California
Forms & Instructions
593-C
593-E
2011

This booklet contains:

Form 593-C, Real Estate Withholding Certificate

Form 593-E, Real Estate Withholding – Computation of Estimated Gain or Loss

State of California
Franchise Tax Board

2011 California Forms 593-C, 593-E, and Instructions

Use this booklet for real estate sales or transfers closing in 2011. (For individual and non-individual sellers).

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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.

General Information

A Important 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.

B Purpose

Withholding is required when California real estate is sold or transferred. The amount withheld from the seller or transferor is sent to the FTB as required by California Revenue and Taxation Code Section 18662.

Withholding is **not** required if any of the following apply:

- The total sales price is $100,000 or less.
- The property is being foreclosed upon (sold pursuant to a power of sale under a mortgage or deed of trust, sold pursuant to a decree of foreclosure, or by a deed in lieu of foreclosure).
- The transferor is a bank acting as a trustee other than a trustee of a deed of trust.
- The seller certifies to an exemption.

The following are excluded from withholding and completing this form:

- The United States and any of its agencies or instrumentalities.
- A state, a possession of the United States, the District of Columbia, or any of its political subdivisions or instrumentalities.

For more information about real estate withholding, get FTB Pub. 1016, Real Estate Withholding Guidelines.

If you are a seller:

- Use Form 593-C, Real Estate Withholding Certificate, to determine whether you qualify for a full or partial withholding exemption. Keep this form for five years.
- Use Form 593-E, Real Estate Withholding — Computation of Estimated Gain or Loss, to determine your gain or loss on the sale and to calculate the optional gain on sale withholding amount. Keep this form for five years.

C What is Real Estate Withholding?

Real estate withholding is:

- A prepayment of estimated income tax due from the gain on a sale of California real estate. If the amount withheld is more than the income tax liability, we will refund the difference when you file a tax return after the end of the taxable year.
- Not an additional tax on the sale of real estate. It is your obligation to file a California tax return, pay any tax due, and claim any real estate withholding payment on your California tax return.

D Who Must Withhold?

Although the law requires the buyer to withhold, the buyer can request the Real Estate Escrow Person (REEP), to do the withholding. We use the term REEP throughout this publication to refer either to the REEP or the buyer, whoever is taking responsibility for withholding.

E Why Do We Withhold?

We withhold to:

- Ensure payment of income tax owed on the taxable gain from the sale.
- Reduce the likelihood of penalties charged to the seller for underpayment of estimated tax.

F Withholding Agent Instructions

- Unless the sale qualifies for an automatic exclusion (the sales price is $100,000 or less, the transferor is a bank acting as a trustee other than a trustee of a deed of trust, or the property is being foreclosed upon), provide Forms 593, Real Estate Withholding Tax Statement, 593-C, 593-E, and 593-I, Real Estate Withholding Installment Sale Acknowledgement, with instructions to each seller as soon as escrow opens. We update our forms and instructions annually; therefore make certain you use the correct form. The year on the form should be the year that escrow will close.
- Instruct the seller to complete and sign Form 593-C and return it to the REEP by the close of escrow. Incomplete or improperly completed forms may not exempt the seller from withholding. Form 593-C cannot be accepted after the close of escrow.
  - ☐ If the seller checked any box in Part II, Certifications which fully exempt the sale from withholding, the seller is exempt from withholding. You are relieved of the real estate withholding requirements if, based on all the information that you have knowledge of, the seller certify an exemption from withholding.
  - ☐ If the seller checked any box in Part III, Certifications that may partially or fully exempt the sale from withholding, the seller may qualify for a partial or complete withholding exemption. Read the specific line instructions to determine the amount to withhold and any additional requirements.
  - ☐ If the seller did not check any box in Part II or Part III, the withholding will be $3^1/3$% (.0333) of the total sales price, or the optional gain on sale withholding amount from line 5 of the certified Form 593.
  - ☐ If the seller does not return the completed Form 593 and Form 593-C by the close of escrow, you are required to withhold $3^1/3$% (.0333) of the total sales price.
- As the REEP, you are required to withhold and complete Form 593 for each seller that was withheld upon. Give one copy of Form 593 to the seller. After the close of the month, the REEP mails one copy of all of the Forms 593 completed during the month, any Form 593-I and promissory note, to the FTB with the total amount withheld for all transactions that closed during the month. However, the REEP has the option to send in one payment and the related Form 593, any Form 593-I and promissory note, if applicable, for each escrow. Regardless of whether you send one payment for the month or one payment for each escrow, Forms 593, any required Form 593-I and promissory note, and the withholding payment are due to the FTB by the 20th day of the month following the month you closed escrow. As the REEP remitting the withholding to the FTB, you must include your name and telephone number as a contact for the remittance.
- **Do not** send Form 593-C to the FTB. The REEP retains this form for a minimum of five years and must provide it to the FTB upon request.

YEAR 2011

CALIFORNIA FORM 593-C

Real Estate Withholding Certificate

Part I – Seller's Information **Return this form to your escrow company.**

Name			SSN or ITIN
Spouse's/RDP's name (if jointly owned)			Spouse's/RDP's SSN or ITIN (if jointly owned)
Address (suite, room, PO Box, or PMB no.)			☐ FEIN ☐ CA Corp no. ☐ SOS file no.
City	State	ZIP Code	Ownership percentage . %
Property address (if no street address, provide parcel number and county)			

To determine whether you qualify for a full or partial withholding exemption, check all boxes that apply to the property being sold or transferred.
(See line-by-line notes in the Instructions)

Part II – Certifications which fully exempt the sale from withholding:

1. ☐ The property qualifies as the seller's (or decedent's, if sold by the decedent's estate) principal residence within the meaning of Internal Revenue Code (IRC) Section 121.
2. ☐ The seller (or decedent, if sold by the decedent's estate) last used the property as the seller's (decedent's) principal residence within the meaning of IRC Section 121 without regard to the two-year time period.
3. ☐ The seller has a loss or zero gain for California income tax purposes on this sale. To check this box you must complete Form 593-E, Real Estate Witholding-Computation of Estimated Gain or Loss, and have a loss or zero gain on line 16.
4. ☐ The property is being compulsorily or involuntarily converted and the seller intends to acquire property that is similar or related in service or use to qualify for nonrecognition of gain for California income tax purposes under IRC Section 1033.
5. ☐ The transfer qualifies for nonrecognition treatment under IRC Section 351 (transfer to a corporation controlled by the transferor) or IRC Section 721 (contribution to a partnership in exchange for a partnership interest).
6. ☐ The seller is a corporation (or a limited liability company (LLC) classified as a corporation for federal and California income tax purposes) that is either qualified through the California Secretary of State (SOS) or has a permanent place of business in California.
7. ☐ The seller is a California partnership, or qualified to do business in California (or an LLC that is classified as a partnership for federal and California income tax purposes and is not a single member LLC) that is not disregarded for federal and California income tax purposes. If this box is checked, the partnership or LLC must still withhold on nonresident partners or members.
8. ☐ The seller is a tax-exempt entity under California or federal law.
9. ☐ The seller is an insurance company, individual retirement account, qualified pension/profit sharing plan, or charitable remainder trust.

Part III – Certifications that may partially or fully exempt the sale from withholding:

Real Estate Escrow Person (REEP): See instructions for amounts to withhold.

10. ☐ The transfer qualifies as a simultaneous like-kind exchange within the meaning of IRC Section 1031.
11. ☐ The transfer qualifies as a deferred like-kind exchange within the meaning of IRC Section 1031.
12. ☐ The transfer of this property is an installment sale where the buyer is required to withhold on the principal portion of each installment payment. Copies of Form 593-I, Real Estate Withholding Installment Sale Acknowledgement, and the promissory note are attached.

Part IV – Seller's Signature

Under penalties of perjury, I hereby certify that the information provided above is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent. I understand that the Franchise Tax Board may review relevant escrow documents to ensure withholding compliance and that completing this form does **not** exempt me from filing a California income or franchise tax return to report this sale.

Seller's Name and Title ________________ Seller's Signature ________________ Date __________

Spouse's/RDP's Name________________ Spouse's/RDP's Signature ________________ Date __________

Please verify that the SSN or ITIN listed above in Part I of this form is correct.

Seller: If you checked any box in Part II, you are exempt from real estate withholding.
If you checked any box in Part III, you may qualify for a partial or complete withholding exemption.
If you did not check any box in Part II or Part III, the withholding will be $3^1/3$% (.0333) of the total sales price or the optional gain on sale withholding amount certified by seller on Form 593, Real Estate Withholding Tax Statement.
If you are withheld upon, the withholding agent should give you one copy of Form 593. Attach a copy to the lower front of your California income tax return and make a copy for your records.

Keep Form 593-C for five years following the close of the transaction. You must furnish the form to the Franchise Tax Board upon request.

Instructions for Form 593-C

Real Estate Withholding Certificate

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2009**, and to the California Revenue and Taxation Code (R&TC).

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.

Purpose

Use Form 593-C, Real Estate Withholding Certificate, to determine whether you qualify for a full or partial withholding exemption.

Qualifying for an exemption from withholding or being withheld upon does not relieve you of your obligation to file a California income tax return and pay any tax due on the sale of California real estate.

The seller must submit this form before the close of escrow to prevent withholding on the transaction. After escrow has closed, amounts withheld may be recovered only by claiming the withholding as a credit on the appropriate year's tax return.

Part I Seller's Information

Name, Taxpayer Identification Number, and Address

Enter the name, tax identification number, and address of the seller or other transferor. If the seller does not provide a tax identification number, then Form 593-C is void, and withholding is required.

If the seller is an **individual,** enter the social security number (SSN) or individual taxpayer identification number (ITIN). If the sellers are spouses/registered domestic partners (RDPs) 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-C for each seller.

If you do not have an SSN because you are a nonresident or a resident alien for federal tax purposes, and the Internal Revenue Service (IRS) issued you an ITIN, enter the ITIN in the space provided for the SSN.

An ITIN is a tax processing number issued by the IRS to individuals who have a federal tax filing requirement and do not qualify for an SSN. It is a nine-digit number that always starts with the number 9.

If the seller is a **grantor trust,** enter the grantor's individual name and SSN. For tax purposes, the grantor trust is disregarded for tax purposes and the individual seller must report the sale and claim the withholding on their individual tax return. If the trust was a grantor trust that became irrevocable upon the grantor's death, enter the name of the trust and the trust's federal employer identification number (FEIN). **Do not enter the decedent's or trustee's name or SSN.**

If the seller is a **non-grantor trust**, enter the name of the trust and the trust's FEIN. **Do not enter trustee information.**

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

Real Estate Escrow Person (REEP): If you choose to provide a copy of Form 593-C to the buyer, delete the seller's tax identification number on the buyer's copy.

Ownership Percentage

Enter your ownership percentage rounded to two decimal places (e.g. 66.67%). If you are on the title for incidental purposes and you have no financial ownership, enter 0.00 and skip to Part IV. You will not be withheld upon.

Examples of sellers who are on title for incidental purposes are:

- Co-signers on title (e.g., parents co-signed to help their child qualify for the loan).
- Family members on title to receive property upon the owner's death.

Part II Certifications That Fully Exempt Withholding

Line 1 – Principal Residence

To qualify as your principal residence under IRC Section 121, you (or the decedent) generally must have owned and lived in the property as your main home for at least two years during the five-year period ending on the date of sale. Military and Foreign Service, get FTB Pub. 1032, Tax Information for Military Personnel.

You can have only one main home at a time. If you have two homes and live in both of them, the main home is the one you lived in most of the time.

There are exceptions to the two-year rule if the primary reason you are selling the home is for a change in the place of employment, health, or unforeseen circumstances such as death, divorce or termination of registered domestic partnership, or loss of job, etc. For more information about what qualifies as your principal residence or exceptions to the two-year rule, get federal Publication 523, Selling Your Home. You can get this publication at **irs.gov**, or call 800.829.3676.

If only a portion of the property qualifies as your principal residence, insert the percentage allocated to the principal residence in the space above line 1 and inform the REEP.

The allocation method should be the same as the seller used to determine depreciation.

Line 2 – Property last used as your principal residence

If the property was last used as the seller's or decedent's principal residence within the meaning of IRC Section 121 without regard to the two-year time period, no withholding is required. If the last use of the property was as a vacation home, second home, or rental, you do not qualify for the exemption. You must have lived in the property as your main home.

If you have two homes and live in both of them, the main home is the one you lived in most of the time.

Line 3 – Loss or Zero Gain

You have a loss or zero gain for California income tax purposes when the amount realized is less than or equal to your adjusted basis. You must complete Form 593-E, Real Estate Withholding – Computation of Estimated Gain or Loss, and have a loss or zero gain on line 16 to certify that the transaction is fully exempt from withholding.

You may not certify that you have a net loss or zero gain just because you do not receive any proceeds from the sale or because you feel you are selling the property for less than what it is worth.

Line 4 – Involuntary Conversion

The property is being involuntarily or compulsorily converted when both of the following apply:

- The California real property is transferred because it was (or threatened to be) seized, destroyed, or condemned within the meaning of IRC Section 1033.
- The transferor (seller) intends to acquire property that is similar or related in service or use in order to be eligible for nonrecognition of gain for California income tax purposes.

Get federal Publication 544, Sales and Other Dispositions of Assets, for more information about involuntary conversions.

Line 5 – Non-recognition Under IRC Section 351 or 721

The transfer must qualify for nonrecognition treatment under IRC Section 351 (transferring to a corporation controlled by transferor) or IRC Section 721 (contributing to a partnership in exchange for a partnership interest).

Real Estate Escrow Person: If, during the escrow, an individual seller transfers title to a corporation or partnership and then the corporation or partnership transfers title to the buyer, then there are two transfers for withholding purposes. Accordingly, two separate Forms 593-C should be completed for withholding purposes. The individual must complete one form for the transfer to the corporation or partnership. The corporation or partnership must complete the other form for the transfer to the buyer.

Line 6 – Corporation
A corporation has a permanent place of business in California if any of the following apply:

- It is organized and existing under the laws of California.
- It is qualified to transact business in California through the California Secretary of State.
- It will maintain and staff a permanent office in California.

S corporations must withhold on nonresident S corporation shareholders. Get FTB Pub. 1017, Resident and Nonresident Withholding Guidelines, for more information.

Line 7 – Partnership or Limited Liability Company (LLC)
Partnerships and LLCs are required to withhold on nonresident partners and members. For more information, get FTB Pub.1017.

Withholding is not required if the title to the property transferred is recorded in the name of a California partnership or it is qualified to do business in California.

Withholding is not required if the title to the property transferred is in the name of an LLC, and the LLC meets both of the following:

- is classified as a partnership for federal and California income tax purposes.
- is not a SMLLC that is disregarded for federal and California income tax purposes.

If the LLC meets these conditions, the LLC must still withhold on nonresident members. Get FTB Pub. 1017 for more information.

If the SMLLC is classified as a corporation for federal and California income tax purposes, then the seller is considered a corporation for withholding purposes. Refer to Line 6.

If the LLC is an SMLLC that is disregarded for federal and California income tax purposes, then that single member is considered the seller and title to the property is considered to be in the name of the single member for withholding purposes.

When completing Form 593-C as the single member of a disregarded LLC, write on the bottom of the form that the information on the form is for the single member of the LLC, so the REEP will understand why it is different from the recorded title holder.

If the single member is	Complete Form 593-C using:
An individual	The individual's information
A corporation	The corporation's information
A partnership	The partnership's information
An LLC	The single member's information

Line 8 – Tax-Exempt Entity
Withholding is not required if the seller is tax-exempt under either California or federal law (e.g., religious, charitable, educational, not for profit organizations, etc.).

Line 9 – Insurance Company, Individual Retirement Account, Qualified Pension or Profit-Sharing Plan, or Charitable Remainder Trust
Withholding is not required when the seller is an insurance company, individual retirement account, qualified pension or profit-sharing plan, or a charitable remainder trust.

Part III Certifications That May Partially or Fully Exempt the Sale From Withholding

Complete Part III only if you did not meet any of the exemptions in Part II. If you met an exemption in Part II, skip to Part IV.

Line 10 – Simultaneous Exchange
If the California real property is part of a simultaneous like-kind exchange within the meaning of IRC Section 1031, the transfer is exempt from withholding. However, if the seller receives money or other property (in addition to property that is a part of the like-kind exchange) exceeding $1,500 from the sale, the withholding agent must withhold.

Line 11 – Deferred Exchange
If the California real property is part of a deferred like-kind exchange within the meaning of IRC Section 1031, the sale is exempt from withholding at the time of the initial transfer. However, if the seller receives money or other property (in addition to property that is a part of the like-kind exchange) exceeding $1,500 from the sale, the withholding agent must withhold.

The intermediary or accommodator must withhold on all cash or cash equivalent (boot) it distributes to the seller if the amount exceeds $1,500.

If the exchange does not take place or if the exchange does not qualify for nonrecognition treatment, the intermediary or accommodator must withhold $3^1/3$% (.0333) of the total sales price.

Line 12 – Installment Sale
For installment sales occurring on or after January 1, 2009, the buyer is required to withhold on the principal portion of each installment payment if the sale is structured as an installment sale. The buyer must complete and sign Form 593-I, Real Estate Withholding Installment Sale Acknowledgement, and attach a copy of the promissory note with the first installment payment.

When the withholding amount on the first installment principal payment is sent to the FTB, the FTB must also receive a completed Form 593-I, a completed Form 593, Real Estate Withholding Tax Statement, and a copy of the promissory note.

Part IV Seller's Signature

You must sign this form and return it to your REEP by the close of escrow for it to be valid. Otherwise, the withholding agent must withhold the full $3^1/3$% (.0333) of the total sales price or the optional gain on sale withholding amount from line 5 of Form 593 that is certified by the seller.

Any transferor (seller) who, for the purpose of avoiding the withholding requirements, knowingly executes a false certificate is liable for a penalty of $1,000 or 20% of the required withholding amount, whichever is greater.

YEAR
2011

Real Estate Withholding — Computation of Estimated Gain or Loss

CALIFORNIA FORM
593-E

(You are required to complete this form if you claim an exemption due to a loss or zero gain or if you elect an optional gain on sale withholding amount.)

Name	Seller or Transferor: SSN or ITIN
Spouse's/RDP's name (if jointly owned)	Spouse's/RDP's SSN or ITIN (if jointly owned)
Address (suite, room, PO Box, or PMB no.)	☐ FEIN ☐ CA Corp. No. ☐ SOS file no.
City	State / ZIP Code
Property address (if no street address, provide parcel number and county)	

1 **Selling price** . . . . . 1 ______
2 Selling expenses . . . . . 2 ______
3 **Amount realized.** Subtract line 2 from line 1 . . . . . 3 ______
4 Enter the price you paid to purchase the property (If you acquired the property other than by purchase, see instructions, How to Figure Your Basis When You Did Not Purchase the Property) . . . . . 4 ______
5 Seller-paid points. . . . . 5 ______
6 Depreciation . . . . . 6 ______
7 Other decreases to basis . . . . . 7 ______
8 Total decreases to basis. Add line 5 through line 7 . . . . . 8 ______
9 Subtract line 8 from line 4 . . . . . 9 ______
10 Cost of additions and improvements . . . . . 10 ______
11 Other increases to basis . . . . . 11 ______
12 Total increases to basis. Add line 10 and line 11 . . . . . 12 ______
13 **Adjusted basis.** Add line 9 and line 12 . . . . . 13 ______
14 Enter any suspended passive activity losses from this property . . . . . 14 ______
15 Add line 13 and line 14 . . . . . 15 ______
16 **Estimated gain or loss on sale.** Subtract line 15 from line 3 and enter the amount here. If you have a loss or zero gain, skip lines 17 and 18. Complete the Seller's Signature area below and check the box on Form 593-C, Part II line 3. If you have a gain, go to line 17 . . . . . 16 ______
17 **Optional gain on sale withholding amount.** Check the applicable box for the filing type.

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

Multiply the amount on line 16 by the tax rate for the filing type selected above and enter the result on line 17. This is the optional gain on sale withholding amount.

If you elect the optional gain on sale withholding amount on line 17, go to Form 593 and check the appropriate box on line 4 (Boxes B-G) for the Optional Gain on Sale Election, and transfer the amount on line 17 to Form 593, line 5.

Sign Form 593 to certify the election. . . . . 17 ______

18 **Total sales price withholding amount.** Multiply the selling price on line 1 by 3 1/3% (.0333) and enter the amount on line 18. This is the total sales price withholding amount.

If you select the **total sales price withholding amount** on line 18, check Box A **"3 1/3% (.0333) x Total Sales Price"** on line 4 of Form 593, and transfer the amount on line 18 to Form 593, line 5 . . . . . 18 ______

Seller's Signature

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 I must retain this form in my records for 5 years and that the Franchise Tax Board may review relevant escrow documents to ensure withholding compliance and if conditions change, I will promptly inform the withholding agent. I understand that completing this form does not exempt me from filing a California income tax return to report this sale.

Seller's Name ______

Seller's Signature ______ Date: ______

Spouse's/RDP's Name (if jointly owned) ______

Spouse's/RDP's Signature (if jointly owned) ______ Date: ______

Instructions for Form 593-E

Real Estate Withholding – Computation of Estimated Gain or Loss

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2009,** and to the California Revenue and Taxation Code (R&TC).

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.

Purpose

Use Form 593-E, Real Estate Withholding – Computation of Estimated Gain or Loss, to estimate the amount of your gain or loss for withholding purposes and to calculate an optional gain on sale withholding amount. This form is used for sales closing in 2011 and can be used by both individual and non-individual sellers.

You may use estimates when you complete this form, but the estimates must not result in the calculation of a loss when you actually have a gain. Any transferor (seller) who, for the purpose of avoiding the withholding requirements, knowingly executes a false certificate is liable for a penalty of $1,000 or 20% of the required withholding amount, whichever is greater.

This form is signed under penalty of perjury. The seller must keep this form for 5 years and provide it to the Franchise Tax Board (FTB) upon request. However, the seller is not required to provide this form to the withholding agent or buyer.

Who can complete this form?
The seller completes this form. Title and real estate escrow persons (REEP) and exchange accommodators are not authorized to provide legal or accounting advice for purposes of determining withholding amounts. Sellers are strongly encouraged to consult with a tax professional for this purpose.

You can also download, view, and print federal forms and publications at **irs.gov**.

For federal tax questions call the IRS at:

800.829.1040 Assistance for Individuals

800.829.4933 Assistance for businesses

Specific Instructions

Line 1 – Selling Price
The selling price is the total amount you will receive for your property. It includes money, as well as, all notes, mortgages, or other debts assumed by the buyer as part of the sale, plus the fair market value of any other property or any services you receive.

Line 2 – Selling Expenses
Selling expenses include commissions, advertising fees, legal fees, and loan charges that will be paid by the seller, such as loan placement fees or points.

Line 3 – Amount Realized
The amount realized is the selling price minus the selling expenses.

Line 4 – Purchase Price
If you acquired this property by purchase, enter your purchase price. Your purchase price includes the down payment and any debt you incurred; such as a first or second mortgage or promissory notes you gave the seller in payment for the property. If you acquired the property by gift, inheritance, exchange, or any way other than purchase, see instructions, How to Figure Your Basis When You Did Not Purchase the Property.

Line 5 – Seller-Paid Points
Points are charges paid to obtain a loan. They may also be called loan origination fees, maximum loan charges, loan discount, or discount points. If the seller paid points for you when you acquired the property, enter the amount paid by the seller on your behalf on line 5, unless you already subtracted this item to arrive at the amount for line 4.

Line 6 – Depreciation
Enter the amount of depreciation you deducted, or could have deducted, on your California income tax return for business or investment use of the property under the method of depreciation you chose. If you took less depreciation on your tax return than you could have under the method chosen, you must enter the amount you could have taken under that method. If you did not take a depreciation deduction, enter the full amount of depreciation you could have taken. Get federal Publication 946, How to Depreciate Property, for more information.

Depreciation Option – If you do not know how much depreciation you deducted or were allowed, you can make an estimate of the amount of depreciation (for withholding purposes only). To estimate the depreciation, divide the purchase price plus the cost of additions and improvements by 27.5 and multiply that by the number of years you used the property for business use (up to 27.5 years).

Example: Mary bought a house 20 years ago for $150,000 and has used it as a rental property for the last 18 years. Prior to renting the house, she added a pool which cost her $25,000. Mary's depreciation is estimated as follows:

Cost	$150,000
Plus additions	25,000
Total	175,000
Divided by 27.5 =	6,364
Multiply by 18 years =	$114,552

Mary's estimated depreciation to enter on line 6 is $114,552.

Line 7 – Other Decreases to Basis
Include any other amounts that decrease your basis, such as:

- Casualty or theft loss deductions and insurance reimbursements.
- Energy credits claimed for the cost of energy improvements added to your basis.
- Payments received for granting an easement or right-of-way.

Line 10 – Additions and Improvements
These add to the value of your property, prolong its useful life, or adapt it to new uses. **Examples include:** room additions, landscaping, new roof, insulation, new furnace or air conditioner, remodeling, etc. The cost of repairs may not be included unless they are part of an extensive remodeling or restoration project. **Do not** include any additions or improvements on line 10 that were included on line 4.

Line 11 – Other Increases to Basis
Include the amounts paid for any other items that increase the basis of the property, such as:

- Settlement fees and closing costs you incurred when you bought the property.
- The amount you paid for special assessments for items such as water connections, paving roads, and building ditches.
- The cost of restoring damaged property from a casualty loss, or cost of extending utility service lines to the property.

Line 14 – Passive Activity Losses
You may only use suspended passive activity losses that directly relate to the property sold. Other losses such as net operating losses, capital loss carry-forwards, stock losses, and passive activity losses from other properties cannot be used.

Line 16 – Estimated Gain or Loss on Sale
If you have a zero gain or loss, check the box on Form 593-C, Real Estate Withholding Certificate, line 3. Complete and sign Form 593-C and give it to your REEP. You will not be subject to withholding on this sale. Keep Form 593-E for 5 years to document your calculations and provide to the FTB if requested.

If you have a gain, this is your estimated amount of gain on the sale of your California property. Go to line 17.

Line 17 – Optional Gain on Sale Withholding Amount
Multiply the amount on line 16 by the tax rate for the filing type selected and enter the amount on line 17. You may compare this amount to the withholding amount on the total sales price shown on line 18. If you elect the optional gain on sale withholding amount on line 17, check the appropriate box on line 4 (Boxes B-G) for the Optional Gain on Sale Election, on Form 593, then transfer the amount on line 17 to Form 593, Real Estate Withholding Tax Statement, line 5. Sign Form 593 to certify the election. Keep Form 593-E for 5 years to document your calculations and provide to the FTB upon request.

Line 18 – Total Sales Price Withholding Amount
Multiply the selling price on line 1 by $3^1/_3$% (.0333) and enter the amount on line 18. If you select the standard withholding amount on line 18, check Box A on line 4 of Form 593, and transfer the amount on line 18 to Form 593, line 5.

How to Figure Your Basis When You Did Not Purchase the Property

The cost or purchase price of property is usually its basis for figuring gain or loss from its sale or other disposition. However, if you acquired the property by gift, inheritance, exchange, or in some way other than purchase, you must use a basis other than its cost. The following instructions only reflect the general rules. Exceptions may apply. Get federal Publication 551, Basis of Assets, for more information. Sellers are strongly encouraged to consult with a tax professional for this purpose.

How Property Was Received	How to Determine Your Basis
Property was received as a gift	Usually, your basis is the donor's adjusted basis at the time of the gift. Enter the donor's adjusted basis on line 4. Then complete the rest of the form (except line 5) with your information after you received the property. If the fair market value (FMV) of the property at the time of the gift was less than the donor's adjusted basis, get federal Publication 551 to determine your basis.
Property was inherited from someone other than your spouse/RDP	Usually, your basis is the FMV at the date of the individual's death. You can get that valuation from the probate documents, or if there was no probate, use the appraised value at the date of death. Enter the FMV on line 4. Then complete the rest of the form (except line 5) with your information after you received the property. If you or your spouse/RDP originally gave the property to the decedent within one year of the decedent's death, get federal Publication 551 to determine your basis.
You owned the property (as community property) with your spouse/RDP who died	Your basis is the FMV of the total property at the date of your spouse's/RDP's death. Enter the FMV on line 4. Then complete the rest of the form (except line 5) with your information after the date of death.
You owned the property (in joint tenancy) with your spouse/RDP who died	Your basis is the sum of: 1) the **FMV** of your spouse's/RDP's half of the property at the date of your spouse's/RDP's death; and, 2) the **existing basis** of your half of the property at the date of your spouse's/RDP's death. Enter the sum on line 4. Then complete the rest of the form (except line 5) with your information after the date of death.
Property received from your spouse/RDP in connection to your divorce/termination of registered domestic partnership	Usually, your basis is the same as it would have been without this transfer. Complete Form 593-E as if you had been the only owner before and after the transfer. If your spouse/RDP transferred the property to you before July 18, 1984, get federal Publication 551 to determine your basis.
Property received in exchange for other property	Your basis will depend on whether you received the property in a nontaxable, taxable, or partially taxable exchange. Get federal Publication 551 to determine your basis. Enter your basis on line 4. Then complete the rest of the form. However, **do not** include any amounts on line 5 through line 10 that you included on line 4.
You built the house (or other improvements) on the property being sold	Add the purchase price of the land and the cost of the building. Enter the total on line 4 and complete the rest of the form. If you deferred the gain from a previous home to this property, get federal Publication 551.
You received the property in a foreclosure	Enter your basis in the property after the foreclosure on line 4. (You may need to get a tax professional to help you with this calculation). Then complete the rest of the form (except for line 5) with your information after the foreclosure.

How to Get California Tax Information

Additional Information

To get a withholding form or publication, or to speak to a representative, contact our Withholding Services and Compliance's automated telephone services 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

Internet and Telephone Assistance

Website:	**ftb.ca.gov**
Telephone:	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 de la audición y del habla