

STATE OF HAWAII—DEPARTMENT OF TAXATION
Instructions for Schedule D-1
Sales of Business Property

(Also Involuntary Conversions and Recapture Amounts Under IRC Sections 179 and 280F(b)(2))
(Section references are to the Internal Revenue Code as adopted and incorporated in Chapter 235, HRS.)
(Publication references are to federal Publications.)

CAUTION: Do not confuse this schedule with the federal Schedule D-1.

Who May File

Any individual, corporation, partnership, estate or trust may file Schedule D-1, unless instructions for the form it relates to (Form N-15, N-30, etc.) provides otherwise such as N-11.

Purpose of Form

Use Schedule D-1 to report:

- The sale or exchange of property used in your trade or business; depreciable and amortizable property; oil, gas, geothermal, or other mineral properties; and section 126 property.
- The involuntary conversion (from other than casualty or theft) of property used in your trade or business and capital assets held in connection with a trade or business, or a transaction entered into for profit.
- 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.
- The disposition of capital assets not reported on Schedule D.
- The gain or loss (including any related recapture) for partners and S corporation shareholders from certain section 179 property dispositions by partnerships and S corporations.

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- The computation of recapture amounts under sections 179 and 280F(b)(2), when the business use of section 179 or listed property drops to 50% or less.

Do not use this form, unless otherwise stated, to report gain or loss on the disposition of a capital asset; instead, if applicable, use the Schedule D associated with the return you are filing. (Refer to Schedule D instructions for the definition of a capital asset.)

Other Forms To Use

- Use federal Form 4684, Casualties and Thefts, to report involuntary conversions from casualties and thefts.
- Use federal Form 8824, Like-Kind Exchanges, for each exchange of qualifying business or investment property for property of a like kind. For exchanges of property used in a trade or business (and other noncapital assets), enter the gain or (loss) from federal Form 8824, if any on line 5 or 17.

Special Rules

Allocation of Purchase Price.—If you acquire or dispose of assets that constitute a trade or business, the buyer and seller must allocate the total purchase price using the “residual method” and must file federal Form 8594, Asset Acquisition Statement.

At-Risk Rules.—If you report a loss on an asset used in an activity for which you are not at-risk, in whole or in part, see the instructions for federal Form 6198, At-Risk Limitations. Also, get Publication 925, Passive Activity and At-Risk Rules. Losses from passive activities are first subject to the at-risk rules and then to the passive activity rules.

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 generally must report the sale on the installment method unless you elect not to do so.

Use federal Form 6252, Installment Sale Income, to report the sale on the installment method. Also use federal Form 6252 to report any payment received in 2007 from a sale made in an earlier year that you reported on the installment method.

To elect out of the installment method, report the full amount of the gain on a timely filed return (including extensions).

See Publication 537, Installment Sales, for more details.

Involuntary Conversion of Property.—You may not have to pay tax on a gain from an involuntary or compulsory conversion of property. See Publication 544, Sales and Other Dispositions of Assets, for details.

Exclusion on the Sale of a Home Used for Business.—If you rented or used part of your home for business and meet certain requirements, you may be able to exclude part or all of the gain figured on line 25. For details on the exclusion and allocating the sales price, expenses of sale, and the adjusted basis of the home, see the instructions for Form N-103, Sale of Your Home.

If the home was held for more than 1 year, figure the gain on the part that was rented or used for business in Part III. Do not take the exclusion into account when figuring the gain on line 25. If you qualify for and are claiming the exclusion for sales after May 6, 1997, and line 23 includes depreciation for periods after that date, you cannot exclude gain to the extent of that depreciation. On line 2 of Part I, write “IRC Section 121 exclusion” and enter the business part of the exclusion as a (loss) in column (g). If the home was held for 1 year or less, report the sale and business part of the exclusion in a similar manner on line 11 of Part II.

Passive Loss Limitations.—If you have an overall loss from passive activities, and you report a loss on an asset used in a passive activity, use federal Form 8582, Passive Activity Loss Limitations, to see how much loss is allowed before entering it on Schedule D-1.

Examples of Items Reportable on this Form.—Where to Make First Entry.

Below are common examples of items reportable on this form. Columns (b) and (c) indicate where to make the first entry on Schedule D-1.		
(a) Type of property	(b) Held one year or less	(c) Held more than one year
1 Depreciable trade or business property: a Sold or exchanged at a gain	Part II	Part III (sec. 1245, 1250)
	Part II	Part I
2 Depreciable residential rental property: a Sold or exchanged at a gain	Part II	Part III (sec. 1250)
	Part II	Part I
3 Farmland held less than 10 years upon which soil, water, or land-clearing expenses were deducted after December 31, 1976: a Sold at a gain	Part II	Part III (sec. 1252)
	Part II	Part I
4 Disposition of certain cost-sharing payment property described in section 126	Part II	Part III (sec.1255)
5 Cattle and horses acquired after December 31, 1974, that were used in a trade or business for draft, breeding, dairy, or sporting purposes: a Sold at a gain	Held less than 24 months	Held 24 months or more
	Part II	Part III (sec. 1245)
	Part II	Part I
6 Livestock other than cattle and horses acquired after December 31, 1974, that were used in a trade or business for draft, breeding, dairy, or sporting purposes: a Sold at a gain	Held less than 12 months	Held 12 months or more
	Part II	Part III (sec. 1245)
	Part II	Part I

Note: All livestock acquired before January 1, 1975, used in a trade or business for draft, breeding, or dairy purposes, receive same treatment as livestock held for 12 months or more.

Recapture of Preproductive Expenses.—If you elected out of the uniform capitalization rules of section 263A, any plant that you produce is treated as section 1245 property. For dispositions of plants reportable on Schedule D-1, enter the recapture amount taxed as ordinary income on line 23. See Publication 225, *Farmer's Tax Guide*, for more details.

Transfer of Appreciated Property to Political Organizations.—Treat a transfer of property to a political organization as a sale of property on the date of transfer if the property's fair market value when transferred is more than your adjusted basis. Apply the ordinary income or capital gains provisions as if a sale actually occurred. See section 84.

Where to Report Transactions on this Form

Page 1 contains a chart identifying examples of property reportable on this form and the part in which you should first report it.

The chart refers to three parts:

Part I is for reporting sales or exchanges of property used in your trade or business and certain involuntary conversions of property or capital assets used in a trade or business, or held for profit, and kept for more than 1 year. You may have to complete Part III before Part I if you disposed of, at a gain, depreciable property (certain amortizable property, certain oil or gas property, or certain farm property) held for more than one year. If livestock is involved, see section 1231 for a longer holding period.

Part II is for reporting gain or loss on the sale, exchange, or involuntary or compulsory conversion of noncapital assets (trade or business property) not reportable in Part I. Examples are: land held one year or less that does not qualify as a capital asset, and certain depreciable property held one year or less (for livestock see section 1231 for a longer holding period), and gains on certain involuntary conversions of capital assets held one year or less.

Part III is for reporting the sale, exchange, or involuntary or compulsory conversion of certain property subject to amortization or depreciation, certain farm property, oil or gas property, or section 126 property. Do not use Part III unless there is a gain and the property was held for more than one year.

Line-by-Line Instructions

To show losses, enclose figures in (parentheses).

If you disposed of property you acquired by inheritance, enter "INHERITED" in column (b) instead of the date you acquired the property.

Part I

Section 1231 transactions are:

- Sales or exchanges of real or depreciable property used in a trade or business and held for more than 1 year. To figure the holding period, begin counting on the day after you received the property and include the day you disposed of it.
- Cutting of timber that the taxpayer elects to treat as a sale or exchange under section 631(a).
- Disposal of timber with a retained economic interest that is treated as a sale under section 631(b).

- Disposal of coal (including lignite) or iron ore mined in the United States with a retained economic interest that is treated as a sale under section 631(c).
- Sale or exchanges of cattle and horses, regardless of age, used in a trade or business by the taxpayer for draft, breeding, dairy, or sporting purposes and held for 24 months or more from acquisition date.
- Sales or exchanges of livestock other than cattle and horses, regardless of age, used by the taxpayer for draft, breeding, dairy, or sporting purposes and held for 12 months or more from acquisition date.

Note: *Livestock does not include poultry, chickens, turkeys, pigeons, geese, other birds, fish, frogs, reptiles, etc.*

- Sales or exchanges of unharvested crops. See section 1231(b)(4).
- Involuntary conversions of trade or business property or capital assets held more than 1 year in connection with a trade or business or a transaction entered into for profit. These conversions may result from (a) part or total destruction, (b) theft or seizure, or (c) requisition or condemnation (whether threatened or carried out). If any recognized losses were from involuntary conversions from fire, storm, shipwreck, or other casualty, or from theft, and they exceed the recognized gains from the conversions, do not include them when figuring your net section 1231 losses.

Section 1231 transactions **do not** include sales or exchanges of:

- Inventory or property held primarily for sale to customers.
- Copyrights, literary, musical, or artistic compositions, letters or memoranda, or similar property (a) created by your personal efforts, (b) prepared or produced for you (in the case of letters, memoranda, or similar property), or (c) received from someone who created them or for whom they were created, as mentioned in (a) or (b), in a way that entitled you to the basis of the previous owner (such as by gift).
- U.S. Government publications, including the Congressional Record, that you received from the Government, other than by purchase at the normal sales price, or that you got from someone who had received it in a similar way, if your basis is determined by reference to the previous owner's basis.

Line 9.—Nonrecaptured Net Section 1231 Losses—Part or all of your section 1231 gains on line 8 may be taxed as ordinary income instead of receiving long-term capital gain treatment. These net section 1231 gains are treated as ordinary income to the extent of the "nonrecaptured section 1231 losses." The nonrecaptured losses are net section 1231 losses deducted during the 5 preceding taxable years that have not yet been applied against any net section 1231 gain for determining how much of the gain is ordinary income under these rules.

Example. If you had net section 1231 losses of \$4,000 and \$6,000 in 2003 and 2004 and net section 1231 gains of \$3,000 and \$2,000 in 2006 and 2007, line 8 would show the 2007 gain of \$2,000, and line 9 would show nonrecaptured section 1231 losses of \$7,000 (\$10,000 net section 1231 losses minus the \$3,000 that was recaptured because of the 2006 gain). The \$2,000 gain on line 8 is all ordinary income and would be entered on line 13 of Schedule D-1. For recordkeep-

ing purposes, the \$4,000 loss from 2003 is all recaptured (\$3,000 in 2006 and \$1,000 in 2007) and you have \$5,000 left to recapture from 2004 (\$6,000 minus the \$1,000 recaptured this year).

Figuring the prior year losses.—You had a net section 1231 loss if your section 1231 losses exceeded your section 1231 gains. Section 1231 gains are included only to the extent taken into account in computing gross income. Section 1231 losses are included only to the extent taken into account in computing taxable income except that the limitation on capital losses does not apply. Get Publication 544 for more details.

Line 10.—For recordkeeping purposes, if line 10 is zero, the amount on line 8 is the amount of net section 1231 loss recaptured in 2007. If line 10 is more than zero, you have recaptured in 2007 all of your net section 1231 losses from prior years.

Part II

If a transaction is not reportable in Part I or Part III and the property is not a capital asset reportable on an applicable Schedule D, report the transaction in Part II.

If you receive ordinary income from a sale or other disposition of your interest in a partnership, get Publication 541, *Partnerships*.

Line 11.—Report other ordinary gains and losses, including property held one year or less, on this line.

Section 1244 (small business) stock.—Individuals report ordinary losses from the sale or exchange (including worthlessness) of section 1244 (small business) stock on line 11.

The maximum amount that may be treated as an ordinary loss is \$50,000 (\$100,000, if married filing a joint return). Special rules may limit the amount of your ordinary loss if (a) you received section 1244 stock in exchange for property with a basis in excess of its fair market value or (b) your stock basis increased from contributions to capital or otherwise. See Publication 550, *Investment Income and Expenses*, for more details. Report on Schedule D or on the Capital Gain/Loss Worksheet in the Form N-11 Instructions or in the Form N-15 Instructions losses in excess of the maximum amount that may be treated as an ordinary loss (and gains from the sale or exchange of section 1244 stock).

Keep adequate records to distinguish section 1244 stock from other stock owned in the same corporation.

Line 19b(1).—You must complete this line if there is a gain on Schedule D-1, line 3; a loss on Schedule D-1, line 12; **and** a loss on federal Form 4684, line 35, column (b)(ii). Enter on this line the **smaller** of the loss on Schedule D-1, line 12; or the loss on federal Form 4684, line 35, column (b)(ii). To figure which loss is smaller, treat both losses as positive numbers. For Form N-15 filers, enter the part of the loss from income-producing property on Worksheet A-6, line 27, in the Form N-11 Instructions or on Worksheet NR-6, line 32 or 33, or on Worksheet PY-6, line 59 or 60 in the Form N-15 Instructions; and the part of the loss from property used as an employee on Worksheet A-6, line 22, on Worksheet NR-6, line 26 or 27, or on Worksheet PY-6, line 48 or 49. See instructions for Form N-11.

Part III

Part III is used to compute recapture of depreciation and certain other items that must be reported as ordinary income on the disposition of property. Fill out lines 20 through 25 to determine the gain on the disposition of the property. If you

have more than four properties to report, use additional forms. For more details on depreciation recapture, see Publication 544.

Note: If the property was sold on the installment sale basis, see the Instructions for federal Form 6252 before completing this part. Also, if you have both installment sales and non-installment sales, you may want to use separate Schedules D-1, Part III, for the installment sales and for the non-installment sales.

Line 21.—The gross sales price includes money, the fair market value of other property received, and any existing mortgage or other debt the buyer assumes or takes the property subject to. For casualty or theft gains, include insurance or other reimbursement you received or expect to receive for each item. Include on this line your insurance coverage, whether or not you are submitting a claim for reimbursement.

For section 1255 property disposed of in a sale, exchange, or involuntary conversion, enter the amount realized. For section 1255 property disposed of in any other way, enter the fair market value.

Line 22.—Do not reduce the cost or other basis on this line by any of the following amounts:

- Deductions allowed or allowable for depreciation, amortization, depletion, or preproductive expenses; or
- The section 179 expense deduction.

Instead, include these amounts on line 23. They will be used to determine the property's adjusted basis on line 24.

Line 23.—This line should show all adjustments for deductions (whether for the same or other property) allowed or allowable to you or any other person for depreciation or amortization. If you are not a partnership or an S corporation, use the following computation to determine the amount to enter on line 23:

- **Add** deductions allowed or allowable for depreciation, amortization, depletion, or preproductive expenses.
- **Add** the section 179 expense deduction.
- **Add** the commercial revitalization deduction.
- **Add** the deduction for qualified clean-fuel vehicle property or refueling property placed in service before January 1, 2006.
- **Add** the deduction for energy efficient commercial building property placed in service after December 31, 2005.
- **Subtract** any section 179 or 280F(b)(2) recapture amount included in gross income in a prior tax year because the business use of the property dropped to 50% or less.
- **Subtract** any qualified clean-fuel vehicle property or refueling property deduction you were required to recapture because the property ceased to be eligible for the deduction.

You may have to include depreciation allowed or allowable on another asset (and recompute the basis amount for line 22) if you use its adjusted basis in determining the adjusted basis of the property described on line 20. An example is property acquired by a trade-in. See Regulations section 1.1245-2(a)(4).

Partnerships should enter the deductions allowed or allowable for depreciation, amortization, or depletion on line 23. Enter the section 179 expense deduction on Form N-20, Schedule K, line 31.

S corporations should enter the deductions allowed or allowable for depreciation, amortization, or depletion on line 23. Enter the section 179 expense deduction on Form N-35, Schedule K, line 17 but only if you are disposing of property acquired in tax years beginning after 1982.

Line 24.—For section 1255 property, enter the adjusted basis of the section 126 property disposed of.

Line 26.—Section 1245 Property

Section 1245 property is depreciable (or amortizable under section 185 (repealed), 197, or 1253(d)(2) or (3) (as in effect before the enactment of Public Law 103-66)) and is one of the following:

- Personal property.
- Elevators and escalators placed into service before 1-1-87.
- Real property (other than property described under tangible real property below) subject to amortization or deductions under section 169, 179, 179A, 179C, 179D, 185 (repealed), 188 (repealed), 190, 193, or 194.
- Tangible real property (except buildings and their structural components) if it is used in any of the following ways:
 - (1) As an integral part of manufacturing, production, extraction, or furnishing transportation, communications, or certain other public utility services.
 - (2) As a research facility in these activities.
 - (3) For the bulk storage of fungible commodities (including commodities in a liquid or gaseous state) used in these activities.

- A single purpose agricultural or horticultural structure (as defined in section 168(l)(13)).
- A storage facility (not including a building or its structural components) used in connection with the distribution of petroleum or any primary product of petroleum.
- Any railroad grading or tunnel bore (as defined in section 168(e)(4)).

See section 1245(b) for exceptions and limits involving:

- Gifts.
- Transfers at death.
- Certain tax-free transactions.
- Certain like-kind exchanges, involuntary conversions, etc.
- Exchanges to comply with SEC orders.
- Property distributed by a partnership to a partner.
- Transfers to tax-exempt organizations where the property will be used in an unrelated business.
- Timber property.

See the following sections for special rules:

- Section 1245 (a)(4) (repealed) for player contracts and section 1056(c) (repealed) for information required from the transferor of a franchise of any sports enterprise, for sales or exchanges before October 23, 2004, involving the transfer of player contracts.
- Section 1245(a)(5) (repealed) for property placed in service before 1987, when only a portion of a building is section 1245 recovery property.

- Section 1245(a)(6) (repealed) for qualified leased property placed in service by 1987.
- Section 1245(b)(9) for dispositions of amortizable section 197 intangibles.

Line 27.—Section 1250 Property

Section 1250 property is depreciable real property (other than section 1245 property). Section 1250 recapture applies to certain recovery property and to depreciable nonrecovery real property when an accelerated depreciation method was used or you claimed the commercial revitalization deduction.

The section 1250 recapture rules **do not** apply to dispositions of 27.5-year (or 40-year, if elected) residential rental property or 22-year, 31.5-year, or 39-year (or 40-year, if elected) nonresidential real property, placed in service after 12-31-86 (or after 7-31-86, if the election is made).

Real property depreciable under ACRS (pre-1987 rules) is subject to recapture under section 1245, except for the following, which are treated as section 1250 property:

- 15-year, 18-year, or 19-year real property and low-income housing which is residential rental property.
- 15-year, 18-year, or 19-year real property and low-income housing which is used mostly outside the United States.
- 15-year, 18-year, or 19-year real property and low-income housing for which a straight line election was made.
- Low-income rental housing described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B). See instructions for line 27b.

See section 1250(d) for exceptions and limits involving:

- Gifts.
- Transfers at death.
- Certain tax-free transactions.
- Certain like-kind exchanges, involuntary conversions, etc.
- Exchanges to comply with SEC orders.
- Property distributed by a partnership to a partner.
- Disposition of qualified low-income housing.
- Transfers of property to tax-exempt organizations where the property will be used in an unrelated business.
- Disposition of property as a result of foreclosure proceedings.

Special rules:

- For additional depreciation attributable to rehabilitation expenditures, see section 1250(b)(4).
- If substantial improvements have been made, see section 1250(f).

Lines 27a, 27d, and 27g.—For property held for more than one year, additional depreciation is the excess of actual depreciation attributable to periods after December 31, 1964, over depreciation computed for the same period using the straight line method. Enter on line 27a the additional depreciation for the period after December 31, 1976, on line 27d the additional depreciation for the period after December 31, 1974, and before January 1, 1977, and on line 27g the additional depreciation for the period after December 31, 1964, and before January 1, 1975.

If the depreciation figured using the straight line method is more than the actual depreciation taken for any period, the additional depreciation for the next prior period should be reduced, but not below zero, by that amount.

Line 27b.—Use 100% as the percentage for this line, except for low-income rental housing described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B). For this type of low-income rental housing, see section 1250(a)(1)(B) for the percentage to use.

Line 27e.—Use 100% as the percentage for this line, except for residential rental property (and property disposed of under a written contract binding at all times since July 24, 1969). For this type of property, see section 1250(a)(2)(B) for the percentage to use.

Line 27h.—The applicable percentage is 100% minus 1% for each full month the property was held for more than 20 full months.

Line 28.—Section 1252 Property

Partnerships should skip this section. Partners should enter on the applicable lines of Part III amounts subject to section 1252 according to instructions from the partnership.

You may have ordinary income on the disposition of certain farmland held more than 1 year but less than 10 years.

Refer to section 1252 to determine if there is ordinary income on the disposition of certain farmland for which deductions were allowed for expenditures made after December 31, 1976, under sections 175 (soil and water conservation) and 182 (land clearing) (repealed). Skip line 28 if you dispose of such farmland within the 10th or later year after you acquire it.

Gain from disposition of certain farmland is subject to ordinary income rules under section 1252 before being considered under section 1231 (Part I).

Line 28b.—Enter 100% of line 28a on line 28b except as follows:

- 80% if the farmland was disposed of within the sixth year after acquisition;
- 60% if disposed of within the seventh year;
- 40% if disposed of within the eighth year;
- 20% if disposed of within the ninth year; or
- zero, if disposed of within the tenth or later year.

Line 29.—Section 1254 Property

If you dispose of oil, gas, or geothermal property placed in service before 1987 at a gain, treat

all or part of the gain as ordinary income. Include on line 23 any depletion allowed (or allowable) in determining the adjusted basis of the property.

If you dispose of oil, gas, geothermal, or other mineral properties (section 1254 property) placed in service after 1986 at a gain, you must recapture all expenses that were deducted as intangible drilling costs, depletion, mine exploration costs, and development costs, under sections 263, 616, and 617.

Exception: Property placed in service after 1986 and acquired under a written contract entered into before 9-26-85, and binding at all times thereafter is treated as placed in service before 1987.

Line 29a.—If the property was placed in service before 1987, enter the total amount of expenses after 1976 that:

- Were deducted by the taxpayer or any other person as intangible drilling and development costs under section 263(c). (Previously expensed mining costs, that have been included in income upon reaching the producing state, are not taken into account in determining recapture under section 1254.); and
- Would have been reflected in the adjusted basis of the property if they had not been deducted.

If the property was placed in service after 1986, enter the total amount of expenses that:

- Were deducted under section 263, 616, or 617 by the taxpayer or any other person; and
- Which, but for such deduction would have been included in the basis of the property; plus
- The deduction under section 611 that reduced the adjusted basis of such property.

If you disposed of a portion of section 1254 property or an undivided interest in it, see section 1254(a)(2).

Line 30.—Section 1255 Property

Line 30a.—Use 100% if the property is disposed of less than 10 years after receipt of payments excluded from income. Use 100% minus 10% for each year, or part of a year, that the property was held over 10 years after receipt of the excluded payments. Use zero if 20 years or more.

Part IV

Section 179 Property.—Column (a)—If you took a deduction under section 179 for property placed in service after 1986 (other than listed property, as defined in section 280F(d)(4)), and the business use of the property was reduced to 50% or less this year, complete column (a) of lines

34 through 36 to figure the amount to be recaptured.

For property placed in service after 1986 the recapture must be made if the property is not used predominantly in your trade or business at any time.

Listed Property.—Column (b)—If you have listed property that you placed in service in a prior year and the business use percentage dropped to 50% or less this year, figure the amount to be recaptured under section 280F(b)(2). Complete column (b), lines 34 through 36. See Publication 463, Travel, Entertainment, Gift, and Car Expenses, for more details on recapture of excess depreciation.

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

Line 34.—Column (a)—Enter the section 179 expense deduction claimed when the property was placed in service.

Column (b)—Enter the depreciation allowable on the property in prior tax years. Include any section 179 expense deduction you took as depreciation.

Line 35.—Column (a)—Enter the depreciation deductions that would have been allowable on the section 179 amount from the year it was placed in service through the current year. See Publication 946, How To Depreciate Property, for more details.

Column (b)—Enter the depreciation that would have been allowable if the property had not been used more than 50% in a qualified business. Figure the depreciation from the year it was placed in service until the current year. See Publication 463 and Publication 946 for more details.

Line 36.—Subtract line 35 from line 34 and enter the recapture amount as “other income” on the same form or schedule on which you took the deduction. For example, if you took the deduction on federal Schedule C (Form 1040), report the recapture amount as other income on federal Schedule C (Form 1040). See instructions for Form N-11.

Be sure to increase the basis of the property by the recapture amount.