

This brochure provides an overview of California real estate withholding when a trust is on the title, including how to:

- ◆ Identify the type of trust.
- ◆ Determine if withholding is required.
- ◆ Complete withholding forms.
- ◆ Distribute withholding.
- ◆ Withhold following a grantor's death.

Forms and Publications

Go to ftb.ca.gov to find the following forms and publications we mention in this brochure:

Search for...	Title
592	<i>Resident and Nonresident Withholding Statement</i>
592-V	<i>Payment Voucher for Resident or Nonresident Withholding</i>
592-B	<i>Resident and Nonresident Withholding Tax Statement</i>
592-PTE	<i>Pass-Through Entity Annual Withholding Return</i>
592-Q	<i>Payment Voucher for Pass-Through Entity Withholding</i>
593	<i>Real Estate Withholding Statement</i>
593-V	<i>Payment Voucher for Real Estate Withholding</i>
1016	<i>Real Estate Withholding Guidelines</i>
7429	<i>Do I Need to Withhold on This Trust?</i>

For more information about real estate withholding, refer to FTB Pub. 1016.



California Real Estate Withholding Trusts

Contact Us

Web

Go to ftb.ca.gov and search for **real estate withholding** for more information.

MyFTB offers secure online tax account information and services, including available nonwage withholding credits. For more information and to register, go to ftb.ca.gov and search for **myftb**.

Phone

Phone: 888.792.4900
916.845.4900 (outside U.S.)
TTY/TDD: 800.822.6268
Fax: 916.845.9512

Mail

WITHHOLDING SERVICES
AND COMPLIANCE MS F182
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Quick Reference Guide



STATE OF CALIFORNIA
Franchise Tax Board

Identify Trust Type

Grantor Trust

A **grantor trust** is disregarded for federal and California income tax purposes. The grantor controls the trust's assets and income. When the seller in a real estate sale is a grantor trust, withholding requirements are dependent on the grantor's information.

Key Factors of a Grantor Trust:

- ◆ Disregarded for income tax purposes.
- ◆ Uses the grantor's social security number (SSN) or Individual Tax Identification Number (ITIN) when completing forms.
- ◆ Includes tax information on the grantor's tax return.

Nongrantor Trust

A **nongrantor trust** is an entity separate from the grantor for all income tax purposes and is viewed as a stand-alone taxable entity. When the seller in a real estate sale is a nongrantor trust, withholding requirements are dependent on the trust's information.

Key Factors of a Nongrantor Trust:

- ◆ Taxable entity separate from the grantor.
- ◆ Generally uses a Federal Employer Identification Number (FEIN).
- ◆ Files a fiduciary income tax return.

Items to help you determine the trust type:*

- ❖ Trust instruments/documents
- ❖ Prior filing history
- ❖ Federal elections

*Professional advice is highly recommended to determine trust status, trust type, and filing requirements.

Determine Real Estate Withholding

Grantor Trust

A **grantor trust** may be required to be withheld upon from the sale of real estate unless the **grantor** qualifies for a full or partial exemption on Form 593, Parts III, or IV. For a grantor trust:

- ◆ Complete all applicable parts on Form 593 using the individual's (grantor's) name and SSN or ITIN. Do not include the trust's name.
- ◆ Submit a complete/signed Form 593. If necessary, submit a Form 593-V and remit any withholding due.
- ◆ Report the income and withholding from the real estate sale on the grantor's individual income tax return.

Nongrantor Trust

A **nongrantor trust** may be required to be withheld upon from the sale of real estate unless the **trust** qualifies for a full or partial exemption on Form 593, Parts III, or IV. For a nongrantor trust:

- ◆ Complete all applicable parts on Form 593 using the trust's name and FEIN. Do not use the trustee's or beneficiary's individual information.
- ◆ Submit a complete/signed Form 593. If necessary, submit a Form 593-V and remit any withholding due.
- ◆ Report the income and withholding from the real estate sale on the trust's fiduciary income tax return.

For more information on withholding when a trust is on title, refer to FTB 7429.

Distribute Withholding Credits

Grantor Trust

At the time of the grantor's death, a **grantor trust** becomes a nongrantor trust. This means the trust must follow all withholding rules related to a nongrantor trust, including the use of the trust's name and FEIN. The trust may still qualify for an exemption on Form 593, if the grantor used the property as their principal residence prior to death.

Nongrantor Trust

In general, when a **nongrantor trust** distributes income (for example, the gain on sale of California real estate) to a beneficiary, it must also distribute the related withholding credit. To allocate the withholding credit to a beneficiary, the trust:

- ◆ Files Form 592 or Form 592-PTE (depending on its situation) with FTB to report the amount of income and withholding credit allocated to each beneficiary.
- ◆ Provides each beneficiary with a completed Form 592-B indicating the income and withholding credit reported to FTB on Form 592 or Form 592-PTE. When beneficiaries file an income tax return, they should attach Form 592-B and claim the associated withholding credit.

