

MINI WEBINAR SCRIPT

REAL ESTATE WITHHOLDING FORMS 593 and 593-V

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Hello! Welcome to the Franchise Tax Board's mini webinar on Real Estate Withholding Forms 593 and 593-V.

We designed this presentation for withholding agents, to provide an overview of California's real estate withholding requirements and how to complete Forms 593 and 593-V. At the end of this presentation we'll provide contact information you can use if you still have questions.

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California law requires buyers to withhold on the sale or transfer of California real property if:

- The total sales price exceeds \$100,000.00 and
- An exemption does not apply.

The real estate escrow person is required to give the buyer written notification of the withholding requirements. If the real estate escrow person does not notify the buyer in writing of the withholding requirements, they will be assessed a penalty that is the greater of \$500.00 or 10% of the required withholding.

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There are two ways to calculate the amount of withholding required; the total sales price method and, if the seller chooses, the optional gain on sale election. Under the total sales price method, the withholding amount is 3 and 1/3 percent of the total sales price. If the seller chooses the optional gain on sale election, the withholding amount is the reportable gain multiplied by the seller's maximum tax rate. Let's look at the difference between the two.

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If an individual sold California real property for \$200,000.00 and used the total sales price method, 3 and 1/3 percent, or \$6,660.00 would be withheld.

If the gain on that same California real property was \$50,000.00 and the seller chose the optional gain on sale election, 9.3 percent of the gain, or \$4,650.00 would be withheld.

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Although the law requires buyers to withhold, they can request their real estate escrow person handle it for them. This means the withholding agent can be any of the following:

- A title or escrow company,
- An accommodator, if the transaction is a 1031 exchange, or
- The buyer of the property, but this generally applies only to installment sale.

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If withholding is required, you use Form 593, Real Estate Withholding Tax Statement to report the withholding and Form 593-V, Payment Voucher for Real Estate Withholding to send the withholding to the Franchise Tax Board.

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You must send us the completed Form 593, withholding payment, and Form 593-V, by the 20th day of the month that follows the date of the transaction.

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The date of the transaction will be one of the following:

- The date escrow closes.
- The date an exchange is completed or the date it failed, or
- The installment payment due date.

For example, if escrow closes on January 6th, the forms and payment would be due on February 20th.

You can mail the completed Forms 593 to us, or you can submit them electronically. Detailed information on how to submit forms and payments electronically is available on our website.

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To access the real estate withholding forms, begin on our homepage, ftb.ca.gov. Select the Businesses tab near the top of the page. On the gray bar to the left, select Withholding. Then select Real Estate. In the navigation bar on the left side of the page, under the heading of Tools and Resources, select Forms and Publications.

This page provides links that will take you to each of the current year withholding forms. As you can see, Forms 593 and 593-V are available. Now that you know how to find the forms, let's review them and point out some common errors to avoid.

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We will use a fictitious title company and married couple to demonstrate how to complete the forms. David and Martha Palm sold their vacation home in California on

May 1st, 2012 for \$260,000.00. They used the total sales price method for the withholding calculation. The sale was handled by Beaches Title Company, and Jeff Gold, an employee of Beaches Title Company, completed the withholding forms.

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Using the total sales price method, the required withholding is \$8,658.00, which is 3 and 1/3 percent of \$260,000.00. Now that we have all of the necessary information, let's look at how Beaches Title Company would complete the forms.

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We will begin with Form 593, Real Estate Withholding Tax Statement.

Make sure the year on the form matches the year of the transaction you are reporting.

In Part I, you begin by providing your name, taxpayer identification number, and complete address. As the withholding agent, you may be either a business or an individual, not both.

Beaches Title Company would enter their name in the business name field. They are a business entity so they would provide either a Federal Employer Identification Number, California Corporation Number or Secretary of State File Number.

In our example Beaches Title Company is using their FEIN. Lastly they would provide their mailing address. The first and last name fields are left blank because Beaches Title Company is not an individual.

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Next enter the name, taxpayer identification number, and complete address of the seller or transferor.

David and Martha Palm are married and plan to file a joint personal income tax return, so Beaches Title Company can use one Form 593. They would also provide David's and Martha's social security numbers.

Beaches Title Company would enter two addresses on the form, the seller's address and the address of the property that was sold. If they didn't have the property address they could enter the property's county and its parcel number.

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Now let's look at Part 2 of the form. Beaches Title Company would enter the escrow number on line 1. On line two they would enter the date of the transfer, May 1st, 2012. Failing to provide the transaction date can result in interest and penalties being assessed on the withholding agent. Remember, the year of the form must match the year of the transaction.

Beaches Title Company would mark box '3A' to report the transaction was a conventional sale. Beaches Title Company would mark box '4A' to report the withholding calculation they used was the total sales price method and they would report the \$8,658.00 withheld on line 5. The same amount would be reported on Form 593-V.

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The final portion of the form is the perjury statement and preparer's information.

David and Martha did not use the optional gain on sale election, so they are not required to sign the perjury statement. Jeff Gold completed the form so he would enter his name and the name of his employer, Beaches Title Company, at the bottom of the form. He would also provide his phone number so we could contact him directly if we discover an error or omission on the form.

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Now we will review Form 593-V, Payment Voucher for Real Estate Withholding. Only complete this voucher if you are making the withholding payment by check or money order.

Again, the first thing you want to do is make sure the year of the form matches the year of the transaction. Next you would indicate how Form 593 was submitted. Beaches Title Company submitted the form by paper and they only submitted one Form 593.

Form 593-V is completed with the same withholding agent information provided on Form 593, so Beaches Title Company would enter their name in the business name field and provide their FEIN. In addition to the mailing address, Beaches Title Company would provide a contact phone number so that we can reach them directly if we discover an error or omission on the form.

The payment amount reported on the voucher should match the amount of withholding reported on line 5 of Form 593. Beaches Title Company would enter the \$8,658.00 they withheld. If there was no withholding required, or you made the payment using electronic funds transfer, you wouldn't send us a payment voucher.

The transaction occurred on May 1st, 2012 so Beaches Title Company would send us the completed Forms 593 and 593-V with the withholding payment by June 20th, 2012.

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If you do not comply with the real estate withholding requirements you are subject to a number of penalties.

If you fail to send us the complete and correct Form 593 by the due date, we assess penalties for each Form 593 that is filed late. We determine the amount of the penalty by how late the form is. The penalties per form are:

- \$15.00 if filed within 30 days of the due date.
- \$30.00 if filed 31 to 180 days after the due date.
- \$50.00 if filed more than 180 days after the due date or if you don't provide the seller with a copy.

If the failure to file is due to intentional disregard of the requirement, the penalty is the larger of \$100.00 or 10% of the required withholding.

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We will also assess a penalty if you do not withhold as required. The penalty is the greater of \$500.00 or 10% of the required withholding. Additionally, interest will be assessed on late withholding payments and is computed from the due date to the date paid.

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Before we conclude this presentation we have a few tips and reminders to help you complete Forms 593 and 593-V:

- Always provide the date of the transaction.
- Make sure the year of the form and the year of the transaction are the same.
- Enter either a business or an individual name, not both, for the withholding agent and for the seller.
- Complete Form 593-V with the withholding agent's information, not the seller's, and
- Always provide contact information.

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We hope today's webinar has helped you understand how to complete Form 593, Real Estate Withholding Tax Statement and Form 593-V, Payment Voucher for Real Estate Withholding.

If you still have questions, we're here to help!

At ftb.ca.gov, you'll find information, forms and publications to help you with all of your withholding needs.

If you need to contact us, you can email us at wscs.gen@ftb.ca.gov. But please do not send confidential information as this is not a secure email address.

You can also call us at 916.845.4900 or 888.792.4900.

Our telephone staff is available to take your calls Monday through Friday, from 8 a.m. to 5 p.m. Pacific time.

This concludes our presentation. On behalf of the California Franchise Tax Board, thank you for viewing this mini webinar. We hope it was helpful to you.