

This brochure provides an overview of California real estate withholding when a trust is on the title, including how to:

- ◆ Identify the type of trust
- ◆ Determine if withholding is required
- ◆ Complete withholding forms
- ◆ Distribute withholding
- ◆ Withhold following a grantor's death

## Forms and Publications

Go to [ftb.ca.gov](http://ftb.ca.gov) to find the following forms and publications we mention in this brochure:

Search for...	Title
592	<i>Resident and Nonresident Withholding Statement</i>
592-B	<i>Resident and Nonresident Withholding Tax Statement</i>
593	<i>Real Estate Withholding Tax Statement</i>
593-C	<i>Real Estate Withholding Certificate</i>
1016	<i>Real Estate Withholding Guidelines</i>
7429	<i>Do I Need to Withhold on This Trust?</i>

For more information about real estate withholding, see Franchise Tax Board (FTB) Pub 1016.



# California Real Estate Withholding Trusts

## Contact Us

### Web

Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **real estate withholding** or **trusts** to find more information on each topic.

### Phone or Fax

Phone: 888.792.4900  
916.845.4900 (outside U.S.)  
TTY/TDD: 800.822.6268  
Fax: 916.845.9512

### Email

[wscs.gen@ftb.ca.gov](mailto:wscs.gen@ftb.ca.gov)

This is not a secure email address. Do not send confidential information.

### Mail

WITHHOLDING SERVICES  
AND COMPLIANCE MS F182  
FRANCHISE TAX BOARD  
PO BOX 942867  
SACRAMENTO CA 94267-0651

## An Overview for Sellers



State of California  
Franchise Tax Board

## Trust Type

- ❖ Identify if you have a grantor or non-grantor trust.

### Grantor Trust

A trust whose assets and income the grantor controls.

- ◆ Disregarded for tax purposes
- ◆ Uses the grantor's social security number (SSN)
- ◆ Included on the grantor's tax return

### Non-grantor Trust

A trust not owned by an individual and viewed as a taxable entity.

- ◆ Taxable entity separate from the grantor
- ◆ Generally uses a Federal Employer Identification Number (FEIN)
- ◆ Files a fiduciary income tax return

### Items to help you determine the trust type:

- ❖ Trust instruments/documents
- ❖ Prior filing history
- ❖ Federal elections
- ❖ Professional advice is highly recommended to determine trust status, trust type, and filing requirements

## Withholding

- ❖ Determine if withholding is required.
- ❖ Complete withholding forms.

### Grantor Trust

A **grantor trust** is disregarded for tax purposes. The seller is the grantor and withholding is required, unless the grantor qualifies for an exemption on Form 593-C. For a grantor trust:

- ◆ Complete all withholding forms using the individual's (grantor's) name and SSN. Do not include the name of the trust.
- ◆ Grantors report the income and withholding from the real estate sale on the grantor's income tax return.

### Non-grantor Trust

A **non-grantor trust** is an entity separate from the grantor for all tax purposes. The seller is the trust and withholding is required unless the trust qualifies for an exemption on Form 593-C. For a non-grantor trust:

- ◆ Complete all withholding forms using the name of the trust and the trust's FEIN. Do not use the trustee's individual information.
- ◆ Trustees report the income and withholding from the real estate sale on the trust's fiduciary income tax return.

For more information on withholding when a trust is on title, see FTB 7429.

## Distributions

- ❖ Distribute withholding credits to non-grantor trust beneficiaries.

When a **non-grantor trust** distributes income (for example, the gain on sale of California real estate) to a beneficiary, it must also distribute the related withholding credit. To allocate the withholding to a beneficiary, the trust:

- ◆ Files Form 592 with FTB to report the amount of income and withholding allocated to each beneficiary.
- ◆ Provides each beneficiary with a completed Form 592-B indicating the income and withholding reported to FTB on Form 592. When beneficiaries file an income tax return, they should attach Form 592-B and claim the withholding.

## Grantor's Death

- ❖ Complete real estate withholding following a grantor's death.

At the time of the grantor's death, a grantor trust becomes a non-grantor trust, and follows all related withholding rules, including the use of the trust's name and FEIN. The trust may still qualify for an exemption on Form 593-C if the grantor used the property as his or her principal residence prior to death.

