TAXABLE YEAR

CALIFORNIA SCHEDULE

2009 Capital Gain or Loss

D (565)

Name as shown on return

FEIN

Secretary of State (SOS) file no.

Part I Short-Term Capital Gains and Losses - Assets Held One Year or Less (use additional sheets if necessary)

(a) Description of property, Example, 100 shares 7% preferred of "Z" Co.	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo.,day, yr.)	(d) Sales price See instructions.	(e) Cost or other basis See instructions.	(f) Gain loss (d) minus (e)
1					

1 Enter line 1, column (f) totals here 1

2 Short-term capital gain from installment sales, from form FTB 3805E, line 26 or line 37 2

3 Partnership's share of net short-term capital gain (loss), including gains (losses) from LLCs, partnerships, fiduciaries, and S corporations 3

4 Net short-term capital gain (loss). Add line 1, line 2, and line 3. Enter total here and on Schedule K, line 8 or line 11. 4

Part II Long-Term Capital Gains and Losses – Assets Held More Than One Year (use additional sheets if necessary)

(a) Description of property, Example, 100 shares 7% preferred of "Z" Co.	(b) Date acquired (mo., day, yr.)	(c) Date sold (mo.,day, yr.)	(d) Sales price See instructions.	(e) Cost or other basis See instructions.	(f) Gain loss (d) minus (e)
5					

5 Enter line 5, column (f) totals here 5

6 Long–term capital gain from installment sales, from form FTB 3805E, line 26 or line 37 6

7 Partnership's share of net long-term capital gain (loss), including gains (losses) from LLCs, partnerships, fiduciaries, and S corporations 7

8 Capital gain distributions. 8

9 Net long-term capital gain (loss). Add line 5, line 6, line 7, and line 8. Enter total here and on Schedule K, line 9 or line 11 9

General Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 2005. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

Internet Access

You can download, view, and print California tax forms and publications at **ftb.ca.gov.**

Access other state agencies' websites through the State Agencies Directory on California's website at **ca.gov.**

Purpose

Use Schedule D (565), Capital Gain or Loss, to report the sale or exchange of capital assets, by the partnership, except capital gains (losses) that are specially allocated to any partners. **Do not** use this form to report the sale of business property. For sales of business properties, use California Schedule D-1, Sale of Business Property.

Enter specially allocated short-term capital gains (losses) received from limited liability companies (LLCs) classified as partnerships, partnerships, S corporations, and fiduciaries on Schedule D (565), line 3. Enter specially allocated long-term capital gains (losses) received from LLCs classified as partnerships, partnerships, S corporations, and fiduciaries on Schedule D (565), line 7. Enter short-term and long-term capital gains (losses) that are specially allocated to partners on Schedule K-1 (565), Partner's Share of Income, Deductions, Credits, etc. **Do not** include these amounts on Schedule D (565). See the instructions for Schedule K (565), Partners' Share of Income, Deductions, Credits, etc., and Schedule K-1 (565) for more information. Also, refer to the instructions for federal Schedule D (1065), Capital Gains and Losses.

Nonresident and Part-Year Resident Partners, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency. With the enactment of AB 1115 (Stats. 2001, Ch 920) capital loss carryover and capital loss limitations for nonresident partners and part-year resident partners, for the portion of the year they were nonresidents, are determined based upon California source income and loss items only for the computation of their California taxable income. Moreover, the character of their gains and losses on the sale or exchange of property used in trade or business or certain involuntary conversions (IRC Section 1231) are determined for purposes of calculating their California taxable income by netting California sources Section 1231 gains and losses only.

California law conforms to federal law for the recognition of gain on a constructive sale of property in which the partnership held an appreciated interest.

Qualified Small Business Stock

California law does not conform to federal law changes regarding the increase in the percentage of the gain exclusion for the sales of qualified small business stock acquired after February 17, 2009. California law allows an exclusion of 50% of any gain from the sale or exchange of qualified small business stock held for more than 5 years. For California purposes, 80% of the issuing corporation's payroll must be attributable to employment located within California (at time of issuance). Also, at least 80% of the value of the corporation's assets must be used by the corporation to actively conduct one or more qualified trades or businesses.

R&TC Section 18038.5 also provides for the deferral of gain from the sale of small business stock that has been held for six months or more, if qualified replacement stock is purchased within 60 days after the sale giving rise to the gain. Report gain deferred from the sale of qualified small business stock in accordance with the instructions contained in Revenue Procedure 98-48.

For more information, go to **ftb.ca.gov** and search for **qsbs**.