TAXABLE YEAR

2012 **Capital Gain or Loss**

CALIFORNIA SCHEDULE

D (565)

Name as shown on return | FEIN

California 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 or 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 or 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 ______

Instructions for Schedule D (565)

Capital Gain or Loss

General Information

In general, for taxable years beginning on or after January 1, 2010, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2009. 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.

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

In Cutler. v. Franchise Tax Board (2012) 208 Cal App 4th 1247, 146 Cal Rptr. 3d 244, the California Court of Appeal found that the California qualified small business stock (QSBS) provisions of R&TC Sections 18038.5 and 18152.5 discriminated against interstate commerce in violation of the Commerce Clause of the United States Constitution. R&TC Sections 18038.5 and 18152.5 provided for a California deferral and exclusion of gain from the sale of QSBS if eighty percent of the corporation's property and payroll was located in California for substantially all of the taxpayer's holding period of the stock. An unconstitutional statute is invalid and unenforceable. Therefore, the California deferral and exclusion are not available.