

2010 Real Estate Withholding Certificate**593-C****Part I – Seller's Information****Return this form to your escrow company.**

Name		SSN or ITIN	
Spouse's/RDP's name (if jointly owned)		Spouse's/RDP's SSN or ITIN (if jointly owned)	
Address (suite, room, PO Box, or PMB no.)		<input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no.	
City	State	Zip Code	Ownership Percentage _____ %
Property address (if no street address, provide parcel number and county)			

To determine whether you qualify for a full or partial withholding exemption, check all boxes that apply to the property being sold or transferred.
(See line-by-line notes in the Instructions)

Part II – Certifications which fully exempt the sale from withholding:

1. The property qualifies as the seller's (or decedent's, if sold by the decedent's estate) principal residence within the meaning of Internal Revenue Code (IRC) Section 121.
2. The seller (or decedent, if sold by the decedent's estate) last used the property as the seller's (decedent's) principal residence within the meaning of IRC Section 121 without regard to the two-year time period.
3. The seller has a loss or zero gain for California income tax purposes on this sale. To check this box you must complete Form 593-E, Real Estate Withholding-Computation of Estimated Gain or Loss, and have a loss or zero gain on line 16.
4. The property is being compulsorily or involuntarily converted and the seller intends to acquire property that is similar or related in service or use to qualify for nonrecognition of gain for California income tax purposes under IRC Section 1033.
5. The transfer qualifies for nonrecognition treatment under IRC Section 351 (transfer to a corporation controlled by the transferor) or IRC Section 721 (contribution to a partnership in exchange for a partnership interest).
6. The seller is a corporation (or a limited liability company (LLC) classified as a corporation for federal and California income tax purposes) that is either qualified through the California Secretary of State or has a permanent place of business in California.
7. The seller is a California partnership, or qualified to do business in California (or an LLC that is classified as a partnership for federal and California income tax purposes and is not a single member LLC) that is not disregarded for federal and California income tax purposes. If this box is checked, the partnership or LLC must still withhold on nonresident partners or members.
8. The seller is a tax-exempt entity under California or federal law.
9. The seller is an insurance company, individual retirement account, qualified pension/profit sharing plan, or charitable remainder trust.

Part III – Certifications that may partially or fully exempt the sale from withholding:**Real Estate Escrow Person (REEP):** See instructions for amounts to withhold.

10. The transfer qualifies as a simultaneous like-kind exchange within the meaning of IRC Section 1031.
11. The transfer qualifies as a deferred like-kind exchange within the meaning of IRC Section 1031.
12. The transfer of this property is an installment sale where the buyer is required to withhold on the principal portion of each installment payment. Copies of Form 593-I, Real Estate Withholding Sale Acknowledgement, and the promissory note are attached.

Part IV – Seller's Signature

Under penalties of perjury, I hereby certify that the information provided above is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent. I understand that the Franchise Tax Board may review relevant escrow documents to ensure withholding compliance and that completing this form does **not** exempt me from filing a California income or franchise tax return to report this sale.

Seller's Name and Title _____ Seller's Signature _____ Date _____

Spouse's/RDP's Name _____ Spouse's/RDP's Signature _____ Date _____

Please verify that the SSN or ITIN listed above in Part 1 of this form is correct.

Seller: If you checked any box in Part II, you are exempt from real estate withholding.

If you checked any box in Part III, you may qualify for a partial or complete withholding exemption.

If you did not check any box in Part II or Part III, the withholding will be 3^{1/3}% (.0333) of the total sales price or the optional gain on sale withholding amount certified by seller on Form 593, Real Estate Withholding Tax Statement.

If you are withheld upon, the withholding agent should give you one copy of Form 593. Attach a copy to the lower front of your California income tax return and make a copy for your records.

Keep Form 593-C for five years following the close of the transaction. You must furnish the form to the FTB upon request.

2010 California Forms 593-C, 593-E, and Instructions

Use this booklet for real estate sales or transfers closing in 2010. (For individual and non-individual sellers).

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General Information

A Important Information

Increase in Rates – For taxable years beginning on or after January 1, 2009, the maximum personal income tax rate increased to 9.55%. In addition, non-California partnerships are subject to withholding requirements on a sale of California real property at a rate of $3^{1/3}\%$ of sales price or 9.55% of gain. The alternative withholding rates for the sale of California real property by S corporations increased to 11.05% and 13.05% for Financial S corporations.

Installment Sales – For taxable years beginning on or after January 1, 2009, buyers are required to withhold on the principal portion of each installment payment if the sale of California real property is structured as an installment sale.

Registered Domestic Partners (RDP) – RDPs under California law must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified.

If you entered into a same-sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status. For more information on what states have legal unions that are considered substantially equivalent, go to ftb.ca.gov and search for **attorney general**.

For purposes of California income tax, references to a spouse, husband, or wife also refer to a California registered domestic partner (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.

Round Cents to Dollars – Round cents to the nearest whole dollar. For example, round \$50.50 up to \$51 or round \$25.49 down to \$25. If you do not round, the Franchise Tax Board (FTB) will disregard the cents.

B Purpose

Withholding is required when California real estate is sold or transferred. The amount withheld from the seller or transferor is sent to the FTB as required by California Revenue and Taxation Code Section 18662.

Withholding is **not** required if any of the following apply:

- The total sales price is \$100,000 or less.
- The property is being foreclosed upon (sold pursuant to a power of sale under a mortgage or deed of trust, sold pursuant to a decree of foreclosure, or by a deed in lieu of foreclosure).
- The transferor is a bank acting as a trustee other than a trustee of a deed of trust.
- The seller certifies to an exemption.

For more information about real estate withholding, get FTB Pub. 1016, Real Estate Withholding Guidelines.

If you are a seller:

- Use Form 593-C, Real Estate Withholding Certificate, to determine whether you qualify for a full or partial withholding exemption. Keep this form for five years.
- Use Form 593-E, Real Estate Withholding - Computation of Estimated Gain or Loss, to determine your gain or loss on the sale and to calculate the optional gain on sale withholding amount. Keep this form for five years.

C What is Real Estate Withholding?

Real estate withholding is:

- A prepayment of estimated income tax due from the gain on a sale of California real estate. If the amount withheld is more than the income tax liability, we will refund the difference when you file a tax return after the end of the taxable year.
- Not an additional tax on the sale of real estate. It is your obligation to file a California tax return, pay any tax due, and claim any real estate withholding payment on your California tax return.

D Who Must Withhold?

Although the law requires the buyer to withhold, the buyer can request the Real Estate Escrow Person (REEP), to do the withholding. We use the term REEP throughout this publication to refer either to the REEP or the buyer, whoever is taking responsibility for withholding.

E Why Do We Withhold?

We withhold to:

- Ensure payment of income tax owed on the taxable gain from the sale.
- Reduce the likelihood of penalties charged to the seller for underpayment of estimated tax.

F Withholding Agent Instructions

- Unless the sale qualifies for an automatic exclusion (the sales price is \$100,000 or less, the transferor is a bank acting as a trustee other than a trustee of a deed of trust, or the property is being foreclosed upon), provide Forms 593, Real Estate Withholding Tax Statement, 593-C, 593-E, and 593-I, Real Estate Withholding Installment Sale Acknowledgement, with instructions to each seller as soon as escrow opens. We update our forms and instructions annually; therefore make certain you use the correct form. The year on the form should be the year that escrow will close.
- Instruct the seller to complete and sign Form 593-C and return it to the REEP by the close of escrow. Incomplete or improperly completed forms may not exempt the seller from withholding. Form 593-C cannot be accepted after the close of escrow.
 - If the seller checked any box in Part II, Certifications which fully exempt the sale from withholding, the seller is exempt from withholding. You are relieved of the real estate withholding requirements if, based on all the information that you have knowledge of, the seller certifies an exemption from withholding.
 - If the seller checked any box in Part III, Certifications that may partially or fully exempt the sale from withholding, the seller may qualify for a partial or complete withholding exemption. Read the specific line instructions to determine the amount to withhold and any additional requirements.
 - If the seller did not check any box in Part II or Part III, the withholding will be $3^{1/3}\%$ of the total sales price, or the optional gain on sale withholding amount from line 5 of the certified Form 593.
 - If the seller does not return the completed Form 593 and Form 593-C by the close of escrow, you are required to withhold $3^{1/3}\%$ of the total sales price.
- As the REEP, you are required to withhold and complete Form 593 for each seller that was withheld upon. Give one copy of Form 593 to the seller. After the close of the month, the REEP mails one copy of all of the Forms 593 completed during the month, and any promissory note, to the FTB with the total amount withheld for all transactions that closed during the month. However, the REEP has the option to send in one payment and the related Form 593, and any promissory note, if applicable, for each escrow. Regardless of whether you send one payment for the month or one payment for each escrow, Forms 593, any required promissory note, and the withholding payment are due to the FTB by the 20th day of the month following the month you closed escrow. As the REEP remitting the withholding to the FTB, you must include your name and telephone number as a contact for the remittance.
- **Do not** send Form 593-C to the FTB. The REEP should keep Form 593-C for five years following the close of the transaction. The form must be furnished to the FTB upon request.

Instructions for Form 593-C

Real Estate Withholding Certificate

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2005**, and to the California Revenue and Taxation Code (R&TC).

Purpose

Use Form 593-C, Real Estate Withholding Certificate, to determine whether you qualify for a full or partial withholding exemption.

Qualifying for an exemption from withholding or being withheld upon does not relieve you of your obligation to file a California income tax return and pay any tax due on the sale of California real estate.

The seller must submit this form before the close of escrow to prevent withholding on the transaction. After escrow has closed, amounts withheld may be recovered only by claiming the withholding as a credit on the appropriate year's tax return.

Part I Seller's Information

Name, Address, and Taxpayer Identification Number

Enter the name, address, and tax identification number of the seller or other transferor. If the seller does not provide a tax identification number, then Form 593-C is void, and withholding is required.

If the seller is an **individual**, enter the social security number (SSN) or individual taxpayer identification number (ITIN). If the sellers are spouses/registered domestic partners (RDPs) 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. Instead, complete a separate Form 593-C for each seller.

If you do not have a SSN because you are a nonresident or a resident alien for federal tax purposes, and the Internal Revenue Service (IRS) issued you an ITIN, enter the ITIN in the space provided for the SSN.

An ITIN is a tax processing number issued by the IRS to individuals who have a federal tax filing requirement and do not qualify for a SSN. It is a nine-digit number that always starts with the number 9.

If the seller is a **grantor trust**, enter the grantor's individual name and SSN. For tax purposes, the grantor trust is disregarded for tax purposes and the individual seller must report the sale and claim the withholding on their individual tax return. If the trust was a grantor trust that became irrevocable upon the grantor's death, enter the name of the trust and the trust's federal employer identification number (FEIN). **Do not enter the decedent's or trustee's name or SSN.**

If the seller is a **non-grantor trust**, enter the name of the trust and the trust's FEIN. **Do not enter trustee information.**

If the seller is a **single member disregarded LLC**, enter the name and tax identification number of the single member.

Real Estate Escrow Person (REEP): If you choose to provide a copy of Form 593-C to the buyer, delete the seller's tax identification number on the buyer's copy.

Ownership Percentage

Enter your ownership percentage rounded to two decimal places (e.g. 66.67%). If you are on the title for incidental purposes and you have no financial ownership, enter 0.00 and skip to Part IV. You will not be withheld upon.

Examples of sellers who are on title for incidental purposes are:

- Co-signers on title (e.g., parents co-signed to help their child qualify for the loan).
- Family members on title to receive property upon the owner's death.

Part II Certifications That Fully Exempt Withholding

Line 1 – Principal Residence

To qualify as your principal residence under Internal Revenue Code (IRC) Section 121, you (or the decedent) generally must have owned and lived in the property as your main home for at least two years during the five-year period ending on the date of sale. Military and Foreign Service, get FTB Pub. 1032, Tax Information for Military Personnel.

You can have only one main home at a time. If you have two homes and live in both of them, the main home is the one you lived in most of the time.

There are exceptions to the two-year rule if the primary reason you are selling the home is for a change in the place of employment, health, or unforeseen circumstances such as death, divorce or termination of registered domestic partnership, or loss of job, etc. For more information about what qualifies as your principal residence or exceptions to the two-year rule, get federal Publication 523, Selling Your Home. You can get this publication at irs.gov, or call the IRS at 800.829.3676.

If only a portion of the property qualifies as your principal residence, insert the percentage allocated to the principal residence in the space above line 1 and inform the REEP.

The allocation method should be the same as the seller used to determine depreciation.

Line 2 – Property last used as your principal residence

If the property was last used as the seller's or decedent's principal residence within the meaning of IRC Section 121 without regard to the two-year time period, no withholding is required. If the last use of the property was as a vacation home, second home, or rental, you do not qualify for the exemption. You must have lived in the property as your main home.

If you have two homes and live in both of them, the main home is the one you lived in most of the time.

Line 3 – Loss or Zero Gain

You have a loss or zero gain for California income tax purposes when the amount realized is less than or equal to your adjusted basis. You must complete Form 593-E, Real Estate Withholding - Computation of Estimated Gain or Loss, and have a loss or zero gain on line 16 to certify that the transaction is fully exempt from withholding.

You may not certify that you have a net loss or zero gain just because you do not receive any proceeds from the sale or because you feel you are selling the property for less than what it is worth.

Line 4 – Involuntary Conversion

The property is being involuntarily or compulsorily converted when both of the following apply:

- The California real property is transferred because it was (or threatened to be) seized, destroyed, or condemned within the meaning of IRC Section 1033.
- The transferor (seller) intends to acquire property that is similar or related in service or use in order to be eligible for nonrecognition of gain for California income tax purposes.

Get federal Publication 544, Sales and Other Dispositions of Assets, for more information about involuntary conversions.

Line 5 – Non-recognition Under IRC Section 351 or 721

The transfer must qualify for nonrecognition treatment under IRC Section 351 (transferring to a corporation controlled by transferor) or IRC Section 721 (contributing to a partnership in exchange for a partnership interest).

Real Estate Escrow Person: If, during the escrow, an individual seller transfers title to a corporation or partnership and then the corporation or partnership transfers title to the buyer, then there are two transfers for withholding purposes. Accordingly, two separate Forms 593-C should be completed for withholding purposes. The individual must complete one form for the transfer to the corporation or partnership. The corporation or partnership must complete the other form for the transfer to the buyer.

Line 6 – Corporation

A corporation has a permanent place of business in California if any of the following apply:

- It is organized and existing under the laws of California.
- It is qualified to transact business in California through the California Secretary of State.
- It will maintain and staff a permanent office in California.

S corporations must withhold on nonresident S corporation shareholders. Get FTB Pub. 1017, Resident and Nonresident Withholding Guidelines, for more information.

Line 7 – Partnership or Limited Liability Company (LLC)

Withholding is not required if the title to the property transferred is recorded in the name of the California partnership or is qualified to do business in California (or is an LLC that is classified as a partnership for federal and California income tax purposes) and is not a single member LLC (SMLLC) that is disregarded for federal and California income tax purposes.

However, partnerships and LLCs are required to withhold on nonresident partners and members. For more information, get FTB Pub. 1017.

Withholding is not required if the title to the property transferred is in the name of an LLC, and the LLC meets both of the following requirements:

- The LLC is classified as a partnership for federal and California income tax purposes.
- The LLC is **not** a single member LLC that is disregarded for federal and California income tax purposes.

If the LLC meets these conditions, the LLC must still withhold on nonresident members. Get FTB Pub. 1017 for more information.

If the SMLLC is classified as a corporation for federal and California income tax purposes, then the seller is considered a corporation for withholding purposes. Refer to Line 6.

If the LLC is an SMLLC that is disregarded for federal and California income tax purposes, then that single member is considered the seller and title to the property is considered to be in the name of the single member for withholding purposes.

When completing Form 593-C as the single member of a disregarded LLC, write on the bottom of the form that the information on the form is for the single member of the LLC, so the REEP will understand why it is different from the recorded title holder.

If the single member is	Complete Form 593-C using:
An individual	The individual's information
A corporation	The corporation's information
A partnership	The partnership's information
An LLC	The single member's information

Line 8 – Tax-Exempt Entity

Withholding is not required if the seller is tax-exempt under either California or federal law (e.g., religious, charitable, educational, not for profit organizations, etc.).

Line 9 – Insurance Company, Individual Retirement Account, Qualified Pension or Profit-Sharing Plan, or Charitable Remainder Trust

Withholding is not required when the seller is an insurance company, individual retirement account, qualified pension or profit-sharing plan, or a charitable remainder trust.

Part III Certifications That May Partially or Fully Exempt the Sale From Withholding

Complete Part III only if you did not meet any of the exemptions in Part II. If you met an exemption in Part II, skip to Part IV.

Line 10 – Simultaneous Exchange

If the California real property is part of a simultaneous like-kind exchange within the meaning of IRC Section 1031, the transfer is exempt from withholding. However, if the seller receives money or receives other property (in addition to property that is a part of the like-kind exchange), exceeding \$1,500 from the sale, the withholding agent must withhold.

Line 11 – Deferred Exchange

If the California real property is part of a deferred like-kind exchange within the meaning of IRC Section 1031, the sale is exempt from withholding at the time of the initial transfer. However, if the seller receives money or receives other property (in addition to property that is a part of the like-kind exchange), exceeding \$1,500 from the sale, the withholding agent must withhold.

The intermediary or accommodator must withhold on all cash or cash equivalent (boot) it distributes to the seller if the amount exceeds \$1,500.

If the exchange does not take place or if the exchange does not qualify for nonrecognition treatment, the intermediary or accommodator must withhold 3^{1/3}% of the total sales price.

Line 12 – Installment Sale

Beginning January 1, 2009, the buyer is required to withhold on the principal portion of each installment payment if the sale is structured as an installment sale. The buyer must complete and sign Form 593-I, Real Estate Withholding Installment Sale Acknowledgement, and attach a copy of the promissory note with the first installment payment.

When the withholding amount on the first installment principal payment is sent to the FTB, the FTB must also receive a completed Form 593-I, a completed Form 593, Real Estate Withholding Tax Statement, and a copy of the promissory note.

Part IV Seller's Signature

You must sign this form and return it to your REEP by the close of escrow for it to be valid. Otherwise, the withholding agent must withhold the full 3^{1/3}% of the total sales price or the optional gain on sale withholding amount from line 5 of Form 593 that is certified by the seller.

Any transferor (seller) who, for the purpose of avoiding the withholding requirements, knowingly executes a false certificate is liable for a penalty of \$1,000 or 20% of the required withholding amount, whichever is greater.