

2018 Instructions for Form 593

Real Estate Withholding Tax Statement

General Information

Real Estate Escrow Person (REEP) – 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 or transfer 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 3¹/₃% (.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 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 G, Interest and Penalties, or get FTB 1150, Withhold at Source Penalty Information, for more information.

A Purpose

Use Form 593, Real Estate Withholding Tax Statement, to report real estate withholding on sales closing in 2018, installment payments made in 2018, or exchanges that were completed or failed in 2018.

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

If the sellers/transferors are married or RDPs and they are entered as one seller/transferor, we treat them as having equal ownership interest. If the ownership interest is not equal, file separate Forms 593 for each seller/transferor to represent the correct ownership interest percentage. If the information submitted is incorrect, an amended Form 593 must be submitted. See General Information F, Amending Form 593, for more information.

Use Form 593-V, Payment Voucher for Real Estate Withholding, to remit real estate withholding payments to the FTB. Submit Form 593-V when Form(s) 593, is submitted electronically or by mail. The REEP must use Form 593-V when remitting a payment by check or money order.

B Helpful Hints

Taxable Year – The taxable year at the top of Form 593 must match the taxable year on line 2. See instructions for line 2. We cannot process a Form 593 with an incorrect taxable year. To avoid processing delays, go to ftb.ca.gov/forms to get the correct taxable year Form 593.

Identification Numbers – Check to see that the REEP and seller's/transferor'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/transferor is a trust, see the Specific Instructions for Part II, **Seller/Transferor Information**.

Preparer's Name and Title/Escrow Business

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

C Who Must File

Anyone (individual, business entity, trust, estate, or REEP) who withheld on the sale/transfer of California real property must file Form 593 to report the amount withheld. If this is an installment sale payment after escrow closed, then the buyer/transferee is the responsible person.

D When and Where to File

You will need the original completed Form 593 and two copies:

- File the original Form 593, along with completed Form 593-V and the withholding payment. Mail to the address shown in this section.
- Provide one copy to the seller/transferor within 20 days following the end of the month in which the transaction closed.
- Retain one copy for the REEP's records for a minimum of five years. Provide to the FTB upon request.

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

- Form 593.
- Form 593-I, Real Estate Withholding Installment Sale Acknowledgement.
- 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 3¹/₃% (.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.

Mail to:

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

E Electronic Filing Requirements

Form 593 information may be filed with the FTB electronically, using FTB's Secure Web Internet File Transfer (SWIFT). However, the REEP must provide the seller/transferor with a copy of Form 593.

For installment sales, the REEP must also mail a completed Form 593-I and a copy of the promissory note to the FTB with the down payment only.

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 REEP, provide a separate electronic file for each REEP. For electronic filing of Form 593, mail your payment along with Form 593-V.

Electronic signatures shall be considered as valid as the originals.

F Amending Form 593

If an error is discovered after the withholding agent files Form 593, then the REEP files an amended Form 593 to correct the error. An amended Form 593 can only be filed by the REEP. If a seller/transferor notices an error, then they contact the REEP.

Important: For assistance to correct error(s), prepare, and file amended forms, call Withholding Services and Compliance at 888.792.4900 or 916.845.4900.

If you previously filed with a correct taxable year form, but reported incorrect information, then follow the steps below:

1. Complete a new Form 593 with the same taxable year form as originally filed.
 - Check the "Amended" box at the top left corner of the form.
 - Enter all the correct withholding and seller/transferor information. Do not enter negative numbers.
 - Attach a letter to the **back** of the form to explain your reasons for the corrections.
 - Keep the original Form 593 for your records.
2. Mail the amended form and attached letter to the address shown under General Information D, When and Where to File.

To amend a Form 593 previously filed using an incorrect year form, call us for assistance.

Whenever an amended Form 593 is filed with the FTB, provide a copy to the seller/transferor.

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 the real estate 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. Get Form 593-C for more information.

G 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 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

Instructions for Seller/Transferor

This withholding of tax does not relieve you of the requirement to file a California income tax return and report the sale.

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 you must file a California tax return. Report the sale or transfer as required. Enter the amount from Form 593, line 5, Amount Withheld from this Seller/Transferor, on your California tax return as withholding from Form(s) 592-B or 593. If your filing status changed after escrow closed and

before filing your California tax return, please call Withholding Services and Compliance at 888.792.4900 or 916.845.4900 prior to filing your tax return for instructions on how to claim your withholding credit. Claim your withholding credit on one of the following:

- Form 540, California Resident Income Tax Return
- Form 540NR Long, California Nonresident or Part-Year Resident Income Tax Return
- Form 541, California Fiduciary Income Tax Return
- Form 100, California Corporation Franchise or Income Tax Return
- Form 100S, California S Corporation Franchise or Income Tax Return
- Form 100W, California Corporation Franchise or Income Tax Return – Water's-Edge Filers
- Form 109, California Exempt Organization Business Income Tax Return
- Form 565, Partnership Return of Income
- Form 568, Limited Liability Company Return of Income

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 Withholding Services and Compliance at 888.792.4900 or 916.845.4900 prior to filing your California tax return for instructions to have the credit transferred to the prior year.

Instructions for Withholding Agent

Taxable Year – The taxable year at the top of Form 593 must match the taxable year on line 2. See instructions for line 2. We cannot process a Form 593 with an incorrect taxable year. To avoid processing delays, go to ftb.ca.gov/forms to get the correct taxable year Form 593.

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.

Part I – Withholding Agent Information

Enter the business or individual name, identification number, and address of the party responsible for closing the transaction or any other party who receives and disburses payment and remits withholding to the FTB for the sale of real property.

Enter a business name or individual name, **not both**. If the party is an escrow company, title company, exchange company, corporation, partnership, limited liability company, non-grantor trust, or estate, enter the business name and business identification number (FEIN, CA Corp no., CA SOS file no.). If the business name is not applicable, include the individual's or grantor's first name, initial, last name, and identification number (SSN or ITIN).

Part II – Seller/Transferor Information

Enter only business or individual name, **not both**, mailing address, and identification number of the seller/transferor. If the seller/transferor has applied for an identification number, but it has not been received, enter, "Applied For" in the space for the seller's/transferor's ID and attach a copy of the federal application behind Form 593. After the identification number is received, call Withholding Services and Compliance at 888.792.4900 or 916.845.4900.

If the seller/transferor is an/a:

- **Individual**, enter the SSN or ITIN. If the sellers/transferors 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/transferor. Instead, complete a separate Form 593 for each seller/transferor.
- **Business**, enter the business name in the business name field along with the federal employer identification number (FEIN), California Corporation number (CA Corp no.), or California Secretary of State (CA SOS) file number.
- **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.

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

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

Conventional Sale/Transfer and Installment Sale:

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

Exchange: Enter the address of the relinquished property.

Part III – Escrow or Exchange Information

Line 1 – Escrow or Exchange Number

Enter the escrow or exchange number for the property transferred. Do not include dashes and/or spaces in the escrow or exchange number.

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

If the date is left blank, we will use a default date of January 1 of the tax year in which the Form 593 is received. Penalties may apply for failure to file a complete, correct, and timely information return. For additional information, see General Information G, Interest and Penalties.

Conventional Sale/Transfer: Enter the date escrow closed.

Exchange: 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/transferor.

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/transferor will be able to use installment sale reporting for the gain.

Installment Sale: For withholding on the down payment, enter the date escrow closed. For withholding on the principal portion of each installment payment, enter the due date of the installment payment.

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

Installment Sale Payment: Check this box to report the sale or transfer as an installment sale if there will be at least one payment made after the tax year of the sale or transfer, or if you are withholding on the down payment or principal portion of any installment payment. Attach a copy of the promissory note with the down payment only. 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.

Boot: Check this box if the seller/transferor 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 (3¹/₃% (.0333) of the total sales price, boot, or installment sale payment) 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. Trusts (Grantor and Non-grantor) check box 4B. The trust's highest tax rate is 12.3%.

Line 5 – Amount Withheld from this Seller/Transferor

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

Withholding Calculation Using Total Sales Price Method

Conventional Sale/Transfer:

- Total Sales Price \$ _____
- Enter the seller's/transferor's ownership percentage % _____
- Amount Subject to Withholding. Multiply line a by line b and enter the result \$ _____
- Withholding Amount. Multiply line c by 3¹/₃% (.0333) and enter the result here and on Form 593, line 5 \$ _____

Installment Sale:

- Amount Subject to Withholding. If you are withholding on the down payment in escrow, enter the required amount of the down payment. If you are withholding on installment payments received after the close of the real estate transaction or the final payoff in escrow, enter the principal portion of the payment \$ _____
- Withholding Amount. Multiply line a by 3¹/₃% (.0333) and enter the result here and on Form 593, line 5 \$ _____

Exchange:

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

Failed Exchange:

- 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 sellers/transfers attempted to exchange this property, enter this seller's/transferor'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 Calculation Using Optional Gain on Sale Election

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

Trusts (Grantor and Non-grantor): Check box 4B on Part III of Form 593 and use the trust's highest tax rate, which corresponds to the individual tax rate.

Installment Sale: The optional gain on sale withholding amount for an installment sale is calculated in two steps.

Step 1: Calculate the installment sale withholding percent that will be applied to all installment payments, including any deposits, down payments, or amounts paid for the seller/transferor received during escrow:

- a. Gain on sale from Form 593-E, line 16 \$ _____ (estimated gain on sale)
- b. Selling price from Form 593-E, line 1 \$ _____ (total sale price)
- c. Installment sale withholding percent, divide line a by line b %

Step 2: Calculate the optional gain on sale withholding amount:

- a. Installment payment or down payment \$ _____
- b. Multiply line a by installment sale withholding percent calculated in Step 1 \$ _____
- c. Withholding amount, multiply line b by the applicable tax rate* for your filing type \$ _____

When withholding on the principal portion of each installment payment using the Optional Gain on Sale Election, the seller/transferor must provide the buyer/transferee with the Installment Sale Withholding percent to include on Form 593-I.

Send the original Form 593, the required withholding payment on the down payment, and a copy of the promissory note to the FTB. **Do not** attach a copy of the promissory note with withholding on installment payments sent in after the close of the real estate transaction.

Exchange:

- 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 Exchange:

- a. Gain on Sale from Form 593-E, line 16 \$ _____
- b. Ownership Percentage. If multiple sellers/transfers attempted to exchange this property, enter this seller's/transferor'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 and Trusts (Grantor and Non-grantor)	12.3%
Non-California Partnership	12.3%
Corporation	8.84%
Bank and Financial Corporation	10.84%
S Corporation	13.8%
Financial S Corporation	15.8%

Seller/Transferor Signature

A signature is only required by the seller/transferor if the Optional Gain On Sale Election method is used. If the sellers/transfersors are married or RDPs and they plan to file a joint return, then your signature and your spouse's/RDP's signature are both required.

Electronic signatures shall be considered as valid as the originals.

Preparer's Name and Title/Escrow Business Name

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