Instructions for Form 1041-N

Department of the Treasury
Internal Revenue Service

(Rev. January 2005)

U.S. Income Tax Return for Electing Alaska Native Settlement Trusts

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

What's New

This revision reflects the changes necessary to implement the Jobs and Growth Tax Relief Reconciliation Act of 2003. Use this revision for tax years beginning after 2003. The changes are all on Schedule D and are as follows:

- We deleted column (g) in Part I and II,
- We deleted 7 lines from Part IV, and
- We removed the lines for the 8% maximum capital gains tax on qualified 5-year gain, which has been repealed for sales and other dispositions after May 5, 2003 (and installment payments received after that date).

Purpose of Form

An Alaska Native Settlement Trust (ANST) may elect under section 646 to have the special income tax treatment of that section apply to the trust and its beneficiaries. This one-time election is made by filing Form 1041-N and the form is used by the ANST to report its income, deductions, gains, losses, etc., and to compute and pay any income tax. Form 1041-N is also used for the special information reporting requirements that apply to ANSTs.

Definitions

An Alaska Native Settlement Trust is a settlement trust within the meaning of section 3(t) of the Alaska Native Claims Settlement Act (ANCSA).

An Alaska Native Corporation (ANC) has the same meaning as the term ''Native Corporation'' has under section 3(m) of the ANCSA.

A sponsoring Alaska Native Corporation means the ANC that transfers assets to an electing Settlement Trust.

A trustee is a fiduciary of the trust. Any reference in these instructions to "you" means the trustee of the trust.

Tax Treatment of an Electing ANST

Taxable Income

In general, an electing ANST's taxable income is computed in the same manner as a trust that is taxable under Subchapter J (which generally is computed in the same manner as an individual). However, the electing ANST is not allowed to take an income distribution deduction. It can claim an exemption deduction, the amount of which depends on the terms of the trust.

See the Schedule K instructions for information on the beneficiaries' tax treatment of distributions received from the ANST.

Tax

An electing ANST pays tax on its taxable income, other than its net capital gain, at the lowest rate specified for single individuals (10%). Net capital gain (and qualified dividends) is taxed at the capital gains rate that applies to a taxpayer subject to the lowest taxable income rate for a single individual (5%).

Disqualifying Acts

If, at any time, a beneficial interest in an ANST may be disposed of to a person in a manner that is not permitted by section 7(h) of ANCSA (if the interest were settlement common stock), then:

- The ANST may not elect the special tax treatment under section 646 for itself and its beneficiaries, and
- If the election is in effect at that time:

1. The election will not apply as of the first day of the tax year in which a disposition is first allowed,
2. The tax treatment allowed on this form (section 646) will not apply to the trust for that tax year and all subsequent tax years, and
3. The distributable net income of the trust will be increased by the current or accumulated earnings and profits of the sponsoring ANC as of the close of the tax year after adjustment is made for all distributions made by the sponsoring ANC during the tax year. However, this increase is limited to the fair market value of the trust's assets as of the date the beneficial interest of the trust first becomes disposable.

If stock in the sponsoring ANC may be disposed of to a person in a manner that is not allowed by section 7(h) of ANCSA (if the stock were settlement common stock) and at any time after such disposition of stock is first allowed, the corporation transfers assets to an ANST, then items 1, 2, and 3 above will apply to the ANST in the same manner as if the ANST allowed dispositions of beneficial interests in the ANST in a manner not allowed by section 7(h) of ANCSA.

The surrender of an interest in an ANC or an ANST by the beneficiary or stockholder for a whole or partial redemption or for the whole or partial liquidation of the trust or corporation will be considered a transfer allowed by section 7(h) of the ANCSA.

Information Reporting Requirements

Electing ANSTs must complete Schedule K and file it with Form 1041-N. The ANST must also provide a copy of Schedule K to the sponsoring ANC by the date Form 1041-N is required to be filed with the IRS. The ANST is not required to provide information to the beneficiaries on distributions made to them. The sponsoring ANC will provide the beneficiaries with any required information.

Who Must File

The trustee of any electing ANST having any taxable income, or having gross income of at least $600 for the tax year, must file Form 1041-N for that year.

Making the Election

CAUTION *The trustee of an ANST must make this election by the due date (including extensions) for filing the ANST's tax return for its first tax year.*

The trustee makes the election for the ANST by signing Form 1041-N in *the signature block on page 1. The return must be filed by its due date (including extensions) for filing the ANST's tax return for its first tax year. Once the election is made, it applies to all subsequent years and may not be revoked.*

When To File

ANSTs file Form 1041-N by the 15th day of the 4th month following the close of the tax year. If the due date falls on a Saturday, Sunday, or a legal holiday, file on the next business day.

Private Delivery Services

You can use certain private delivery services designated by the IRS to meet the ''timely mailing as timely filing/ paying'' rule for tax returns and payments. These private delivery services include only the following.

- DHL Express (DHL): DHL Same Day Service, DHL Next Day 10:30 am, DHL Next Day 12:00 pm, DHL Next Day 3:00 pm, and DHL 2nd Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

Any changes to this list will be published in the Internal Revenue Bulletin.

Extension of Time To File

Use Form 8736, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts, to request an automatic 3-month extension of time to file.

If more time is needed, file Form 8800, Application for Additional Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts, for an additional extension of up to 3 months. To obtain this additional extension of time to file, you must show reasonable cause for the additional time you are requesting. Form 8800 must be filed by the extended due date for Form 1041-N.

An extension of time to file does not extend the time to pay the tax.

Where To File

File Form 1041-N with the Internal Revenue Service Center, Ogden, UT 84201.

Who Must Sign

The trustee or an authorized representative must sign Form 1041-N.

Paid Preparer

Generally, anyone who is paid to prepare a tax return must sign the return and fill in the other blanks in the Paid Preparer's Use Only area of the return. The person required to sign the return must complete the required preparer information and:

- Sign it in the space provided for the preparer's signature, and
- Give you a copy of the return in addition to the copy to be filed with the IRS.

Paid Preparer Authorization

If the trustee wants to allow the IRS to discuss the ANST's tax return with the paid preparer who signed it, check the "Yes" box in the signature area of the return. This authorization applies only to the individual whose signature appears in the "Paid Preparer's Use Only" section of the ANST's return. It does not apply to the firm, if any, shown in that section.

If the "Yes" box is checked, the trustee is authorizing the IRS to call the paid preparer to answer any questions that may arise during the processing of the ANST's return. The trustee is also authorizing the paid preparer to:

- Give the IRS any information that is missing from the ANST's return,
- Call the IRS for information about the processing of the ANST's return or the status of its refund or payment(s), and
- Respond to certain IRS notices that the trustee has shared with the preparer about math errors, offsets, and return preparation. The notices will not be sent to the preparer.

The trustee is not authorizing the paid preparer to receive any refund check, bind the ANST to anything (including any additional tax liability), or otherwise represent the ANST before the IRS. If the trustee wants to expand the paid preparer's authorization, see Pub. 947, Practice Before the IRS and Power of Attorney.

The authorization cannot be revoked. However, the authorization will automatically end no later than the due date (without regard to extensions) for filing the ANST's next tax return.

Accounting Methods

Figure taxable income using the method of accounting regularly used in keeping the ANST's books and records. Generally, permissible methods include the cash method, the accrual method, or any other method authorized by the Internal Revenue Code. In all cases, the method used must clearly reflect income.

Generally, the ANST may change its accounting method (for income as a whole or for any material item) only by getting consent on Form 3115, Application for Change in Accounting Method. For more information, see Pub. 538, Accounting Periods and Methods.

Accounting Periods

All electing ANSTs must adopt a calendar year.

Rounding Off to Whole Dollars

You may round off cents to whole dollars on the ANST's return and schedules. If you do round to whole dollars, you must round all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, $1.39 becomes $1 and $2.50 becomes $3.

If you have to add two or more amounts to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Estimated Tax

Generally, an ANST must pay estimated income tax if it expects to owe, after subtracting withholding and credits, at least $1,000 in tax. For details and exceptions, see Form 1041-ES, Estimated Income Tax for Estates and Trusts.

Interest and Penalties

Interest

Interest is charged on taxes not paid by the due date, even if an extension of time to file is granted. Interest is also charged on the failure-to-file penalty, the accuracy-related penalty, and the fraud penalty. The interest charge is figured at a rate determined under section 6621.

Late Filing of Return

The law provides a penalty of 5% of the tax due for each month, or part of a month, the return is not filed up to a maximum of 25% of the tax due. If the return is more than 60 days late, the minimum penalty is the smaller of $100 or the tax due. The penalty will not be imposed if you can show that the failure to file on time is due to reasonable cause. If the failure is due to reasonable cause, attach an explanation to the return.

Late Payment of Tax

Generally, the penalty for not paying the tax when due is 1/2 of 1% of the unpaid amount for each month or part of a month it remains unpaid. The maximum penalty is 25% of the unpaid amount. The penalty is imposed on the net amount due. Any penalty is in addition to interest charges on late payments.

CAUTION *If you include interest or either of these penalties with your payment, identify and enter these amounts in the bottom margin of Form 1041-N. Do not include the interest or penalty amount in the balance of tax due on line 18.*

Underpaid Estimated Tax

If the trustee underpaid estimated tax, use Form 2210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, to figure any penalty. Enter the amount of any penalty in the bottom margin of Form 1041-N. Do not include it in the balance of tax due on line 18.

Other Penalties

Other penalties can be imposed for negligence, substantial understatement of tax, and fraud. See Pub. 17, Your Federal Income Tax, for details on these penalties.

Specific Instructions

Part I — General Information

Enter the year (or period) for which you are filing for the electing ANST.

Line 1—Name of Trust

Copy the exact name from the Form SS-4 used to apply for the employer identification number you are using to file Form 1041-N.

Line 3a—Name and Title of Trustee

Enter the name and title (if any) of the trustee. If a fiduciary relationship was created or terminated, be sure to file Form 56, Notice Concerning Fiduciary Relationship.

If a fiduciary relationship was not created or terminated but the fiduciary had a change in name or another fiduciary's name was entered, be sure to check the "Change in fiduciary's name" box on line 6.

Line 3b—Address

Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and you have a P.O. box, show the box number instead of the street address.

If you change your address after filing Form 1041-N, use Form 8822, Change of Address, to notify the IRS.

If a different address from the prior year was entered and Form 8822 was not filed, be sure to check the box on line 6 for "Change in fiduciary's address."

Line 6

Be sure to check all the boxes that apply. Also, see the line 3a and 3b instructions above for information regarding a change in the fiduciary's name and for information on changes to the fiduciary's address.

Part II — Tax Computation

Income

Line 2a—Total Ordinary Dividends

Report the total of all ordinary dividends received during the tax year.

Line 2b—Qualified Dividends

Enter the ANST's total qualified dividends on line 2b and use Part IV of Schedule D to figure the ANST's tax. Qualified dividends are eligible for a lower tax rate than other ordinary income. Generally, these dividends are shown in box 1b of Form(s) 1099-DIV. See Pub. 550 for the definition of qualified dividends if you received dividends not reported on Form 1099-DIV.

Exception. Some dividends may be reported as qualified dividends in box 1b of Form 1099-DIV but are not qualified dividends. These include:

- Dividends received on any share of stock that the ANST held for less than 61 days during the 121-day period that began 60 days before the ex-dividend date. The ex-dividend date is the first date following the declaration of a dividend on which the purchaser of a stock is not entitled to receive the next dividend payment. When counting the number of days the ANST held the stock, include the day you disposed of the stock but not the day you acquired it.
- Dividends attributable to periods totaling more than 366 days that the ANST received on any share of preferred stock held for less than 91 days during the 181-day period that began 90 days before the ex-dividend date. Preferred dividends attributable to periods totaling less than 367 days are subject to the 61-day holding period rule above.
- Dividends on any share of stock to the extent that the ANST under an obligation (including a short sale) to make related payments with respect to positions in substantially similar or related property.
- Payments in lieu of dividends, but only if you know or have reason to know that the payments are not qualified dividends.

Line 3—Capital Gain or (Loss)

Enter the gain from Schedule D, line 11; or the loss from Schedule D, line 12.

Note: Report capital gain distributions on Schedule D (Form 1041-N), line 7.

Line 4—Other Income

List the type and amount of income not included on lines 1a through 3. List the type and amount on an attached schedule if the ANST has more than one item.

Deductions

Allocation of Deductions for Tax-Exempt Income

Generally, no deduction that would otherwise be allowable is allowed for any expense that is allocable to tax-exempt income, such as interest on state or local bonds.

Exception. State income taxes and business expenses that are allocable to tax-exempt interest are deductible.

Expenses that are directly allocable to tax-exempt income are allocable only to tax-exempt income. A reasonable proportion of expenses indirectly allocable to both tax-exempt income and other income must be allocated to each class of income.

Limitations on Deductions

Generally, the amount an ANST has ''at risk'' limits the loss it can deduct in any tax year. Also, section 469 and its regulations generally limit losses from passive activities to the amount of income derived from all passive activities. Similarly, credits from passive activities are generally limited to the tax attributable to such activities.

For details on these and other limitations on deductions, see *Deductions* in the Instructions for Form 1041.

Line 9—Other Deductions Not Subject to the 2% Floor

Attach a schedule listing by type and amount all allowable deductions that are not deductible elsewhere on the form. No deduction is allowed for distributions to beneficiaries.

Line 10—Allowable Miscellaneous Itemized Deductions Subject to the 2% Floor

These are deductible only to the extent that the aggregate amount of such deductions exceeds 2% of adjusted gross income (AGI).

Among the miscellaneous itemized deductions that must be included on line 10 are expenses for the production or collection of income, such as investment advisory fees.

AGI is figured by subtracting from total income on line 5 the total of the administration costs on lines 7 through 9 (to the extent they are costs incurred in the administration of the ANST that would not have been incurred if the property were not held by the ANST) and line 11.

Line 11—Exemption

A trust whose governing instrument requires all income to be distributed currently is allowed a $300 exemption, even if it distributed amounts other than income during the tax year. All other trusts are allowed a $100 exemption.

Tax and Payments

Line 14—Tax

If the ANST does not have a net capital gain or qualified dividends and has an amount greater than zero on line 13, check the first box on line 14, multiply the amount on line 13 by 10%, and enter the result on line 14.

Schedule D. If the ANST had net capital gain (or qualified dividends) and any taxable income, complete Part IV of Schedule D (Form 1041-N), enter the tax from line 30 of Schedule D on line 14, and check the "Schedule D" box.

Line 15—Credits

Specify the type of credit being claimed or form number and attach any required credit forms. If you are claiming more than one type of credit, attach a schedule listing the type and amount of each credit claimed. See the Instructions for Form 1041 for details on the credits that may be claimed.

Line 16—Net Tax

If the ANST owes any additional taxes (e.g., recapture taxes, etc.), include these taxes on line 16. To the left of the entry space, write the type and amount of the tax. Also attach to Form 1041-N any forms required to figure these taxes. See the Instructions for Form 1041 for more details on additional taxes that may apply.

Line 17—Payments

Include on line 17 any:

- Estimated tax payments made for the tax year,
- Tax paid with a request for an extension of time to file,
- Federal income tax withheld (e.g., backup withholding), and
- Credit for tax paid on undistributed capital gains. Also attach copy B of Form 2439, Notice to Shareholder of Undistributed Long-Term Capital Gains.

Line 18—Tax Due

You must pay the tax in full when the return is filed to avoid interest charges and possible penalties. Make the check or money order payable to "United States Treasury." Write the EIN, the tax year, and Form 1041-N on the payment. Enclose, but do not attach, the payment with Form 1041-N.

Part III — Other Information

Question 1

If you answered "Yes" to this question, attach a schedule with the following information for each asset received from the sponsoring ANC:

- A description of the asset,
- The date the asset was distributed to the ANST, and
- The asset's fair market value on that date.

Question 2

The ANST may be required to file Form 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, if:

- It directly or indirectly transferred property or money to a foreign trust. For this purpose, any U.S. person who created a foreign trust is considered a transferor.
- It is treated as the owner of any part of the assets of a foreign trust under the grantor trust rules.
- It received a distribution from a foreign trust.

Note: An owner of a foreign trust must ensure that the trust files an annual information return on Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner.

Question 3

Check the "Yes" box and enter the name of the foreign country if either 1 or 2 below applies.

1. At any time during the year the ANST had an interest in or signature or other authority over a bank, securities, or other financial account in a foreign country.

Exception. Check "No" if either of the following applies to the ANST:

- The combined value of the accounts was $10,000 or less during the whole year, or
- The accounts were with a U.S. military banking facility operated by a U.S. financial institution.

2. The ANST owns more than 50% of the stock in any corporation that owns one or more foreign bank accounts.

Get Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts, to see if the ANST is considered to have an interest in or signature or other authority over a bank, securities, or other financial account in a foreign country.

If you checked "Yes" for Question 3, file Form TD F 90-22.1 by June 30 of the year following the ANST's tax year with the Department of the Treasury at the address shown on the form.

Form TD F 90-22.1 is not a tax return, so do not file it with Form 1041-N. You may order Form TD F 90-22.1 by calling 1-800-829-3676 (1-800-TAX-FORM).

Question 4

To make the section 643(e)(3) election to recognize gain on property distributed in kind, check the box and see *Section 643(e)(3) Election* on page 5.

Schedule D—Capital Gains and Losses

General Instructions

Purpose of Schedule

Use Schedule D to report gains and losses from the sale or exchange of capital assets by an ANST.

To report the sale or exchange of property used in a trade or business, involuntary conversions (other than casualties and thefts), and certain ordinary gains and losses, see Form 4797 and related instructions.

If property is involuntarily converted because of a casualty or theft, use Form 4684.

Section 1256 contracts and straddles are reported on Form 6781, Gains and Losses From Section 1256 Contracts and Straddles.

Capital Asset

Each item of property held by the ANST is a capital asset except:

- Inventoriable assets or property held primarily for sale to customers;
- Depreciable or real property used in a trade or business, even if it is fully depreciated;
- Certain copyrights, literary, musical, or artistic compositions, letters or memoranda, or similar property;
- Accounts or notes receivable acquired in the ordinary course of a trade or business for services rendered or from the sale of inventoriable assets or property held primarily for sale to customers;
- Certain U.S. Government publications not purchased at the public sale price;
- Certain ‘‘commodities derivative financial instruments’’ held by a dealer (see section 1221(a)(6));
- Certain hedging transactions entered into in the normal course of the ANST's trade or business (see section 1221(a)(7)); and
- Supplies regularly used in the ANST's trade or business.

You may find additional helpful information in the following publications: Pub. 544, Sales and Other Dispositions of Assets, and Pub. 551, Basis of Assets.

Short-Term or Long-Term

Separate the capital gains and losses according to how long the ANST held or owned the property. The holding period for short-term capital gains and losses is 1 year or less. The holding period for long-term gains and losses is more than 1 year.

When you figure the length of the period the ANST held property, begin counting on the day after the ANST acquired the property and include the day the ANST disposed of it. Use the trade dates for the date of acquisition and sale of stocks and bonds traded on an exchange or over-the-counter market.

Section 643(e)(3) Election

For noncash property distributions, a fiduciary may elect to have the ANST recognize gain or loss in the same manner as if the distributed property had been sold to the beneficiary at its fair market value. If the election is made, the beneficiary's basis of such property is its fair market value. This election applies to all distributions made by the ANST during the tax year and, once made, may be revoked only with IRS consent.

Note that section 267 does not allow an ANST to claim a deduction for any loss on property to which a section 643(e)(3) election applies. In addition, when an ANST distributes depreciable property, section 1239 applies to deny capital gains treatment for any gain on property to which a section 643(e)(3) election applies.

Specific Instructions

Column (d)—Sales Price

Enter either the gross sales price or the net sales price from the sale. On sales of stocks and bonds, report the gross amount as reported to the ANST on Form 1099-B or similar statement. However, if the ANST was advised that gross proceeds less commissions and option premiums were reported to the IRS, enter that net amount in column (d).

Column (e)—Cost or Other Basis

Generally, the basis of property acquired by gift is the same as the basis in the hands of the donor. If the fair market value of the property at the time it was transferred to the trust is less than the transferor's basis, then the fair market value is used for determining any loss on disposition.

If the property was transferred to the ANST and a gift tax was paid under Chapter 12, then increase the donor's basis as follows: Multiply the amount of the gift tax paid by a fraction, the numerator of which is the net appreciation in value of the gift (defined below), and the denominator of which is the amount of the gift. For this purpose, the net appreciation in value of the gift is the amount by which the fair market value of the gift exceeds the donor's adjusted basis.

Adjustments to basis. Before figuring any gain or loss on the sale, exchange, or other disposition of property owned by the ANST, adjustments to the

Capital Loss Carryover Worksheet

Keep for Your Records

Use this worksheet to figure the ANST's capital loss carryovers from the current tax year to the following tax year if Schedule D, line 12, is a loss and **(a)** the loss on Schedule D, line 11, is more than $3,000, or **(b)** Form 1041-N, page 1, line 13 is a loss.

1. Enter taxable income (or loss) from Form 1041-N, line 13 . . . **1.** ______
2. Enter loss from line 12 of Schedule D as a positive amount . . . **2.** ______
3. Enter amount from Form 1041-N, line 11 . . . **3.** ______
4. Adjusted taxable income. Combine lines 1, 2, and 3. If zero or less, enter -0- . . . **4.** ______
5. Enter the **smaller** of line 2 or line 4 . . . **5.** ______

Note: *If line 4 of Schedule D is a loss, go to line 6; otherwise, enter -0- on line 6 and go to line 10.*

6. Enter loss from Schedule D, line 4, as a positive amount . . . **6.** ______
7. Enter gain, if any, from Schedule D, line 10. If that line is blank or shows a loss, enter -0- **7.** ______
8. Add lines 5 and 7 . . . **8.** ______
9. **Short-term capital loss carryover.** Subtract line 8 from line 6. If zero or less, enter -0-. Enter this loss on the short-term capital loss carryover line of **next year's** Schedule D . . . **9.** ______

Note: *If line 10 of Schedule D is a loss, go to line 10; otherwise, skip lines 10 through 14.*

10. Enter loss from Schedule D, line 10, as a positive amount . . . **10.** ______
11. Enter gain, if any, from Schedule D, line 4. If that line is blank or shows a loss, enter -0- **11.** ______
12. Subtract line 6 from line 5. If zero or less, enter -0- . . . **12.** ______
13. Add lines 11 and 12 . . . **13.** ______
14. **Long-term capital loss carryover.** Subtract line 13 from line 10. If zero or less, enter -0-. Enter this loss on the long-term capital loss carryover line of **next year's** Schedule D . . . **14.** ______

Unrecaptured Section 1250 Gain Worksheet

Keep for Your Records

If the ANST is not reporting a gain on Form 4797, line 7 (for 2004, or the comparable line for the current tax year), skip lines 1 through 9 and go to line 10.

1.	If the ANST has a section 1250 property in Part III of Form 4797 for which you made an entry in Part I of Form 4797 (but not on Form 6252), enter the **smaller** of line 22 or line 24 of Form 4797 (for 2004, or the comparable line for the current tax year) for that property. If the ANST did not have any such property, go to line 4. If it had more than one such property, see instructions		**1.**
2.	Enter the amount from Form 4797, line 26g (for 2004, or the comparable line for the current tax year), for the property for which you made an entry on line 1		**2.**
3.	Subtract line 2 from line 1		**3.**
4.	Enter the total unrecaptured section 1250 gain included on line 26 or line 37 of Form(s) 6252 (for 2004, or the comparable line for the current tax year), from installment sales of trade or business property held more than 1 year (see instructions)		**4.**
5.	Enter the total of any amounts reported to the ANST on a Schedule K-1 from a partnership or an S corporation as “unrecaptured section 1250 gain”		**5.**
6.	Add lines 3 through 5		**6.**
7.	Enter the **smaller** of line 6 or the gain from Form 4797, line 7 (for 2004, or the comparable line for the current tax year)	**7.**	
8.	Enter the amount, if any, from Form 4797, line 8 (for 2004, or the comparable line for the current tax year)	**8.**	
9.	Subtract line 8 from line 7. If zero or less, enter -0-		**9.**
10.	Enter the amount of any gain from the sale or exchange of an interest in a partnership attributable to unrecaptured section 1250 gain (see instructions)		**10.**
11.	Enter the total of any amounts reported to the ANST on a Schedule K-1, Form 1099-DIV, or Form 2439 as ‘‘unrecaptured section 1250 gain’’ from an estate, trust, real estate investment trust, or mutual fund (or other regulated investment company)		**11.**
12.	Enter the total of any unrecaptured section 1250 gain from sales (including installment sales) or other dispositions of section 1250 property held more than 1 year for which you did not make an entry in Part I of Form 4797 for the year of sale (see instructions)		**12.**
13.	Add lines 9 through 12		**13.**
14.	If the ANST had any section 1202 gain or collectibles gain or (loss), enter the total of lines 1 through 4 of the 28% Rate Gain Worksheet on page 8. Otherwise, enter -0-	**14.**	
15.	Enter the (loss), if any, from Schedule D, line 4. If Schedule D, line 4, is zero or a gain, enter -0-	**15.**	
16.	Enter the ANST’s long-term capital loss carryover from Schedule D, line 9		**16.** ( )
17.	Combine lines 14 through 16. If the result is zero or a gain, enter -0-. If the result is a (loss), enter it as a positive amount		**17.**
18.	Unrecaptured section 1250 gain. Subtract line 17 from line 13. If zero or less, enter -0-. Combine this result with the result on line 7 of the 28% Rate Gain Worksheet, if any, and enter that result on Schedule D, line 23		**18.**

property’s basis may be required. See Pub. 551 for additional information.

Column (f)—Gain or (Loss)

Make a separate entry in this column for each transaction reported on lines 1 and 5 and any other lines that apply to the ANST. For lines 1 and 5, subtract the amount in column (e) from the amount in column (d). Enter negative amounts in parentheses.

Line 23

Add line 18 from the Unrecaptured Section 1250 Gain Worksheet and line 7 from the 28% Rate Gain Worksheet.

Unrecaptured Section 1250 Gain

Complete the Unrecaptured Section 1250 Gain Worksheet on this page if any of the following apply.

- During the tax year, the ANST sold or otherwise disposed of section 1250 property (generally, real property that was depreciated) held more than 1 year.
- The ANST received installment payments during the tax year for section 1250 property held more than 1 year for which it is reporting gain on the installment method.
- The ANST received a Schedule K-1 from an estate or trust, partnership, or S corporation that shows ‘‘unrecaptured section 1250 gain’’ reportable for the tax year.
- The ANST received a Form 1099-DIV or Form 2439 from a real estate investment trust or regulated investment company (including a mutual fund) that reports ‘‘unrecaptured section 1250 gain’’ for the tax year.
- The ANST reported a long-term capital gain from the sale or exchange of an interest in a partnership that owned section 1250 property.

Instructions for the Unrecaptured Section 1250 Gain Worksheet

Lines 1 through 3. If the ANST had more than one property described on line 1, complete lines 1 through 3 for each property on a separate worksheet. Enter the total of the line 3 amounts for all properties on line 3 and go to line 4.

Line 4. To figure the amount to enter on line 4, follow the steps below for each installment sale of trade or business property held more than 1 year.

Step 1. Figure the smaller of (a) the depreciation allowed or allowable or (b) the total gain for the sale. This is the smaller of line 22 or line 24 of the 2004 Form 4797 (or the comparable lines of Form 4797 for the year of sale) for that property.

Step 2. Reduce the amount figured in step 1 by any section 1250 ordinary income recapture for the sale. This is the amount from line 26g of the 2004 Form 4797 (or the comparable line of Form 4797 for the year of sale) for that property. The result is the total unrecaptured section 1250 gain that

28% Rate Gain Worksheet
Keep for Your Records

1.	Enter the total of all collectibles gain or (loss) from items reported on line 5, column (f), of Schedule D	**1.**
2.	Enter as a positive number the amount of any section 1202 exclusion reported on line 5, column (f), of Schedule D	**2.**
3.	Enter the total of all collectibles gain or (loss) from items reported on Schedule D, line 6	**3.**
4.	Enter the total of all collectibles gain from capital gain distributions reported on line 7 of Schedule D	**4.**
5.	Enter the long-term capital loss carryover from Schedule D, line 9	**5.** ( )
6.	If Schedule D, line 4, is a (loss), enter that (loss) here. Otherwise, enter -0-	**6.**
7.	Combine lines 1 through 6	**7.**

must be allocated to the installment payments received from the sale.

Step 3. Generally, the amount of section 1231 gain on each installment payment is treated as unrecaptured section 1250 gain until the total unrecaptured section 1250 gain figured in *step 2* has been used in full. Figure the amount of gain treated as unrecaptured section 1250 gain for installment payments received during the tax year, as the smaller of (a) the amount from line 26 or line 37 of the 2004 Form 6252, whichever applies (or comparable lines for the current tax year), or (b) the amount of unrecaptured section 1250 gain remaining to be reported. This amount is generally the total unrecaptured section 1250 gain for the sale reduced by all gain reported in prior years (excluding section 1250 ordinary income recapture). However, if you chose not to treat all of the gain from payments received after May 6, 1997, and before August 24, 1999, as unrecaptured section 1250 gain, use only the amount you chose to treat as unrecaptured section 1250 gain for those payments to reduce the total unrecaptured section 1250 gain remaining to be reported for the sale. Include this amount on line 4.

Line 10. Include on line 10 the ANST's share of the partnership's unrecaptured section 1250 gain that would result if the partnership had transferred all of its section 1250 property in a fully taxable transaction immediately before the ANST sold or exchanged its interest in that partnership. If the ANST recognized less than all of the realized gain, the partnership will be treated as having transferred only a proportionate amount of each section 1250 property.

Line 12. An example of an amount to include on line 12 is unrecaptured section 1250 gain from the sale of a vacation home previously used as a rental property but converted to personal use prior to the sale. To figure the amount to enter on line 12, follow the applicable instructions below.

Installment sales. To figure the amount to include on line 12, follow the steps below for each installment sale of property held more than 1 year for which you did not make an entry in Part I of Form 4797 for the year of sale.

- Step 1. Figure the smaller of (a) the depreciation allowed or allowable or (b) the total gain for the sale. This is the smaller of line 22 or line 24 of the 2004 Form 4797 (or comparable lines of Form 4797 for the year of sale) for that property.
- Step 2. Reduce the amount figured in step 1 by any section 1250 ordinary income recapture for the sale. This is the amount from line 26g of the 2004 Form 4797 (or the comparable line of Form 4797 for the year of sale) for that property. The result is the total unrecaptured section 1250 gain that must be allocated to the installment payments received from the sale.
- Step 3. Generally, the amount of capital gain on each installment payment is treated as unrecaptured section 1250 gain until the total unrecaptured section 1250 gain figured in step 2 has been used in full. Figure the amount of gain treated as unrecaptured section 1250 gain for installment payments received during the tax year, as the smaller of (a) the amount from line 26 or line 37 of the 2004 Form 6252 (or comparable lines for the current tax year) whichever applies, or (b) the amount of unrecaptured section 1250 gain remaining to be reported. This amount is generally the total unrecaptured section 1250 gain for the sale reduced by all gain reported in prior years (excluding section 1250 ordinary income recapture). However, if you chose not to treat all of the gain from payments received after May 6, 1997, and before August 24, 1999, as unrecaptured section 1250 gain, use only the amount you chose to treat as unrecaptured section 1250 gain for those payments to reduce the total unrecaptured section 1250 gain remaining to be reported for the sale. Include this amount on line 12.

Other sales or dispositions of section 1250 property. For each sale of property held more than 1 year (for which an entry was not made in Part I of Form 4797), figure the smaller of (a) the depreciation allowed or allowable or (b) the total gain for the sale. This is the smaller of line 22 or line 24 of Form 4797 (for 2004, or the comparable line for the current tax year) for that property. Next, reduce that amount by any section 1250 ordinary income recapture for the sale. This is the amount from line 26g of Form 4797 (for 2004, or the comparable line for the current tax year) for that property. The result is the total unrecaptured section 1250 gain for the sale. Include this amount on line 12.

28% Rate Gain or (Loss)

Complete the 28% Rate Gain Worksheet if lines 10 and 11 are both greater than zero and at least one of the following apply:

- The ANST reports in Part II, column (f), a section 1202 exclusion from the eligible gain on qualified small business stock, or
- The ANST reports in Part II, column (f), a 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 includes works of art, rugs, antiques, metals (such as gold, silver, and platinum bullion), gems, stamps, coins, alcoholic beverages, and certain other tangible property.

Also, include gain (but not loss) from the sale or exchange of an interest in a partnership, S corporation, or trust held for more than 1 year and attributable to unrealized appreciation of collectibles. For details, see Regulations section 1.1(h)-1. Also, attach the statement required under Regulations section 1.1(h)-1(e).

Schedule K — Distributions to Beneficiaries

Use this schedule to report the type and amount of distributions that were made to each beneficiary. A copy of this schedule must be furnished to the sponsoring ANC. The sponsoring ANC, not the ANST, provides information to the beneficiaries regarding distributions. Distributions for each year are considered to have been made in the following order.

Tier I Distributions (Section 646(e)(l))

These are distributions from the ANST to the extent of the ANST's taxable income, reduced by any income tax paid by the ANST on that income, and increased by any tax-exempt interest income.

Tier I distributions are excluded from the gross income of the beneficiary.

Tier II Distributions (Section 646(e)(2))

These are distributions of amounts that would have been Tier I distributions in prior years (during which a section 646 election was in effect), but that have not, in fact, been distributed in any prior year.

Tier II distributions are excluded from the gross income of the beneficiary.

Tier III Distributions (Section 646(e)(3))

These are distributions considered to have been made by the sponsoring ANC with respect to its stock.

Tier III distributions are taxable to beneficiaries as dividends, to the extent of current or accumulated earnings and profits of the sponsoring ANC (after adjustment for distributions made by the sponsoring ANC during the year). Section 643(e) applies for purposes of determining the amount of a Tier III distribution of property (other than cash).

Tier IV Distributions (Section 646(e)(4))

These are distributions of any amounts that remain after applying the above rules. They are considered as amounts in excess of distributable net income for the year.

Tier IV distributions are excluded from the gross income of the beneficiary.

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Learning about the law or the form . . .	2 hr., 39 min.
Preparing the form	4 hr., 12 min.
Copying, assembling, and sending the form to the IRS	16 min.

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