

NOTE: This handout is intended only for purposes of facilitating discussion at the interested parties meeting on July 11, 2016.

Regulation Section 18662-0 is adopted to read:

§ 18662-0. Table of Contents-- Regulation Sections 18662-1 through 18662-8.

§ 18662-1. Withholding-Generally.

- (a) Types of Withholding-Application of Regulation Sections 18662-0 through 18662-8.
 - (1) Overview.
- (b) Withholding of Tax at Source.
 - (1) General.
 - (2) Real Estate Withholding.
 - (3) Withholding by Withholding Agent.
- (c) Withholding Required After Notification.

§ 18662-2. Definitions.

- (a) Buyer.
- (b) California Business Entity.
- (c) California Real Estate.
- (d) California Resident.
- (e) California Trust or Estate.
- (f) Exempt Organization.
- (g) Individual.
- (h) Items of Income.
- (i) Non-California Business Entity.
- (j) Nonresident.
- (k) Nonresident Alien.
- (l) Nonresident Estate or Trust.
- (m) [Reserved].
- (n) Partner.
- (o) Partnership.
- (p) [Reserved].
- (q) Payee.
- (r) Payer.
- (s) Permanent Place of Business.
- (t) Person.
- (u) Real Estate Escrow Person.
- (v) Remitter.
- ~~(w)~~(w) Seller.
- ~~(w)~~(x) Transferee.
- ~~(x)~~(y) Transferor.
- ~~(y)~~(z) Withholding Agent.

§ 18662-3. Real Estate Withholding.

- (a) General.
- (b) Statutory Basis and Rates.

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- (c) Who Must Withhold – Required Notification and Responsibility.
 - (1) Notification.
 - (2) Penalties for Failure to Provide Notice.
 - (3) The Real Estate Escrow Person May Assist the Buyer/Transferee With the Buyer's/Transferee's Withholding Obligations.
- (d) Exemption and Withholding Requirements.
 - (1) Full Exemption Under FTB Form 593-G.
 - (2) Transfers Requiring an Exemption Certificate to Exempt the Sale From Withholding on FTB Form 593-G.
 - (3) Transfers That May Partially or Fully Exempt the Sale from Withholding.
- (e) Withholding on Special Entities.
 - (1) Grantor Trusts.
 - (2) Trusts.
 - (3) Bankruptcy Trusts and Estates.
 - (4) Estates.
 - (5) Conservatorships and Receiverships.
 - (6) Relocation Companies.
- (f) Procedures.
 - (1) Exemption Certificate and Estimated Gain or Loss Certificate.
 - ~~(2) Retention of Withholding Exemption Certificate on FTB Form 593-G.~~
 - ~~(3)~~(2) Verification.
 - ~~(4)~~(3) Electing the ~~Alternate~~ Alternative Withholding Calculation.
- (g) Special Rules.
 - (1) Multiple Family Units.
 - (2) Multiple Sellers/Transferors.
 - (3) Sellers/Transferors on Title for Incidental Purposes.
 - (4) Sale of Multiple Parcels.
 - (5) Leaseholds/Options.
 - (6) Personal Property Included in Real Estate Transaction.
 - (7) Short Sale Transactions.
- ~~(h) FTB Form 593-E, Real Estate Withholding Computation of Estimated Gain or Loss.~~
- ~~(i) FTB Form 593-C, Real Estate Withholding Exemption Certificate.~~
- ~~(j)~~(h) FTB Form 593, Real Estate Withholding Statement.
- ~~(k)~~(i) FTB Form 593-V, Payment Voucher for Real Estate Withholding.
- ~~(l) FTB Form 593-I, Real Estate Withholding Installment Sale Acknowledgement.~~

§ 18662-4. Withholding on Payments (Nonresident Withholding) - General.

- (a) Nonresident Individuals and Non-California Business Entities; De Minimis Amounts; and Rate.
 - (1) Nonresident Individuals and Non-California Business Entities.
 - (2) De Minimis Amounts.
 - (3) Rate.
 - (4) Cross-References.
- (b) Optional Withholding or No Withholding Required.
 - (1) California Residents.
 - (2) California Business Entities.

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- (3) Tax Exempt Organizations.
- (4) California Estates and Trusts.
- (5) Banks and Banking Associations.
- (6) Sale of Goods.
- (7) Services of a Nonresident Outside of California.
- (8) Intangible Personal Property.
- (9) Motor Carrier Compensation.
- (10) Wages Paid to Employees.
- (11) Nonresident Corporate Directors.
- (12) Insurance Companies, Individual Retirement Plans, Pension or Profit Sharing Plans.
- (13) Income from Qualified Investment Securities.
- (c) Withholding Exemption Certificates.
 - (1) General.
 - (2) Incomplete or Invalid Exemption Certificates.
 - (3) California Address.
 - (4) False Certificate.
- (d) Information Returns Also Required.
- (e) Waivers and Reduced Amounts.
 - (1) Waivers.
 - (2) Request for Reduced Withholding Amount.
 - (3) Other Conditions As May Be Required.
- (f) Requirement to File a California Return.
- (g) Suspended and Forfeited Corporations.
- (h) FTB Form 590, Withholding Exemption Certificate.
- (i) FTB Form 592, Resident and Nonresident Withholding Statement.
- (j) FTB Form 592-PTE, Pass-Through Entity Annual Withholding Return.
- ~~(j)~~(k) FTB Form 592-F, Foreign Partner or Member Annual Withholding Return.
- ~~(k)~~(l) FTB Form 588, Nonresident Withholding Waiver Request.
- ~~(l)~~(m) FTB Form 589, Nonresident Reduced Withholding Request.

§ 18662-5. Other Types of Payments and Withholding Obligations.

- (a) Payments to Nonresidents Subject to Withholding.
 - (1) General.
 - (2) California Source Income Subject to Withholding.
 - (3) Business Situs.
 - (4) Payments to Nonresident Aliens or Foreign Entities.
 - (5) Payments Made to Reimburse Expenses.
 - (6) Services in Connection With the Sale of Goods.
- (b) Payments to Independent Contractors.
- (c) Payments to Nonresident Subcontractors.
 - (1) Withholding Requirements.
 - (2) Payments to California Residents.
 - (3) General Contractor Obligations.
 - (4) Multiple Contractors/Contractor-of-Record.
- (d) Rent or Lease Payments to Nonresidents.

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- (1) Rent or Lease Payments Made to Nonresidents.
- (2) Types of Rental or Leased Property Subject to Withholding.
- (e) Royalty Payments Made to Nonresidents.
 - (1) Compensation for the Right to Use Natural Resources.
 - (2) Compensation for Services Derived from Intangible Property Having a Taxable or Business Situs in California.
- (f) Payments to Corporate Directors.
 - (1) Withholding Not Required.
 - (2) Filing of Information Return.
- (g) Seminar Speakers and Expert Witnesses.
- (h) Income Allocation.
 - (1) Nonresident Contractors.
 - (2) Reliance on Allocations Provided by Payees.
 - (3) Allocation Based on Time.
 - (4) Reasonable Method of Allocation Based on Goods and Services.
 - (5) Allocation of Distributions.
- (i) FTB Form 588, Nonresident Withholding Waiver Request.
- (j) FTB Form 589, Nonresident Reduced Withholding Request.
- (k) FTB Form 587, Nonresident Withholding Allocation Worksheet.
- (l) FTB Form 590, Withholding Exemption Certificate.

§ 18662-6. Nonresident Withholding, Entertainers, Athletes, and Speakers.

- (a) Payments Subject to Withholding.
 - (1) General.
 - (2) Payments Made to Perform Entertainer's Agents or Promoters.
 - (3) Sound and Lights.
- (b) Request for Waiver or Reduced Withholding Amount.
- (c) Exceptions.
 - (1) California Resident.
 - (2) California Business Entity.
 - (3) Tax Exempt Organization.
 - (4) Total Payments Equal to or Less Than \$1,500.
 - (5) Services Performed Outside of California.
 - (6) Withholding Waiver Received.
- (d) Entertainment Venues Having Similar Names.
- (e) Canceled Performances.
- (f) Additional Rules for Athletes.
 - (1) Duty Days.
 - (2) Performance and Signing Bonuses.
- (g) FTB Form 590, Withholding Exemption Certificate.
- (h) FTB Form 592, Resident and Nonresident Withholding Statement.
- (i) FTB Form 588, Nonresident Withholding Waiver Request.
- (j) FTB Form 589, Nonresident Reduced Withholding Request.

§ 18662-8. Reporting and Remitting Amounts Withheld, Penalties, and Interest; Other Procedures.

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- (a) General.
- (b) Real Estate Sales – Information Returns.
 - (1) Payment Due Dates and Form.
 - (2) Reporting.
- (c) Withholding From Payments Other Than Real Estate Sales.
 - (1) Payment Due Dates.
 - ~~(2) Foreign (Non U.S.) Partners Due Dates.~~
 - ~~(3)~~(2) Reporting.
 - ~~(4)~~(3) Electronic and Magnetic Media.
 - ~~(5)~~(4) Withholding Adjustments.
- (d) Interest and Penalties.
 - (1) Interest.
 - (2) Penalties and Liabilities.
- (e) Other Information Returns.
- (f) Coordination With Group Returns.
- (g) FTB Form 593, Real Estate Withholding Tax Statement.
- (h) FTB Form 593-V, Payment Voucher for Real Estate Withholding.
- (i) FTB Form 592, Resident and Nonresident Withholding ~~Tax~~ Statement.
- (j) FTB Form 592-V, Payment Voucher for Nonresident or Resident Withholding.
- (k) FTB Form 592-PTE, Pass-Through Entity Withholding Return.
- (l) FTB Form 592-Q, Payment Voucher for Pass-Through Entity Withholding.
- ~~(k)~~(m) FTB Form 592-F, Foreign Partner or Member Annual Withholding Return.
- ~~(l)~~(n) FTB Form 592-A, Payment Voucher for Foreign Partner or Member Withholding.
- ~~(m)~~(o) FTB Form 592-B, Resident and Nonresident Withholding Tax Statement.
- ~~(n)~~ FTB Form 593-C, Real Estate Withholding Certificate.

NOTE: Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 18662, Revenue and Taxation Code.