

2016

Real Estate Withholding —
Computation of Estimated Gain or Loss

593-E

(You are required to complete this form if you claim an exemption due to a loss or zero gain or if you elect an optional gain on sale withholding amount.)

Part I - Seller/Transferor

Form with fields for Name, Spouse's/RDP's name, Address, City, State, ZIP code, and Property address.

Part II - Computation

Computation lines 1-18 including Selling price, Selling expenses, Amount realized, Total sales price withholding amount, and Optional gain on sale withholding amount.

Seller/Transferor Signature

Signature area with title and escrow persons disclaimer, privacy notice, and signature lines for Seller/Transferor and Spouse's/RDP's.

# 2016 Instructions for Form 593-E

## Real Estate Withholding – Computation of Estimated Gain or Loss

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 2015, and to the California Revenue and Taxation Code (R&TC).

### General Information

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

### Purpose

Use Form 593-E, Real Estate Withholding – Computation of Estimated Gain or Loss, to estimate the amount of your gain or loss for withholding purposes and to calculate an optional gain on sale withholding amount. This form is used for sales closing in 2016.

The seller/transferor completes this form. Title and real estate escrow persons (REEP) and exchange accommodators are not authorized to provide legal or accounting advice for purposes of determining withholding amounts. Sellers/transferors are strongly encouraged to consult with a tax professional for this purpose.

**Optional Gain on Sale Withholding Amount** is the withholding amount calculated when the optional gain on sale election has been made by the seller/transferor, which includes providing a signature under penalty of perjury. The seller/transferor makes the election and provides the signature on Form 593-E. The withholding amount is calculated by multiplying the seller's/transferor's applicable tax rate by the estimated gain determined on Form 593-E.

You may use estimates when you complete this form, but the estimates must not result in the calculation of a loss when you actually have a gain. Any seller/transferor 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.

This form is signed under penalty of perjury. The seller/transferor must keep this form for 5 years and provide it to the Franchise Tax Board (FTB) upon request. However, the seller/transferor is not required to provide this form to the withholding agent or buyer/transferee.

### Specific Instructions

**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** – Follow the country's practice for entering the city, county, province, state, country, and postal code, as applicable, in the appropriate boxes. **Do not** abbreviate the country name.

### Part I – Seller/Transferor

Enter the name, tax identification number, and address of the seller/transferor.

If the seller/transferor is an **individual**, enter the social security number (SSN) or individual taxpayer identification number (ITIN). If the sellers/transferors 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/transferor.

### Part II – Computation

#### Line 1 – Selling Price

The selling price is the total amount you will receive for your property. It includes money, as well as, all notes, mortgages, or other debts assumed by the buyer/transferee as part of the sale, plus the fair market value of any other property or any services you receive.

#### Line 2 – Selling Expenses

Selling expenses include commissions, advertising fees, legal fees, and loan charges that will be paid by the seller/transferor, such as loan placement fees or points.

#### Line 3 – Amount Realized

The amount realized is the selling price minus the selling expenses.

#### Line 4 – Purchase Price

If you acquired this property by purchase, enter your purchase price. Your purchase price includes the down payment and any debt you incurred; such as a first or second mortgage or promissory notes you gave the seller/transferor in payment for the property. If you acquired the property by gift, inheritance, exchange, or any way other than purchase, see How to Figure Your Basis.

#### Line 5 – Seller/Transferor-Paid Points

Points are charges paid to obtain a loan. They may also be called loan origination fees, maximum loan charges, loan discount, or discount points. If the seller/transferor paid points for you when you acquired the property, enter the amount paid by the seller/transferor on your behalf on line 5, unless you already subtracted this item to arrive at the amount for line 4.

#### Line 6 – Depreciation

Enter the amount of depreciation you deducted, or could have deducted, on your California income tax return for business or investment use of the property under the method of depreciation you chose. If you took less depreciation on your tax return than you could have under the method chosen, you must enter the amount you could have taken under that method. If you did not take a depreciation deduction, enter the full amount of depreciation you could have taken. Get federal Publication 946, How to Depreciate Property, for more information.

If you do not know how much depreciation you deducted or were allowed, you can make an estimate of the amount of depreciation (for withholding purposes only). To estimate the depreciation, divide the purchase price plus the cost of additions and improvements by 27.5 and multiply that by the number of years you used the property for business use (up to 27.5 years).

**Example:** Mary bought a house 20 years ago for \$150,000 and has used it as a rental property for the last 18 years. Prior to renting the house, she added a pool which cost her \$25,000. Mary's depreciation is estimated as follows:

Cost	\$150,000
Plus additions	25,000
Total	175,000
Divided by 27.5 =	6,364
Multiply by 18 years =	\$114,552

Mary's estimated depreciation to enter on line 6 is \$114,552.

#### Line 7 – Other Decreases to Basis

Include any other amounts that decrease your basis, such as:

- Casualty or theft loss deductions and insurance reimbursements.
- Energy credits claimed for the cost of energy improvements added to your basis.
- Payments received for granting an easement or right-of-way.

#### Line 10 – Additions and Improvements

These add to the value of your property, prolong its useful life, or adapt it to new uses. Examples include room additions, landscaping, new roof, insulation, new furnace or air conditioner, remodeling, etc. The cost of repairs may not be included unless they are part of an extensive remodeling or restoration project. **Do not** include any additions or improvements on line 10 that were included on line 4.

#### Line 11 – Other Increases to Basis

Include the amounts paid for any other items that increase the basis of the property, such as:

- Settlement fees and closing costs you incurred when you bought the property.
- The amount you paid for special assessments for items such as water connections, paving roads, and building ditches.
- The cost of restoring damaged property from a casualty loss, or cost of extending utility service lines to the property.

#### Line 14 – Passive Activity Losses

You may only use suspended passive activity losses that directly relate to the property sold. Other losses such as net operating losses, capital loss carry-forwards, stock losses, and passive activity losses from other properties cannot be used.

**Line 16 – Estimated Gain or Loss on Sale**

If you have a zero gain or loss, check the box on line 3 of Form 593-C, Real Estate Withholding Certificate. Complete and sign Form 593-C and give it to your REEP. You will not be subject to withholding on this sale. Keep Form 593-E for 5 years to document your calculations and provide to the FTB if requested.

If you have a gain, this is your estimated amount of gain on the sale of your California property. Go to line 17.

**Line 17 – Optional Gain on Sale Withholding Amount**

Multiply the amount on line 16 by the tax rate for the filing type selected and enter the amount on line 17. You may compare this amount to the

withholding amount on the total sales price shown on line 18. If you elect the optional gain on sale withholding amount on line 17, check the appropriate box on line 4 (Boxes B-G) for the Optional Gain on Sale Election, on Form 593, Real Estate Withholding Tax Statement, then transfer the amount on line 17 to Form 593, line 5. Sign Form 593 to certify the election. Keep Form 593-E for 5 years to document your calculations and provide to the FTB upon request.

**Line 18 – Total Sales Price Withholding Amount**

Multiply the selling price on line 1 by 3<sup>1</sup>/<sub>3</sub>% (.0333) and enter the amount on line 18. If you select the standard withholding amount on line 18, check Box A on line 4 of Form 593, and transfer the amount on line 18 to Form 593, line 5.

**How to Figure Your Basis**

The cost or purchase price of property is usually its basis for figuring gain or loss from its sale or other disposition. However, if you acquired the property by gift, inheritance, exchange, or in some way other than purchase, you must use a basis other than its cost. The following instructions only reflect the general rules. Exceptions may apply. Get federal Publication 551, Basis of Assets, for more information. Sellers/transfersors are strongly encouraged to consult with a tax professional for this purpose.

How Property Was Received	How to Figure Your Basis
<b>Property was received as a gift</b>	Usually, your basis is the donor's adjusted basis at the time of the gift. Enter the donor's adjusted basis on line 4. Then complete the rest of the form (except line 5) with your information after you received the property. If the fair market value (FMV) of the property at the time of the gift was less than the donor's adjusted basis, get federal Publication 551 to determine your basis.
<b>Property was inherited from someone other than your spouse/RDP</b>	Usually, your basis is the FMV at the date of the individual's death. You can get that valuation from the probate documents, or if there was no probate, use the appraised value at the date of death. Enter the FMV on line 4. Then complete the rest of the form (except line 5) with your information after you received the property. If you or your spouse/RDP originally gave the property to the decedent within one year of the decedent's death, get federal Publication 551 to determine your basis.
<b>You owned the property (as community property) with your spouse/RDP who died</b>	Your basis is the FMV of the total property at the date of your spouse's/RDP's death. Enter the FMV on line 4. Then complete the rest of the form (except line 5) with your information after the date of death.
<b>You owned the property (in joint tenancy) with your spouse/RDP who died</b>	Your basis is the sum of: 1) the <b>FMV</b> of your spouse's/RDP's half of the property at the date of your spouse's/RDP's death; and, 2) the <b>existing basis</b> of your half of the property at the date of your spouse's/RDP's death. Enter the sum on line 4. Then complete the rest of the form (except line 5) with your information after the date of death.
<b>Property received from your spouse/RDP in connection to your divorce/termination of registered domestic partnership</b>	Usually, your basis is the same as it would have been without this transfer. Complete Form 593-E as if you had been the only owner before and after the transfer. If your spouse/RDP transferred the property to you before July 18, 1984, get federal Publication 551 to determine your basis.
<b>Property received in exchange for other property</b>	Your basis will depend on whether you received the property in a nontaxable, taxable, or partially taxable exchange. Get federal Publication 551 to determine your basis. Enter your basis on line 4. Then complete the rest of the form. However, <b>do not</b> include any amounts on line 5 through line 10 that you included on line 4.
<b>You built the house (or other improvements) on the property being sold</b>	Add the purchase price of the land and the cost of the building. Enter the total on line 4 and complete the rest of the form. If you deferred the gain from a previous home to this property, get federal Publication 551.
<b>You received the property in a foreclosure</b>	Enter your basis in the property after the foreclosure on line 4. (You may need to get a tax professional to help you with this calculation). Then complete the rest of the form (except for line 5) with your information after the foreclosure.