

# UNDERSTANDING WITHHOLDINGS

## ON REAL ESTATE SALES: PART ONE



## REAL ESTATE WITHHOLDING FAQ's.

### WHEN DID WITHHOLDING START FOR CALIFORNIA RESIDENTS?

The withholding law applies to dispositions of California real estate by both residents and non-residents which close on and after January 1, 2003. Previously, withholding was only required of non-resident sellers.

### WHY WAS THIS WITHHOLDING LAW ENACTED?

As part of attempting to balance the state budget, this withholding provision was added to legislation on the last day of the Legislative session in 2002. It was estimated to accelerate collection of \$285 million in additional state revenue.

### WHO IS RESPONSIBLE FOR WITHHOLDING?

The law requires the buyer (called the transferee) to withhold from what would otherwise be paid to the seller.

### WHAT UNIT AT THE FRANCHISE TAX BOARD HANDLES THE WITHHOLDING?

The Withholding Services and Compliance Section handles the withholding. The phone number is (888) 792-4900. You may check the Franchise Tax Board website both to see how the process currently works and for any updates.

### HOW MUCH IS THE WITHHOLDING?

The withholding is 3 1/3% of the gross sale price. It does not take into account costs of the sale such as real estate commissions or other settlement costs. Withholding is currently due by the 20th day of the calendar month following the date title is transferred or may be remitted on a monthly basis in combination with other transactions closed during that month. California Forms 593 and 593B are used to report and a remit copy must be provided to the seller to attach to their tax return.

### WHAT EXEMPTIONS APPLY?

If you are an individual selling property, the buyer will not have to withhold from your proceeds if the sale price is less than \$100,000, or you are selling your principal residence or if you are selling at a loss. Other exemptions are for tax deferred exchanges and involuntary conversions of property.

### DOES THE SELLER HAVE TO DO ANYTHING TO QUALIFY FOR EXEMPTIONS?

Yes. The seller will be required to sign a statement under penalty of perjury to establish eligibility for the exemption.

### CAN THE SELLER APPLY TO THE FRANCHISE TAX BOARD FOR AN EXEMPTION?

The law allows applications for reduced withholding and waivers but not by individuals, only by corporations and other entities.

