TAXABLE YEAR

CALIFORNIA FORM

2009 Installment Sale Income 3805E

Attach to your California tax return. Use a separate form for each sale or other disposition of property on the installment method.

Name(s) as shown on return | SSN, ITIN, FEIN, SOS file no., or California corporation no.

1 Description of property ▶ _____

2 **a** Date acquired (month, day, and year) ▶ _____ **2b** Date sold (month, day, and year) ▶ _____

3 Was the property sold to a related party after December 31, 1980? ☐ Yes ☐ No

4 If the answer to the question on line 3 is "Yes," was the property a marketable security? ☐ Yes ☐ No

If you checked "Yes," complete Part III. If you checked "No," complete Part III for the year of sale and for 2 years after the year of sale.

Part I Gross Profit and Contract Price. Complete this part for the year of sale only.

5	Selling price including mortgages and other debts (**do not** include stated or unstated interest)		5	00
6	Mortgages and other debts the buyer assumed or took the property subject to, but not new mortgages the buyer got from a bank or other source	6		
7	Subtract line 6 from line 5	7		
8	Cost or other basis of property sold	8		
9	Depreciation allowed or allowable. Use California amounts	9		
10	Adjusted basis. Subtract line 9 from line 8	10		
11	Commissions and other expenses of sale	11		
12	Income recapture from Schedule D-1, Part III. See instructions	12		
13	Add line 10, line 11, and line 12		13	00
14	Subtract line 13 from line 5. If zero or less, **stop here. Do not** complete the rest of this form		14	00
15	If the property described on line 1 above was your main home, enter the amount of your excluded gain. Otherwise, enter -0-. Be sure to use California amounts. See instructions		15	00
16	**Gross profit.** Subtract line 15 from line 14		16	00
17	Subtract line 13 from line 6. If zero or less, enter -0-		17	00
18	**Contract price.** Add line 7 and line 17		18	00

Part II Installment Sale Income. Complete this part for the year of sale and any year you receive a payment or have certain debts you must treat as payments on installment obligations.

19	Gross profit percentage. Divide line 16 by line 18. For years after the sale, see instructions		19	___ ___ . ___ ___ ___ ___
20	**For year of sale only –** Enter amount from line 17 above. Otherwise, enter -0-		20	00
21	Payments received during the year. Do not include stated or unstated interest		21	00
22	Add line 20 and line 21		22	00
23	Payments received in prior years. Do not include stated or unstated interest	23		00
24	**Installment sale income.** Multiply line 22 by line 19		24	00
25	Enter the part of line 24 that is ordinary income under recapture rules. See instructions		25	00
26	Subtract line 25 from line 24. Enter the result here and on Schedule D or Schedule D-1. See instructions		26	00

Part III Related Party Installment Sale Income. Do not complete this part if you received the final installment payment this taxable year.

27 Name, address, and taxpayer identification number of related party _____

28 Did the related party, during this taxable year, resell or dispose of the property ("second disposition")? ☐ Yes ☐ No

29 **If you checked "Yes" on line 28, complete lines 30 through 37 below unless one of the following conditions is met. Check only the box that applies.**

a ☐ The second disposition was more than two years after the first disposition (other than dispositions of marketable securities). If this box is checked, enter the date of the disposition (month, day, and year) ▶ ___/___/___

b ☐ The first disposition was a sale or exchange of stock to the issuing corporation.

c ☐ The second disposition was an involuntary conversion where the threat of conversion occurred after the first disposition.

d ☐ The second disposition occurred after the death of the original seller or buyer.

e ☐ It can be established to the satisfaction of the Franchise Tax Board that tax avoidance was not a principal purpose for either of the dispositions. If you check this box, attach an explanation.

30	Selling price of property sold by related party	30	00
31	Enter contract price from line 18 for year of first sale	31	00
32	Enter the **smaller** of line 30 or line 31	32	00
33	Total payments received by the end of your 2009 taxable year. Add line 22 and line 23	33	00
34	Subtract line 33 from line 32. If zero or less, enter -0-	34	00
35	Multiply line 34 by the gross profit percentage on line 19 for year of first sale	35	00
36	Enter the part of line 35 that is ordinary income under recapture rules. See instructions	36	00
37	Subtract line 36 from line 35. Enter the result here and on Schedule D or Schedule D-1. See instructions	37	00

Instructions for Form FTB 3805E

Installment Sale Income

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2005**, and to the California Revenue and Taxation Code (R&TC).

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.

Beginning January 1, 2002, California taxes installment gains that a nonresident received from the sale of property based on where the property is sourced (e.g., located). California now taxes a California resident on installment proceeds received from the sale of property sourced outside California that the taxpayer sold before becoming a California resident. For more information, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

Registered Domestic Partners (RDP) – For purposes of California income tax, references to a spouse, husband, or wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials RDP they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

Round Cents to Dollars – Round cents to the nearest whole dollar. For example, round $50.50 up to $51 or round $25.49 down to $25.

Purpose

Use form FTB 3805E, Installment Sale Income, to report income from casual sales of real or personal property other than inventory if you will receive any payments (including installment payments from sales before 1980) in a taxable year after the year of sale.

Do not use form FTB 3805E to report sales after 1986 of stock or securities traded on an established securities market. Treat all payments from these sales as received in the year you sold the stock.

Do not use form FTB 3805E if you elect not to report the sale on the installment method. To elect out, report the sale on Schedule D (540 or 540NR), California Capital Gain or Loss Adjustment, or Schedule D-1, Sales of Business Property, whichever applies. See the instructions for Schedule D (540 or 540NR) or Schedule D-1.

Report the ordinary income from sales of property described in IRC Sections 1245, 1250, 179, and 291 and R&TC Sections 17267.2, 17267.6, 17268, 24356.5, 24356.6, 24356.7, and 24356.8 in full in the year of sale even if no payments were received. Figure the ordinary income to be recaptured on Schedule D-1, Part III.

Generally, California law is the same as federal law concerning installment sales. Get the instructions for federal Form 6252, Installment Sale Income, for more information on how to calculate your installment sale income. You may also refer to IRC Section 453 and R&TC Sections 17551, 17560, and 24667.

Specific Instructions

Complete line 1, through line 4.

Other Parts To Be Completed

- **For the Year of Sale –** Complete Part I and Part II. Also, complete Part III if applicable.
- **For Years After the Year of Sale –** Complete Part II for any year you receive a payment from an installment sale.
- **Related Party Sales –** If you sold marketable securities to a related party, complete form FTB 3805E for each year of the installment agreement even if you did not receive a payment. See "Installment Sales to Related Party," below for the definition of a related party. For any year after the year of sale, complete Part III. If you received a payment, also complete Part II.

If you sold property other than marketable securities to a related party, complete form FTB 3805E for the year of sale and for two years after the year of sale even if you did not receive a payment. If during this two-year period you did not receive an actual or deemed payment, complete Part III. After this two-year period, see "For Years After the Year of Sale" above.

Special Rules

Interest on Installment Payments – If any part of an installment payment you received is for interest, be sure to report that interest on the appropriate form or schedule. **Do not** report interest received, carrying charges received, or unstated interest on this form. Get federal Publication 537, Installment Sales, for details on unstated interest.

Installment Sales to Related Party – A special rule applies to a first disposition (sale or exchange) of property under the installment method to a related party who then makes a second disposition (sale, exchange, gift, or cancellation of installment note) before making all payments on the first disposition. For this purpose, a related party includes your spouse/RDP, child, grandchild, parent, brother, sister, or a related corporation, S corporation, partnership, limited liability company (LLC), estate or trust. See IRC Section 453(f)(1) for more information.

Under this rule, you treat part or all of the amount the related party realized, or the fair market value (FMV) if the disposed property is not sold or exchanged, from the second disposition as if you received it from the first disposition at the time of the second disposition. Figure the gain, if any, on line 30 through line 37. This rule does not apply if any of the exceptions listed in Part III, line 29 are met.

Sale of Depreciable Property to Related Person – Generally, if you sell depreciable property to a related person, as defined in IRC Section 453(g)(3), you may not report the sale using the installment method. For this purpose, depreciable property is any property that can be depreciated by the person or entity to whom you transfer it.

However, you may use the installment method if you can show to the satisfaction of the FTB that avoidance of state income taxes was not one of the principal purposes of the sale. For example, no significant tax deferral benefit will result from the sale.

If the installment method does not apply, report the sale on Schedule D (540 or 540NR) or Schedule D-1, whichever applies. Treat all payments you will receive as if they were received in the year of sale. Use the FMV for any payment that is contingent as to amount. If the FMV cannot be readily determined, basis is recovered ratably.

Pledge Rule – If an installment obligation from a nondealer disposition of real property used in a trade or business or held for the production of rental income with a sales price over $150,000 is pledged as security on debt after December 31, 1989, treat the net proceeds of the secured debt as a payment on the installment obligation. This rule applies to the disposition of any property under the installment method after 1989 with a sales price over $150,000, except for farm property and personal use

property disposed of by an individual. The amount treated as a payment cannot exceed the excess of the total contract price over any payments received under the contract before the secured debt was obtained.

The pledge rule does not apply to pledges made after December 31, 1989, if the debt is incurred to refinance the principal amount of a debt that was outstanding on December 31, 1989, AND was secured by nondealer real property installment obligations on that date and at all times after that until the refinancing occurred. However, this exception does not apply to the extent that the principal amount of the debt resulting from the refinancing exceeds the principal amount of the refinanced debt immediately before the refinancing. Also, the pledge rule does not affect refinancing due to the calling of a debt by the creditor as long as the debt is then refinanced by a person other than this creditor or someone related to the creditor.

Interest on Deferred Tax

You must pay interest on the deferred tax from certain installment obligations (The rules generally apply to dispositions of real property and personal property on or after January 1, 1990). The interest applies to any installment obligation arising from the disposition of any property under the installment method if both of the following apply:

- The property had a sales price over $150,000.
- The aggregate balance of all nondealer installment obligations (arising during and outstanding at the close of the taxable year) is more than $5 million.

Exception: These rules do not apply to dispositions of farm property or to dispositions of personal use property by an individual.

You must pay interest on the deferred tax from all installment obligations arising from the disposition of timeshares and residential lots. See IRC Section 453(l).

You must pay interest in subsequent years if installment obligations, which originally required interest to be paid, are still outstanding at the close of a taxable year.

How to Report the Interest – The interest is not figured on form FTB 3805E. See IRC Section 453A or 453(l)(3) to figure the interest. Substitute the maximum rate of tax imposed under R&TC Section 17041, 23151, 23186, or 23802, whichever applies, for the maximum rate of tax under IRC Section 1 or 11. Enter the interest as an additional tax on your tax return.

Individuals should include the amount on Form 540, line 48 or Long Form 540NR, line 63. Write "IRC Section 453A interest" or "IRC Section 453 interest" and the amount on the dotted line to the left of the amount.

Corporations may deduct the interest in the year it is paid or accrued. Individuals and other taxpayers may not deduct this interest.

Apportioning Corporations

If an apportioning corporation reports a sale under the installment method, the apportionment factors from the year of sale should be used in subsequent periods when the gains from the installment sale are recognized (See FTB Legal Ruling 413).

Specific Line Instructions

If partnerships, S corporations, or LLCs elect to expense costs under R&TC Sections 17267.2, 17267.6, 17268, or IRC Section 179, then the partners, shareholders, or members may not include the expensed costs on line 9.

Refer to federal Form 6252, Installment Sale Income, for information on how to complete the following lines:

- Line 5 – Selling price
- Line 6 – Mortgages and other debts
- Line 8 – Cost or other basis of property sold
- Line 9 – Depreciation allowed or allowable
- Line 11 – Commissions and other expenses of sale
- Line 19 – Gross profit percentage
- Line 21 – Payments received during the year
- Line 23 – Payments received in prior years
- Line 30 – Selling price of property sold by related party

Line 12

Figure the amount of recapture on Schedule D-1, Part III and Part IV. See the instructions for Schedule D-1. Enter the part of the gain from the sale of depreciable property recaptured under IRC Sections 1245 and 1250 (as well as IRC Sections 179 and 291) and R&TC Sections 17266, 17267.2, 17267.6, 17268, 24356.5, 24356.6, 24356.7, and 24356.8.

Line 15

If the property described on line 1 was your main home, you may be able to exclude part or all of your gain. Get federal Publication 523, Selling Your Home, for more information.

Line 19

Enter the gross profit percentage determined for the year of sale even if you did not file form FTB 3805E for that year.

Line 25 and Line 36

Report on line 25 or line 36 any ordinary income recapture on IRC Sections 1252, 1254, and 1255 property. This includes recapture for the year of sale or any remaining recapture from a prior year sale. Also report on these lines any ordinary income recapture remaining from prior years on IRC Sections 1245 and 1250 property sold before January 1, 1985. **Do not** enter ordinary income from an IRC Section 179 deduction. If this is the year of sale, see the instructions for Schedule D-1, Part IV.

The amount on line 25 and line 36 may not exceed the total of the amounts on line 24 and line 35.

Line 26 and Line 37

Capital assets. Enter this amount on Schedule D (540 or 540NR), line 1.

Trade or business property. Enter this amount on Schedule D-1, line 4, if the property was held for more than one year (more than six months if acquired before January 1, 1988). If the property was held one year or less (six months or less if acquired before January 1, 1988), or if you have an ordinary gain from a noncapital asset, even if the holding period is more than one year, enter the amount on Schedule D-1, line 10, column (g), and write "FTB 3805E" to the left of the amount.

Line 29

If one of the conditions is met, check the appropriate box and skip line 30 through line 37. If you checked box "e," attach an explanation. Generally, the nontax-avoidance condition will apply to the second disposition if the disposition was either of the following:

- Involuntary (e.g. a creditor of the related person foreclosed on the property, or the related person declared bankruptcy).
- An installment sale under which the terms of payment were substantially equal to or longer than those for the first sale. However, the resale terms must not permit significant deferral of recognition of gain from the first sale (e.g. amounts from the resale are being collected sooner).