**8546. What rates apply to capital gains property classified as Section 1250 property, Section 1202 stock or collectibles?**

Gain attributable to the sale or exchange of collectibles, IRC Section 1202 gain (i.e., qualified small business stock), and unrecaptured IRC Section 1250 gain are subject to different tax rates. Gain on the sale or exchange of collectibles and IRC Section 1202 property is taxed at 28 percent, and unrecaptured gain on IRC Section 1250 property is taxed at 25 percent.[[1]](#footnote-1)

 “Collectibles gain” is taxable gain on the sale or exchange of a collectible that is a capital asset held for more than one year[[2]](#footnote-2) Examples of collectibles include artwork, gems and coins.[[3]](#footnote-3)

“Section 1202 gain” is the gain on the sale or exchange of section 1202 stock. Pursuant to IRC Section 1202, an individual may exclude 50% of the taxable gain on the sale or exchange of “qualified small business stock” that is held for more than 5 years.

“Unrecaptured Section 1250 gain” is the portion of the gain on the sale or exchange of real property attributable to depreciation. Nonresidential real property (such as commercial buildings) and residential rental property (such as apartment buildings) are section 1250 property and are depreciated under the straight line method (i.e., the same amount of depreciation is taken every tax year).[[4]](#endnote-1) Each year’s depreciation reduces the basis of the real property by a like amount.[[5]](#endnote-2) So when such real property is sold, the gain attributable to the basis reduction is considered unrecaptured Section 1250 gain.

*Example.* Asher owns a commercial building with an original basis in the building of $500,000. After several years, when the basis of the building had been reduced to $350,000, Asher sells the building for $500,000. Even though the building did not appreciate, Asher has a gain of $150,000 ($500,000 minus $350,000), all of which is attributable to the depreciation reduction of basis. Such gain is considered to be unrecaptured Section 1250 gain.

1. . IRC Sec. 1(h). [↑](#footnote-ref-1)
2. . IRC Sec. 1(h)(5). [↑](#footnote-ref-2)
3. . See IRC Sec. 408(m)(2). [↑](#footnote-ref-3)
4. IRC Sec. 168(b)(3)(A) and (B). [↑](#endnote-ref-1)
5. IRC Sec. 1016(a)(2). [↑](#endnote-ref-2)