

# the franchise tax board **AND YOUR SALE ESCROW**

## Key Factors

- Every Seller's withholding status is assessed separately
- Married Sellers are each considered to hold a 50% interest (Community Property State)
- A properly completed Form 593-C avoids withholding
- No FTB form is complete without a Taxpayer Identification Number (TIN)
- Form 593-E is offered by the FTB as a Taxpayer's worksheet
  - If used, it should be retained by the Seller for use in filing a tax return
  - The Escrow Holder is not concerned with the contents of Form 593-E
- If a Seller subject to withholding does not complete Form 593, it will be completed by the Case escrow officer and submitted with a standard 3.33% withholding payment at the close of escrow.
- To elect the alternate 'Gain on Sale' withholding option, a Seller must complete and sign Form 593 himself

## Installment Sales

- The Escrow Holder only withholds funds (for the benefit of the Buyer as Withholding Agent) on the 'First Installment' in a sale with Seller carry-back financing because the FTB cannot accept payments for future tax years (when the Seller will be receiving the balance of his sale proceeds in the form of installment Note payments)

Sales Price		\$500,000
Seller Financing	-	\$200,000
First Installment	=	\$300,000

- The Buyer must manage the withholding payment of each Principal Installment paid to the Seller under the Note

(This requirement is what typically prompts the parties to contract with a Note Servicer who will collect the Buyer payments and distribute them to the Seller and the FTB as appropriate)

