

2011 Real Estate Withholding Tax Statement

593

● AMENDED:

Part I Withholding Agent

| | | | | | | |
|---|---------|--------------------------------------|--|-------------------------------|--------------------------------------|---------------------------------------|
| Business name | | <input type="checkbox"/> SSN or ITIN | | <input type="checkbox"/> FEIN | <input type="checkbox"/> CA Corp no. | <input type="checkbox"/> SOS file no. |
| First name | Initial | Last name | | | | |
| Address (suite, room, PO Box, or PMB no.) | | | | | | |
| City | | | | State | ZIP Code | |

Seller or Transferor

| | | | | | |
|---|---------|-----------|-------------------------------|---|---------------------------------------|
| First name | Initial | Last name | | <input type="checkbox"/> SSN or ITIN | |
| Spouse's/RDP's first name | Initial | Last name | | <input type="checkbox"/> Spouse's/RDP's SSN or ITIN | |
| Business name (if applicable) | | | <input type="checkbox"/> FEIN | <input type="checkbox"/> CA Corp no. | <input type="checkbox"/> SOS file no. |
| Address (apt./suite, room, PO Box, or PMB no.) | | | | | |
| City | | | State | ZIP Code | |
| Property address (if no street address, provide parcel number and county) | | | | | |

Part II Escrow or Exchange Information

1. Escrow or Exchange Number ● 1 _____

2. Date of Transfer, Exchange Completion, Exchange Failure, or Installment Payment ● 2 _____ M M-D D -Y Y

3. Type of Transaction (Check One Only): ●

A Conventional Sale or Transfer B Installment Sale Payment C Boot D Failed Exchange

4. Withholding Calculation (Check One Only): ●

Total Sales Price Method

A 3 1/3 % (.0333) x Total Sales Price (See instructions. Signature not required below)

Optional Gain on Sale Election (Signature required below)

B Individual 9.3% x Gain on Sale E Bank and Financial Corp. 10.84% x Gain on Sale

C Non-California Partnership 9.3% x Gain on Sale F S Corporation 10.8% x Gain on Sale

D Corporation 8.84% x Gain on Sale G Financial S Corporation 12.8% x Gain on Sale

5. Amount Withheld from this Seller ● 5 _____ 00

Mail completed Form 593 and payment, along with Form 593-V, Payment Voucher for Real Estate Withholding, to:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

If paying by EFT mail Form 593 to:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-8888

Part III Perjury Statement – Signature is required when the Optional Gain on Sale is elected above.

Title and escrow persons, and exchange accommodators are not authorized to provide legal or accounting advice for purposes of determining withholding amounts. Transferors are strongly encouraged to consult with a competent tax professional for this purpose.

Under penalties of perjury, I hereby certify that the information provided above is, to the best of my knowledge, true and correct. I understand that the Franchise Tax Board may review relevant escrow documents to ensure withholding compliance. I understand that if this form is not signed, the withholding amount will be 3 1/3% (.0333) of the total sales price.

| | |
|---|---|
| Your signature It is unlawful to forge a spouse's/RDP's signature. | Spouse's/RDP's signature Date _____ Seller's email address (optional) |
|---|---|

Preparer's name and Title/Escrow business name

Telephone Number

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Instructions for 593

Real Estate Withholding Tax Statement

What's New

Decrease in Tax Rates – For taxable years beginning on or after January 1, 2011, the maximum personal income tax rate is 9.3%. In addition, non-California partnerships are subject to withholding requirements on a sale of California real property at a rate of 3 1/3% (.0333) of sales price or 9.3% of gain. The alternative withholding rate for the gain on sale of California real property by S corporations is 10.8% and 12.8% for Financial S corporations.

For taxable years beginning January 1, 2010, use Form 593, Real Estate Withholding Tax Statement, to report real estate withholding and use Form 593-V, Payment Voucher for Real Estate Withholding, to submit real estate withholding payments when Form(s) 593 is submitted electronically or by mail. See General Information, A Purpose, for more information.

Form 593 is now a single page form. Although Copies A, B, and C have been eliminated you must still complete, file, and distribute three copies of Form 593. See General Information, C When and Where to File, for more information.

General Information

Installment Sales – For installment sales occurring on or after January 1, 2009, buyers are required to withhold on the principal portion of each installment payment if the sale of California real property is structured as an installment sale.

Registered Domestic Partners (RDP) – Under California law, RDPs must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified.

If you entered into a same sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status.

For purposes of California income tax, references to a spouse, husband, or wife also refer to a California 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. If you do not round, the Franchise Tax Board (FTB) will disregard the cents.

Electronic Filing Requirements

Form 593 information may be filed with the FTB electronically, using FTB's Secure Web Internet File Transfer (SWIFT), instead of paper. However, withholding agents must continue to provide the seller or transferor with paper Form 593.

For electronic filing, submit your file using the SWIFT process as outlined in FTB Pub. 923, Secure Web Internet File Transfer (SWIFT) Guide for Resident, Nonresident, and Real Estate Withholding.

For the required file format and record layout for electronic filing, get FTB Pub. 1023R, Real Estate Withholding Electronic Submission Requirements. If you are the preparer for more than one withholding agent, provide a separate electronic file for each withholding agent. For electronic filing submit your payment using Electronic Funds Transfer (EFT) or Form 593-V.

When remitting payments by EFT, mail a copy of Form 593 to the following address:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-8888

A Purpose

Use Form 593 to report real estate withholding on sales closing in 2011, on installment payments made in 2011, or on exchanges that were completed or failed in 2011.

Use a separate Form 593 to report the amount withheld from each seller. If the sellers are married or RDPs and they plan to file a joint return, include both spouses/RDPs on the same Form 593.

If the sellers are married or RDPs and they are entered as one seller, we treat them as having equal ownership interest. If the ownership interest is not equal, separate Forms 593 need to be filed for each individual to represent the correct interest percentage. If the information submitted is incorrect, an amended Form 593 must be submitted to the FTB by the withholding agent.

Use Form 593-V to remit your withholding payment to the FTB. You must use Form 593-V when remitting a payment by check or money order. You may also have your payments automatically withdrawn from your bank account via EFT.

Common Errors

Year of Form – The year (at the top) of Form 593 must be the same as the year on line 2. See instructions for line 2. If you do not have Form 593 with the correct year, go to ftb.ca.gov to get the correct form.

Identification Numbers – Check to see that the withholding agent's and seller's identification numbers are correct and listed in the same order as the names. If both a husband/RDP and wife/RDP are listed, make sure both social security numbers (SSNs) or individual taxpayer identification numbers (ITINs) are listed in the same order as their names.

Trusts and Trustees – It is important to report the correct name and identification number when title is held in the name of a trust. If the seller is a trust, see the Specific Line Instructions on page 2 for **Seller or Transferor**.

Preparer's Name and title/Escrow Business Name – Provide the preparer's name and title/escrow's business name and phone number.

B Who Must File

Any person who withheld on the sale or transfer of California real property during the calendar month must file Form 593 to report, and Form 593-V to remit the amount withheld. Normally, this will be the title company, escrow company, intermediary, or accommodator. Generally, the buyer will only complete these forms when reporting the withholding on installment payments.

C When and Where to File

You need three completed copies of Form 593 for filing and distribution. On the principal portion of the first installment payment, file a copy of Form 593, Form 593-I, and Form 593-V, including a copy of the promissory note, and pay the amount of tax withheld within 20 days following the end of the month in which the transaction occurred. Mail to:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Distribute the other two copies of Form 593 as follows:

- Send one copy to sellers within 20 days following the end of the month in which the transaction occurred.
- One copy will be retained by the withholding agent for a minimum of five years and must be provided to the FTB upon request.

D Interest and Penalties

Interest will be assessed on late withholding payments and is computed from the due date to the date paid. If the real estate escrow person does not notify the buyer of the withholding requirements in writing, the penalty is the greater of \$500 or 10% of the required withholding.

If the buyer (after notification) or other withholding agent does not withhold, the penalty is the greater of \$500 or 10% of the required withholding.

If the withholding agent does not furnish complete and correct copies of Form 593 to the FTB by the due date, but does file them within 30 days of the due date, the penalty is \$15 per Form 593. If Form 593 is filed more than 30 days but less than 180 days after the due date, the penalty is \$30 per Form 593. If Form 593 is filed more than 180 days after the due date, the penalty is \$50 per Form 593. If the failure is due to an intentional disregard of the requirement, the penalty is the greater of \$100 or 10% of the required withholding.

If the withholding agent does not furnish complete and correct copies of Form 593 to the seller by the due date, the penalty is \$50 per Form 593. If the failure is due to an intentional disregard of the requirement, the penalty is the greater of \$100 or 10% of the required withholding.

E Amending Form 593

To amend Form 593:

- Complete a new Form 593 with the correct information.
- Check the "Amended" box at the top of the revised form.
- Include a letter explaining what changes were made and why.
- Mail the amended form and letter to:
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Whenever an amended Form 593 is provided to the FTB, each affected seller should also be provided with a copy. Be sure to check the "Amended" box at the top of the revised form.

Amended forms can only be filed by the withholding agent. If a seller notices an error, the seller should contact the withholding agent.

Do not file an amended Form 593 to cancel the withholding amount for a Form 593-C, Real Estate Withholding Certificate, filed after the close of escrow. After escrow has closed, amounts withheld may be recovered only by claiming the withholding as a credit on the appropriate year's tax return. Get Form 593-C for more information.

Instructions for Seller

This withholding of tax does not relieve you from the requirement to file a California income tax return and report the sale within three months and fifteen days (two months and fifteen days for a corporation) after the close of your taxable year.

You may be assessed penalties if:

- You do not file a tax return.
- You file your tax return late.
- The amount of withholding does not satisfy your tax liability.

How to Claim the Withholding

To claim the withholding credit, report the sale or transfer as required and enter the amount from line 5 on the withholding line on your tax return, Withholding (Form 592-B and/or 593). Attach one copy of Form(s) 593, to the lower front of your California tax return. Make a copy for your records.

If withholding was done for a failed exchange or on boot in the year following the year the property was sold, the withholding is shown as a credit for the taxable year the withholding occurred since you qualify for installment sale reporting. If you elect to report the gain in the year the property was sold, instead of in the year you received the payment, contact the FTB at 888.792.4900 prior to filing your California tax return for instructions to have the credit transferred to the prior year.

Specific Instructions

Foreign Address - Enter the information in the following order: City, Country, Province/Region, and Postal Code. Follow the country's practice for entering the postal code. **Do not** abbreviate the country's name.

Part I – Withholding Agent

Enter the business or individual withholding agent's name, mailing address, and identification number of the withholding agent (payer/sender). Enter the SSN or ITIN only when the buyer, who is an individual, is sending the withholding payment. Include the Private Mail Box (PMB) in the address field. Write "PMB" first, then the box number. Example: 111 Main Street PMB 123.

Seller or Transferor

Enter the individual or business name (if applicable), mailing address, and identification number of the seller or transferor. Include the PMB in the address field. Write "PMB" first, then the box number. Example: 111 Main Street PMB 123. If the seller has applied for an identification number, but it has not been received, enter, "Applied For" in the space for the seller's ID and attach a copy of the federal application behind Form 593.

If the seller is an **individual**, enter the SSN or ITIN. If the sellers are husband/RDP and wife/RDP and plan to file a joint return, enter the name and SSN or ITIN for each spouse/RDP. Otherwise, **do not** enter information for more than one seller. Instead, complete a separate Form 593 for each seller.

If the seller is a business, enter the business name in the business name field along with the federal employer identification number (FEIN), CA Corp number, Secretary of State (SOS) file number. If the seller is a **grantor trust**, enter the grantor's individual name and SSN or ITIN. **Do not** enter the name of the grantor trust. The grantor trust is disregarded for tax purposes

and the individual seller must report the sale and claim the withholding on the individual's tax return.

If the seller is a **non-grantor trust**, enter the name of the trust and the trust's FEIN. If the trust has not applied for a FEIN, leave the identification number blank. **Do not enter the trustee information.**

If the seller is a **single member disregarded LLC**, enter the name and identification number of the single member.

For all other **non-individual** sellers, enter the FEIN, CA Corp number, SOS file number.

Enter the address (or parcel number and county) of the California real property transferred.

Conventional Sale or Transfer and Installment Sales: Enter the address (parcel number and county) of the transferred property.

Exchanges: Enter the address of the relinquished property.

Part II – Escrow or Exchange Information

Line 1 – Escrow or Exchange Number

Enter the escrow or exchange number for the property transferred.

Line 2 – Date of Transfer, Exchange Completion, Exchange Failure, or Installment Payment

Conventional Sale or Transfer: Enter the date escrow closed.

Installment Sales: For withholding on the first installment payment, enter the date escrow closed. For withholding on the principal portion of each installment payment, enter the date of the installment payment.

Exchanges: For completed exchanges, enter the date that the boot (cash or cash equivalent) was distributed to the exchanger. For failed exchanges, enter the date when it was determined that the exchange would not meet the deferred exchange requirements and any cash was distributed to the seller.

When withholding on boot or a failed exchange, be sure to use the forms for the year that you entered on line 2 (rather than the year of the sale), since the seller will be able to use installment sale reporting for the gain.

Line 3 – Type of Transaction

Check one box that represents the type of real estate transaction for which the withholding is being calculated.

Conventional Sale or Transfer: Check this box if the conventional sale or transfer represents the close of escrow for the real estate transaction. This sale or transfer does not contain any conditions such as an installment sale, boot, or failed exchange.

Installment Sale Payment: Check this box if you are withholding on either the principal portion of the first installment payment during escrow or on the principal portion of

a subsequent installment payment including the final payoff in escrow. Attach a copy of the promissory note with the first installment payment.

Boot: Check this box if the seller intends to complete a deferred exchange, but receives boot (cash or cash equivalent) out of escrow.

Failed Exchange: Check this box for any failed exchange, including if a failed deferred exchange had boot withheld upon in the original relinquished property.

Line 4 – Withholding Calculation

Check one box that represents the method to be used to calculate the withholding amount on line 5. Either the Total Sales Price Method (3 1/3% (.0333) of the sale price) or the Optional Gain on Sale Election based on the applicable tax rate as applied to the gain on sale. Check only one box, A-G.

Line 5 – Amount Withheld

Enter the amount withheld from this transaction or installment payment based upon the appropriate calculation for either the Total Sales Price or the Optional Gain on Sale Election, below.

Withholding Amount Using Total Sales Price

Conventional Sale or Transfer:

- a. Total Sales Price \$ _____
- b. Enter the seller's ownership percentage % _____
- c. Amount Subject to Withholding. Multiply line a by line b and enter the result \$ _____
- d. Withholding Amount. Multiply line c by 3 1/3% (.0333) and enter the result here and on Form 593, line 5 \$ _____

Installment Sales:

- a. Amount Subject to Withholding. If you are withholding on the first installment payment in escrow, enter the required amount of the first installment payment. If you are withholding on subsequent installment payments or the final payoff in escrow, enter the principal portion of the payment \$ _____
- b. Withholding Amount. Multiply line a by 3 1/3% (.0333) and enter the result here and on Form 593, line 5 \$ _____

Exchanges:

- a. Amount Subject to Withholding. For completed deferred exchanges, enter the amount of boot (cash or cash equivalent) received by the seller. \$ _____
- b. Withholding Amount. Multiply line a by 3 1/3% (.0333) and enter the result here and on Form 593, line 5 \$ _____

Failed Exchanges:

- a. Total Sales Price. If a deferred exchange is not completed or does not meet the deferred requirements, enter the total sales price \$ _____
- b. Ownership Percentage. If multiple transferors attempted to exchange this property, enter this seller's ownership percentage. Otherwise, enter 100.00% % _____
- c. Amount Subject to Withholding. Multiply line a by line b \$ _____
- d. Withholding Amount. Multiply line c by 3 1/3% (.0333) and enter the result here and on Form 593, line 5 \$ _____

Withholding Amount Using Optional Gain on Sale Election

Conventional Sale or Transfer: Enter the amount from Form 593-E, Real Estate Withholding – Computation of Estimated Gain or Loss, line 17 on Form 593, line 5.

Installment Sales: The Installment Withholding Percent is applied to the principal portion of all installment payments, including the first installment payment received during escrow to determine the gain on sale. The gain on sale is then multiplied by the seller's applicable tax rate to determine the withholding amount.

You must complete the calculation under Installment Withholding Percent first, in the next column, to determine the withholding percentage needed to complete the withholding amount in item c.

- a. Installment Payment. \$ _____
- b. Gain on Sale, multiply line a by the Installment Withholding Percent (calculated in the next column) \$ _____
- c. Withholding Amount. Multiply line b by the applicable tax rate* and enter the result here and on Form 593, line 5 \$ _____

Installment Withholding Percent

Complete this calculation for the Installment Withholding Percent that will be applied to all installment payments, including the first installment payment received during escrow. If withholding on the principal portion of each installment payment, the seller must provide the buyer with the Installment Withholding Percent to be included on Form 593-I, Real Estate Withholding Installment Sale Acknowledgement. If withholding on the first installment payment is received during escrow, then compute the percent as follows:

- a. Gain on Sale from Form 593-E, line 16 \$ _____
- b. Selling Price from Form 593-E, line 1 \$ _____

- c. Installment Withholding Percent, divide line a by line b % _____

With the principal portion of the first installment payment, attach a copy of the promissory note to the original Form 593 that will be sent to the FTB.

Exchanges:

- a. Boot Amount. Not to exceed recognized gain \$ _____
- b. Withholding Amount. Multiply line a by the applicable tax rate* and enter the result here and on Form 593, line 5 \$ _____

Failed Exchanges:

- a. Gain on Sale from Form 593-E, line 16 \$ _____
- b. Ownership Percentage. If multiple transferors attempted to exchange this property, enter this seller's ownership percentage. Otherwise, enter 100.00% % _____
- c. Amount Subject to Withholding. Multiply line a by line b \$ _____
- d. Withholding Amount. Multiply line c by the applicable tax rate* and enter the result here and on Form 593, line 5 \$ _____

If a failed deferred exchange had boot withheld upon in the original relinquished property, reduce the withholding amount by the amount previously remitted to the FTB.

***Tax Rates**

- Individual 9.3%
- Non-California Partnership 9.3%
- Corporation 8.84%
- Bank and Financial Corporation 10.84%
- S Corporation 10.8%
- Financial S Corporation 12.8%

Part III – Perjury Statement

Complete the Seller's and Preparer's information. A signature is only required if the Optional Gain On Sale Election method is used.

Preparer's Name and Title/Escrow Business Name

Provide the preparer's name and title/escrow's business name and phone number.

Additional Information

For more information on real estate withholding, get FTB Pub. 1016, Real Estate Withholding Guidelines. To get withholding forms or publications, or to speak to a representative, contact our Withholding Services and Compliance's automated telephone service at:

888.792.4900, or
916.845.4900
FAX 916.845.9512

Or write to:

WITHHOLDING SERVICES AND
COMPLIANCE
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

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

Or to get forms by mail, write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

For all other questions unrelated to withholding or to access the TTY/TDD number, see the information below.

Internet and Telephone Assistance

Website: **ftb.ca.gov**

Phone: 800.852.5711 from within the
United States
916.845.6500 from outside the
United States

TTY/TDD: 800.822.6268 for persons with
hearing or speech impairments

Asistencia Por Internet y Teléfono

Sitio web: **ftb.ca.gov**

Teléfono: 800.852.5711 dentro de los
Estados Unidos
916.845.6500 fuera de los Estados
Unidos

TTY/TDD: 800.822.6268 personas con
discapacidades auditivas y del habla