

**Caution: DRAFT FORM**

This is an advance draft copy of a California tax form. It is subject to change and FTB approval before it is officially released.

Please give us your comments or suggestions about our forms.

# 2017 Real Estate Withholding Tax Statement

# 593

AMENDED:

### Part I Withholding Agent Information

Business name		<input type="checkbox"/> SSN or ITIN <input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.	
First name	Initial	Last name	
Address (apt./ste., room, PO box, or PMB no.)			
City (If you have a foreign address, see instructions.)			State ZIP code

### Part II Seller/Transferor Information (If a trust, see instructions for Part II.)

First name	Initial	Last name	SSN or ITIN
Spouse's/RDP's first name	Initial	Last name	Spouse's/RDP's SSN or ITIN
Business name (if applicable)		<input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.	
Address (apt./ste., room, PO box, or PMB no.)			
City (If you have a foreign address, see instructions.)			State ZIP code
Property address (If no street address, provide parcel number and county.)			

### Part III Escrow or Exchange Information

1. Escrow or Exchange Number ..... **1**

2. Date of Transfer, Exchange Completion, Failed Exchange, or Installment Payment ..... **2** (mm/dd/yyyy)

3. Type of Transaction (Check One Only):  **1**

**A**  Conventional Sale/Transfer      **C**  Boot

**B**  Installment Sale Payment      **D**  Failed Exchange

4. Withholding Calculation (Check One Only):  **1**

**Total Sales Price Method** (Seller/Transferor signature not required below. See instructions.)

**A**  3 1/3% (.0333) x Total Sales Price, Boot, or Installment Sale Payment

**Optional Gain on Sale Election** (Seller/Transferor signature required below. See instructions.)

**B**  Individual 12.3% x Gain on Sale      **E**  Bank and Financial Corp. 10.84% x Gain on Sale

**C**  Non-California Partnership 12.3% x Gain on Sale      **F**  S Corporation 13.8% x Gain on Sale

**D**  Corporation 8.84% x Gain on Sale      **G**  Financial S Corporation 15.8% x Gain on Sale

5. Amount Withheld from this Seller/Transferor ..... **5**

**Seller/Transferor Signature – Signature is required only 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.**

To learn about your privacy rights, how we may use your information, and the consequences for not providing the requested information, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **privacy notice**. To request this notice by mail, call 800.852.5711.

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than remitter) is based on all information of which preparer has any knowledge.

**Sign Here**

Your signature

Spouse's/RDP's signature

**X**

**X**

Date

It is unlawful to forge a spouse's/RDP's signature.

Preparer's name and Title/Escrow business name

Telephone Number  
( )

# 2017 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 3 $\frac{1}{3}$ % (.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 escrow, 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 tax return and report the entire gain on Schedule D-1, Sale of Business Property.
- Submit to the FTB a written request to release the buyer/transferee from withholding on subsequent installment payments after filing the 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 F, Interest and Penalties, or get FTB Pub. 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 2017, installment payments made in 2017, or exchanges that were completed or failed in 2017.

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 to the FTB.

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. Payments may also be automatically withdrawn from a bank account via an electronic funds transfer (EFT). See General Information G, Electronic Filing Requirements for more information.

### B Helpful Hints

**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](http://ftb.ca.gov) to get the correct form.

**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 on page 2, Part II, **Seller/Transferor**.

**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, or estate) who withheld on the sale/transfer of California real property must file Form 593 to report the amount withheld. Typically this is a REEP. 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 need three completed copies of Form 593 for filing and distribution. File a copy of Form 593 and Form 593-V, along with the amount of tax withheld and mail to the address shown in this section.

For installment sales, submit the following at the close of escrow:

- Form 593, Real Estate Withholding Tax Statement.
- Form 593-I, Real Estate Withholding Installment Sale Acknowledgement.
- Form 593-V, Payment Voucher for Real Estate Withholding with the amount withheld on the down payment.
- A copy of the promissory note.

When making installment payments following the close of escrow, withhold either 3 $\frac{1}{3}$ % (.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, 2017, then use a 2017 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  
PO BOX 942867  
SACRAMENTO CA 94267-0651

### Record Keeping

Distribute the other two copies of Form 593 as follows:

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

## E Amending Form 593

An amended Form 593 can only be filed by the REEP. If a seller/transferor notices an error, contact the REEP.

If you need to amend a previously filed Form 593 and need assistance, call the Withholding Services and Compliance telephone service at: **888.792.4900** or **916.845.4900**.

To amend a Form 593 previously filed on the correct year form, but reporting incorrect information:

- Complete a new Form 593 with the correct information. Use the same year form as originally filed, and check the "Amended" box on the top left corner of the form.
- Attach a letter to the back of Form 593 explaining what changes were made and why.
- Do not attach the original Form 593.

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

Mail the Form(s) 593 and letter(s) to the address indicated under General Information D, When and Where to File.

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 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.

## F 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.

## G 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 continue to 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, 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 address in General Information D, When and Where to File.

Electronic signatures shall be considered as valid as the originals.

## 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 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/transfer as required and enter the amount from Form 593, line 5 on your California tax return as withholding from Form(s) 592-B or 593. If your marital or filing status has changed after escrow closed and before filing your California tax return, please call the FTB at **888.792.4900** 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 the FTB at **888.792.4900** prior to filing your California tax return for instructions to have the credit transferred to the prior year.

## Instructions for Withholding Agent

**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 the individual or business name (if applicable), 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 the FTB at 888.792.4900.

If the seller/transferor is a/an:

- **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 the FTB at 888.792.4900.
- **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 F, 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 escrow for 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 escrow, if no down payment is received, submit Form 593 with Part III, Line 3, 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 (3<sup>1</sup>/<sub>3</sub>% (.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 3<sup>1</sup>/<sub>3</sub>% (.0333) and enter the result here and on Form 593, line 5 . . . . . \$ \_\_\_\_\_

**Installment Sale:**

- a. 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 escrow 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 . . . . . \$ \_\_\_\_\_

**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 the 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 . . . . . \$ \_\_\_\_\_  
(sale price minus cost of 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 escrow.

**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/transfers 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.