

Certifications that Fully Exempt State of California Franchise Tax Board Withholding

As a general rule, the following exemptions apply to the CalFIRPTA withholding:

» **Sale of a principal residence**

- The property must qualify as a principal residence under IRC Section 121. Generally, the seller (or the deceased seller) must have owned and lived in the property as their main home for at least two years during the five-year period ending on the date of sale.
- You can only have one main home. If you have two homes and live in both, you can only exempt the one you have lived in the most.
- There are exceptions to the two-year rule. Log on to [irs.gov](https://www.irs.gov) to review Publication 523 for more information.
- If only a portion of the property qualifies as your principal residence, a second 593-C form will need to be completed to certify an exemption on the portion not used as your personal residence. (e.g., a multi-family dwelling where you live and also rent out other units.)

» **Property last used as principal residence**

- If the property was last used as the seller's (or deceased seller's) principal residence within the meaning of IRC Section 121 without regard to the two-year time period, no withholding is required.
- If the property was subsequently used as a vacation home, second home or rental, you do not qualify for an exemption.

» **Loss or Zero Gain**

- If 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 it is worth.

Regardless of any possible exemptions, if a seller does not have a social security number or individual taxpayer identification number, withholding must be paid to the Franchise Tax Board at 3.33% of the purchase price.

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