

2015 Real Estate Withholding Tax Statement

593

AMENDED: [ ]

Part I Withholding Agent

Form section for Part I Withholding Agent including fields for Business name, SSN or ITIN, FEIN, CA Corp no., CA SOS file no., First name, Initial, Last name, Address, City, State, ZIP Code.

Part II Seller or Transferor

Form section for Part II Seller or Transferor including fields for 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, FEIN, CA Corp no., CA SOS file no., Address, City, State, ZIP Code, Property address.

Part III Escrow or Exchange Information

Form section for Part III Escrow or Exchange Information including fields for Escrow or Exchange Number, Date of Transfer, Type of Transaction (Conventional Sale or Transfer, Boot, Installment Sale Payment, Failed Exchange), Withholding Calculation (Total Sales Price Method, Optional Gain on Sale Election), and Amount Withheld.

Seller or 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.

Under penalties of perjury, I hereby certify that the information provided above is, to the best of my knowledge, true and correct. I understand that the Franchise Tax Board may review relevant escrow documents to ensure withholding compliance.

Sign Here: Your signature, Spouse's/RDP's signature, Date

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

Preparer's name and Title/Escrow business name, Telephone Number

# 2015 Instructions for Form 593

## Real Estate Withholding Tax Statement

### General Information

**Do Not Round Cents to Dollars** – On this form, **do not** round cents to the nearest whole dollar. Enter the amounts with dollars and cents as actually withheld.

**Installment Sales** – The withholding agent is required to report as an installment sale (check box B, Installment Sale Payment, on Line 3) if the transaction is structured as an installment sale as evidenced by a promissory note. The withholding agent is required to withhold 3<sup>1</sup>/<sub>3</sub>% (.0333) of the first installment payment.

Buyers are required to withhold on the principal portion of each subsequent installment payment if the sale of California real property is structured as an installment sale.

#### Withhold on Installment Sale Elect-out Method

– If the seller or transferor elects not to report the sale on the installment method (Internal Revenue Code Section 453[d]), the seller or transferor must file a California tax return and report the entire sale on Schedule D-1, Sale of Business Property. After filing the tax return and reporting the entire gain, the seller or transferor must submit a written request to the Franchise Tax Board (FTB) to release the buyer from withholding on the installment sale payments. Once the request is received, FTB will issue an approval or denial within 30 days.

**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.

### A Purpose

Use Form 593, Real Estate Withholding Tax Statement, to report real estate withholding on sales closing in 2015, on installment payments made in 2015, or on exchanges that were completed or failed in 2015.

Use a separate Form 593 to report the amount withheld from each seller or transferor. If the sellers or 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 or transferors are married or RDPs and they are entered as one seller or transferor, we treat them as having equal ownership interest. If the ownership interest is not equal, separate Forms 593 need to be filed for each individual to represent the correct ownership interest percentage. If the information submitted is incorrect, an amended Form 593 must be submitted to the FTB by the withholding agent.

Use Form 593-V, Payment Voucher for Real Estate Withholding, to remit real estate withholding payments to the FTB. Form 593-V should be used whether Form(s) 593, is submitted electronically or by mail. The withholding agent 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).

### 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 withholding agent's and seller's or 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 or transferor is a trust, see the Specific Instructions on page 2, Part II, **Seller or 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

Any real estate escrow person (REEP) who withheld on the sale or 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 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, with the principal portion of the first installment payment, file a copy of Form 593, Form 593-I, Real Estate Withholding Installment Sale Acknowledgement, Form 593-V, a copy of the promissory note, and the amount of tax withheld. For subsequent installment payments, the buyer should file a copy of only Form 593 and Form 593-V along with the amount of tax withheld. You do not need to obtain the seller's or transferor's signature on each subsequent and completed Form 593.

Mail forms and payment for the amount of tax withheld within 20 days following the end of the month in which the transaction occurred. Mail to:

FRANCHISE TAX BOARD  
PO BOX 942867  
SACRAMENTO CA 94267-0651

Distribute the other two copies of Form 593 as follows:

- Send one copy to the seller or transferor within 20 days following the end of the month in which the transaction occurred.
- One copy will be retained by the withholding agent 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 withholding agent. If a seller or transferor notices an error, contact the withholding agent.

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 Form 593 explaining what changes were made and why.

To amend a Form 593 previously filed using an incorrect year form:

- Complete a new Form 593 with the withholding information using the correct year form. **Do not** check the “Amended” box on the top left corner of the form.
- Complete a new Form 593 using the same year form that was originally filed. Check the “Amended” box on the top left corner of the form, **and** enter \$0.00 as the amount withheld on line 5 of the form.
- Attach a letter to each Form 593 explaining what changes were made and why.

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, each affected seller or transferor should also be provided with a copy.

**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 of the withholding requirements in writing, the penalty is the greater of \$500 or 10% of the required withholding.

If after notification, the buyer or other withholding agent does not withhold, the penalty is the greater of \$500 or 10% of the required withholding.

If the withholding agent does not furnish complete and correct copies of Form 593 to the **seller or transferor** by the due date, the penalty is \$50 per Form 593. If the failure is due to an intentional disregard of the requirement, the penalty is the greater of \$100 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:

- \$15 if filed 1 to 30 days after the due date.
- \$30 if filed 31 days to 6 months after the due date.
- \$50 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 \$100 or 10% of the required withholding.

## G Electronic Filing Requirements

Form 593 information may be filed with the FTB electronically, using FTB's Secure Web Internet File Transfer (SWIFT), instead of paper. However, withholding agents must continue to provide the seller or transferor with a copy of paper Form 593.

For installment sales, withholding agents must also mail a completed Form 593-I and a copy of the promissory note to the FTB with the first installment 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 withholding agent, provide a separate electronic file for each withholding agent. 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.

## Specific Instructions

### Instructions for Seller or Transferor

This withholding of tax does not relieve you from 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 or transfer as required and enter the amount from line 5 on your California tax return as real estate and other withholding from Form(s) 592-B or 593. 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** – Enter the information in the following order: City, Country, Province/Region, and Postal Code. Follow the country's practice for entering the postal code. **Do not** abbreviate the country's name.

## Part I – Withholding Agent

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 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 or Transferor

Enter the individual or business name (if applicable), mailing address, and identification number of the seller or transferor. If the seller or transferor has applied for an identification number, but it has not been received, enter, "Applied For" in the space for the seller's or transferor's ID and attach a copy of the federal application behind Form 593.

If the seller or transferor is an **individual**, enter the SSN or ITIN. If the sellers or 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 or transferor. Instead, complete a separate Form 593 for each seller or transferor.

If the seller or transferor is a 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.

If the seller or transferor is a **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 or transferor must report the sale and claim the withholding on the individual's tax return.

If the seller or transferor is a **non-grantor trust**, enter the name of the trust and the trust's FEIN. If the trust has not applied for a FEIN, leave the identification number blank. **Do not enter the trustee information.** When you receive your FEIN, contact the FTB at **888.792.4900**.

If the seller or transferor is a **single member disregarded limited liability company**, enter the name and identification number of the single member.

For all other **non-individual** sellers or 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 or 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.

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

**Installment Sale:** For withholding on the first installment payment, enter the date escrow closed. For withholding on the principal portion of each installment payment, enter the 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 or Transfer:** Check this box if the conventional sale or transfer represents the close of escrow for the real estate transaction. This sale or transfer does not contain any conditions such as an installment sale, boot, or failed exchange.

**Installment Sale Payment:** Check this box if the transaction is structured as an installment sale, as evidenced by a promissory note, or if you are withholding on the principal portion of any installment payment. Attach a copy of the promissory note with the first installment payment only.

**Boot:** Check this box if the seller or 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 1/3% (.0333) of the sale price) 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.

**Line 5 – Amount Withheld from this Seller or Transferor**

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

**Withholding Calculation Using Total Sales Price Method**

**Conventional Sale or Transfer:**

- a. Total Sales Price . . . . . \$ \_\_\_\_\_
- b. Enter the seller's or transferor's ownership percentage . . . . . % \_\_\_\_\_
- c. Amount Subject to Withholding. Multiply line a by line b and enter the result . . . . . \$ \_\_\_\_\_
- d. Withholding Amount. Multiply line c by 3 1/3% (.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 first installment payment in escrow, enter the required amount of the first installment payment. If you are withholding on subsequent installment payments 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 or 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 or transferors attempted to exchange this property, enter this seller's or 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 or Transfer:** Enter the amount from Form 593-E, Real Estate Withholding – Computation of Estimated Gain or Loss, line 17 on Form 593, line 5.

**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 the first installment payment (this includes any deposits, down payments, or amounts paid for the seller) 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 . . . . . \$ \_\_\_\_\_
- b. Multiply line a by installment sale withholding percent calculated above . . . . . \$ \_\_\_\_\_
- 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 or transferor must provide the buyer with the Installment Sale Withholding percent to include on Form 593-I.

Send the original Form 593, the required withholding payment on the principal portion of the first installment payment, and a copy of the promissory note to the FTB. **Do not** attach a copy of the promissory note with subsequent installment payments.

**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 or transferors attempted to exchange this property, enter this seller's or 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 . . . . .	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 or Transferor Signature**

Complete the Seller or Transferor and Preparer information. A signature is only required if the Optional Gain On Sale Election method is used.

**Preparer's Name and Title/Escrow Business Name**

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

**Additional Information**

For additional information or to speak to a representative regarding this form, call the Withholding Services and Compliance telephone service at:

**888.792.4900**, or  
916.845.4900  
FAX 916.845.9512

Or write to:

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

You can download, view, and print California tax forms and publications at **ftb.ca.gov**.

Or to get forms by mail, write to:

TAX FORMS REQUEST UNIT  
FRANCHISE TAX BOARD  
PO BOX 307  
RANCHO CORDOVA CA 95741-0307

For all other questions unrelated to withholding or to access the TTY/TDD number, see the information below.

**Internet and Telephone Assistance**

- Website: **ftb.ca.gov**
- Phone: 800.852.5711 from within the United States  
916.845.6500 from outside the United States
- TTY/TDD: 800.822.6268 for persons with hearing or speech impairments

**Asistencia Por Internet y Teléfono**

- Sitio web: **ftb.ca.gov**
- Teléfono: 800.852.5711 dentro de los Estados Unidos  
916.845.6500 fuera de los Estados Unidos
- TTY/TDD: 800.822.6268 para personas con discapacidades auditivas o del habla