how long you held the property. Unless you received a Form 1099-B for the sale or exchange, check box C at the top of Part I or Part II of this Form 8949 (depending on how long you owned the property). Complete all columns. Because the loss is not deductible, enter "L" in column (f). Enter the amount of the non deductible loss as a positive number in column (g). Complete column (h). See the instructions for Form 8949, columns (f), (g), and (h).

Example 1. You sold land you held as an investment for 5 years to your brother for \$10,000. Your basis was \$15,000. On Part II of Form 8949, check box C at the top. Enter \$10,000 on Form 8949, Part II, column (d). Enter \$15,000 in column (e). Because the loss is not deductible, enter "L" in column (f) and \$5,000 (the difference between \$10,000 and \$15,000) in column (g). In column (h), enter -0- (\$10,000 - \$15,000 + \$5,000). If this is your only transaction on this Form 8949, enter \$10,000 on Schedule D, line 10, column (d). Enter \$15,000 in column (e) and \$5,000 in column (g). In column (h), enter -0- (\$10,000 - \$15,000 + \$5,000).

Example 2. You received a Form 1099-B showing proceeds (sales price) of \$1,000 and a basis of \$5,000. Box 2b on Form 1099-B is checked, so your loss of \$4,000 (\$1,000 - \$5,000) is not allowed. On the top of Form 8949, check box A or box B in Part I or Part II (whichever applies). Enter \$1,000 in column (d) and \$5,000 in column (e). Because the loss is not deductible, enter "L" in column (f) and \$4,000 (the difference between \$1,000 and \$5,000) in column (g). In column (h), enter -0- (\$1,000 - \$5,000 + \$4,000).

At-risk rules. If you disposed of (a) an asset used in an activity to which the