

# 2018 Instructions for Form 593-I

## Real Estate Withholding Installment Sale Acknowledgement

### General Information

When California real estate is sold on an installment basis, the buyer/transferee is required to withhold on the principal portion of each installment payment, an amount based on either 3<sup>1</sup>/<sub>3</sub>% (.0333) of the total sales price, or the Optional Gain on Sale withholding amount from Form 593, Real Estate Withholding Tax Statement, line 5. If an exemption applies, no withholding is required. There is no withholding on the interest portion of the installment payment.

**Real Estate Escrow Person (REEP)** – The REEP is anyone involved in closing the real estate transaction which includes any attorney, escrow company, title company, Qualified Intermediary (QI), or anyone else who receives and disburses payment for the sale of real property.

**Installment Sales** – The REEP reports the sale or transfer as an installment sale if there will be at least one payment made after the tax year of the sale. The withholding is 3<sup>1</sup>/<sub>3</sub>% (.0333) of the down payment during escrow. Buyers/Transferees are required to withhold on the principal portion of all payments made following the close of the real estate transaction, unless an approval letter for elect-out method is received as described below.

#### Elect Out of Subsequent Installment

**Payment Withholding** - Sellers or transferors can elect to not report the sale on the installment method. If the seller/transferor chooses not to use the installment method, the seller/transferor generally reports the entire gain in the year of sale, even though the seller/transferor does not receive all the sale proceeds in that year. To do this, the seller/transferor must:

- File a California income tax return and report the entire gain on Schedule D-1, Sale of Business Property.
- Submit to the Franchise Tax Board (FTB) a written request to release the buyer/transferee from withholding on subsequent installment payments after filing the income tax return and reporting the entire gain.

The FTB will approve or deny the request within 30 days from when received. The buyer must continue to withhold until the FTB approves the request.

For more information, get FTB 4010, Withholding on California Real Estate Installment Sales, or go to [ftb.ca.gov](http://ftb.ca.gov) and search for **installment sales**.

**Registered Domestic Partners (RDP)** – 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.

**Penalty Increase** – Beginning on or after January 1, 2016, the penalties related to failure to file information returns increased. See General Information B, Interest and Penalties, or get FTB 1150, Withhold at Source Penalty Information, for more information.

### A Purpose

Use Form 593-I, Real Estate Withholding Installment Sale Acknowledgement, to acknowledge the buyer's/transferee's requirement to withhold on the principal portion of each installment payment to the seller/transferor for the sale of California real property. The buyer/transferee is required to withhold at either the rate of 3<sup>1</sup>/<sub>3</sub>% (.0333) of the total sales price or the Optional Gain on Sale withholding percentage, as specified by the seller/transferor on Form 593. The buyer/transferee provides acknowledgement by signing Part IV.

The REEP retains this form for a minimum of five years and must provide it to the FTB upon request.

### B Interest and Penalties

Interest will be assessed on late withholding payments and is computed from the due date to the date paid. If the REEP does not notify the buyer/transferee, other than a QI, of the withholding requirements in writing, the penalty is the greater of \$500 or 10% of the required withholding.

If after notification, the buyer/transferee, unless the buyer is a QI in a deferred exchange, does not withhold, the penalty is the greater of \$500 or 10% of the required withholding.

If the buyer/transferee or REEP does not furnish complete and correct copies of Form 593 to the seller/transferor by the due date, the penalty is \$100 per Form 593. If the failure is due to an intentional disregard of the requirement, the penalty is the greater of \$250 or 10% of the required withholding.

We assess a penalty for failure to file complete, correct, and timely information returns. The penalty is calculated per seller:

- \$30 if filed 1 to 30 days after the due date.
- \$60 if filed 31 days to 6 months after the due date.
- \$100 if filed more than 6 months after the due date.

(R&TC Section 19183)

If the failure is due to an intentional disregard of the requirement, the penalty is the greater of \$250 or 10% of the required withholding.

For more information, get FTB 1150.

Penalties referenced in this section will be assessed unless it is shown that the failure to notify, withhold, or timely furnish returns was due to reasonable cause.

### Specific Instructions

**Private Mail Box (PMB)** – Include the PMB in the address field. Write “PMB” first, then the box number. Example: 111 Main Street PMB 123.

**Foreign Address** – Follow the country's practice for entering, the city, county, province, state, country, and postal code, as applicable, in the appropriate boxes. **Do not** abbreviate the country name.

**Electronic Signatures** – Electronic signatures are considered as valid as the originals.

### Buyer/Transferee Instructions

The buyer/transferee completes Form 593-I, Parts I, II, III, and IV. Forms are updated annually. Make certain that the buyer/transferee completes Form 593-I for the correct taxable year.

The buyer/transferee must withhold on the principal portion of each installment payment. However, the buyer/transferee may authorize the REEP to withhold on the down payment. In this case the buyer/transferee withholds on the principal portion of all subsequent payments (including payoff or balloon payments).

After completing the form, the buyer/transferee copies all pages to keep the instructions for withholding on subsequent payments. The buyer/transferee gives the original Form 593-I, a copy of the promissory note, the seller's/transferor's Form 593, and Form 593-V, Payment Voucher for Real Estate Withholding, to the REEP. At the close of the real estate transaction, if no down payment is received, submit Form 593 with Part III, Line 3, Box B, Installment Sale Payment checked and \$0 reported on Line 5, Amount Withheld from this Seller/Transferor. The REEP will mail the documents to the FTB with the withholding on the down payment to:

FRANCHISE TAX BOARD MS F182  
PO BOX 942867  
SACRAMENTO CA 94267-0651

For installment sales, submit the following at the close of the real estate transaction:

- Form 593
- Form 593-I
- Form 593-V, with the amount withheld on the down payment.
- A copy of the promissory note.

When making installment payments following the close of the real estate transaction, withhold either 3<sup>1</sup>/<sub>3</sub>% (.0333) of the total sales price, or the Optional Gain on Sale withholding percentage on the principle portion of each installment payment, as specified by the seller/transferor on Form 593.

File only a completed **current year** Form 593 and Form 593-V with each withholding payment.

For example, if you withhold on a payment to a seller on June 1, 2018, then use a 2018 Form 593 and Form 593-V.

Form 593-I, a copy of the promissory note, and the seller's/transferor's signature are not required.

When the buyer/transferee sends the withholding on the final installment payment, write "Final Installment Payment" on the bottom of Form 593.

For more information on withholding on installment payments, get the instructions for Form 593 or call Withholding Services and Compliance at 888.792.4900 or 916.845.4900.

## Part I – Buyer/Transferee Information

Enter the buyer's/transferee's name as it is shown on the escrow instructions. Each buyer/transferee is required to withhold on individual payments and must complete a separate Form 593-I. However, if the buyers/transferees are spouses/RDPs and both of them will be on the promissory note, then include both names, social security numbers (SSNs) or individual taxpayer identification numbers (ITINs), and signatures on one form. If the buyer/transferee is a business, enter the business name in the business name field.

The buyer's/transferee's identification number (SSN, ITIN, federal employer identification number (FEIN), CA corporation (CA Corp no.), or CA Secretary of State (CA SOS) file number) is required on each form to be valid.

## Part II – Seller/Transferor Information

Enter the seller's/transferor's name as it is shown on the escrow instructions. Use a separate Form 593-I for each seller/transferor included on the promissory note. However, if the sellers or transferors are spouses/RDPs and both of them will be on the promissory note, then include both of their names and SSNs or ITINs on one form. If the seller/transferor is a business, enter the business name in the business name field.

**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/transferor must report the sale and claim the withholding on the grantor's individual tax return.

**Non-grantor trust** – Enter the name of the non-grantor trust and the non-grantor trust's FEIN. If the non-grantor trust has not applied for a FEIN, leave the identification number blank. **Do not enter the trustee information.** When the non-grantor trust receives their FEIN, contact Withholding Services and Compliance at 888.792.4900 or 916.845.4900.

**Single member limited liability company**  
Enter the name and identification number of the single member.

The seller's/transferor's identification number (SSN, ITIN, FEIN, CA Corp no., or CA SOS file no.) is required on each form.

If the seller/transferor is electing the Optional Gain on Sale withholding amount, ask the seller/transferor to provide you the installment withholding percentage that the seller/transferor calculated in the instructions for the Form 593. Include this installment withholding percentage in the appropriate box and use this percentage as part of the calculation for withholding on the principal portion of each installment payment.

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

## Part III – Installment Agreement Terms

**Promissory Note** – Enter the terms of the promissory note and include the principal amount, installment amount, interest rate, and the number of months of the repayment period.

Attach Form 593-I and a copy of the signed promissory note to Form 593.

## Part IV – Buyer's/Transferee's Acknowledgement to Withhold

By signing Part IV, you acknowledge that you will:

- Withhold on the principal portion of each installment payment.
- Authorize the REEP to withhold the required amount only on the down payment.
- Withhold  $3\frac{1}{3}\%$  (.0333) of the total sales price or the Optional Gain on Sale withholding percentage, as specified by the seller/transferor on Form 593, on the principal portion of all subsequent installment payments.
- Give one copy of Form 593 to the seller/transferor by the 20th day of the month following the month of the installment payments.
- Send each withholding payment, with Form 593-V, and the completed Form 593 to the FTB by the 20th day of the month following the month of the installment payment.
- Inform the FTB within 60 days if the terms of the installment sale, promissory note, or payment schedule change. See Additional Information for contact information.
- Be subject to penalties if you do not:
  - Withhold on the principal portion of each installment payment.
  - Send the withholding payment with Form 593 to the FTB by the due date.
  - Send one copy of Form 593 to the seller/transferor by the due date.

## Real Estate Escrow Person (REEP) Instructions

Make a copy of this form for your records. Mail the completed original Form 593-I, a copy of the promissory note, the seller's/transferor's Form 593, and Form 593-V, with the required withholding amount on the down payment to the FTB at the address shown in Buyer/Transferee Instructions. Get Form 593 instructions for more information.