EXAMPLE OF APPLICATION OF THE CAPITAL GAIN (LOSS) PROVISIONS:

(g) Gain or loss from the sale or exchange of capital assets, property described by Internal Revenue Code Section 1231(a)(3), and property subject to an involuntary conversion, is removed from the total separate net income of each member of a combined group . . .

Members A and B

Member A has a separate apportionment factor of 50% and:

- Short-term capital gain $1000 (apportionable)
- Long term capital loss of $1000 (nonapportionable allocated to the state)
- 1231 gain of $2000 (apportionable)

Member B has a separate apportionment factor of 20% and:

- Short-term capital loss $2000 (apportionable)
- Long-term capital gain of $2000 (nonapportionable allocated elsewhere)
- 1231 loss of $2000 (nonapportionable)

and is apportioned and allocated as follows:

(1) For each class of gain or loss (short term capital, long term capital, Internal Revenue Code Section 1231, and involuntary conversions) all members' business apportionable gain and loss for the class is combined (without netting between such classes) . . .

- Net short-term capital gain (loss) (apportionable) = ($1,000)
- 1231 gain (loss)(apportionable) = $2,000

and each class of net business apportionable gain or loss separately apportioned by each member using the member's separate-entity apportionment percentage determined under Section 3.A.ii, above.

Member A has:

- Net short-term capital loss = ($500)
- 1231 gain = $1,000

Member B has:

- Net short-term capital loss = ($200)
- 1231 gain = $400

(2) Each member then nets its apportioned business gain or loss for all classes, including apportioned business gain and loss from other combined groups, against the member's nonapportionable gain and loss for all classes allocated to this State, using the rules of Internal Revenue Code Sections 1231 and 1222, without regard to any of the member's gains or losses from the sale or

exchange of capital assets, Section 1231 property, and involuntary conversions which are nonapportionable items allocated to another state.

Member A has:

- Net capital gain/loss for the year = $0
- Long-term loss carryover = ($500)

Member B has:

- Net apportionable gain = $200

(3) Resulting state source income (or loss, if the loss is not subject to the limitations of Internal Revenue Code Section 1211) of a member produced by the application of the preceding subsections is then ~~applied to all other state source income or loss of that member.~~ Included in the computation of the state source income of the combined group under Section 3.A.i.(b).

Included in combined group income:

Member B's net apportionable gain = $200

(4) Resulting state source loss of a member that is subject to the limitations of Section 1211 is carried forward [or carried back] by that member, and shall be treated as state source short-term capital loss incurred by that member for the year for which the carryover [or carryback] applies.

Member A has a loss carryover of $500 (short term?)