REAL ESTATE WITHHOLDING CERTIFICATE

For Year 2012 (FTB Form 593-C)

Prepared by: Agent ______________________________ **Phone** ________________________
Broker ______________________________ **Email** ________________________

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.)			☐ FEIN ☐ CA Corp no. ☐ SOS file 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 Witholding-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 (SOS) 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 Installment 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 I 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 Franchise Tax Board 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, 2009**, and to the California Revenue and Taxation Code (R&TC).

In general, for taxable years beginning on or after January 1, 2010, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2009. 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** 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-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, Taxpayer Identification Number, and Address

Enter the name, tax identification number, and address 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 an 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 an 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 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 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)
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 recorded in the name of a California partnership or it is qualified to do business in California.

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:

- is classified as a partnership for federal and California income tax purposes.
- is not a SMLLC 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 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 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% (.0333) of the total sales price.

Line 12 – Installment Sale
For installment sales occurring on or after 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% (.0333) 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.

