



TAX ALERT UPDATE: NONRESIDENT'S TRANSFER OF PROPERTY IN MARYLAND

Updates Tax Alert of 4-2007

In October 2003 Maryland started withholding at settlement 4.75% of the **net proceeds** from nonresident individual sellers and exchangors of real estate in Maryland. The law requires that a deed may not be recorded unless the tax is paid to the Clerk of the County Circuit Court.

Maryland has announced that as of January 1, 2008, the amount to be withheld at settlement from nonresident individual sellers and exchangors of real estate is now **6.75% of the net proceeds**. For nonresident entities the rate is now 8.25%.

No tax needs to be withheld if the nonresident seller or exchangor presents, at settlement, a *Certificate of Full or Partial Exemption* ([Form MW506AE](#)) issued by the Comptrollers Office. The Certificate will provide full exemption from withholding or provide the partial amount of tax to be withheld at settlement.

To obtain an exemption certificate, nonresident exchangors must submit by mail to the Comptroller of Maryland, **twenty-one days in advance of settlement**, Maryland Form MW506AE, *Application for Certificate of Full or Partial Exemption*. The Comptroller's Office will then issue the taxpayer their certificate.

If a nonresident taxpayer has income from a Maryland property (even if there is a net loss), they need to file a Maryland Form 505, *Maryland Nonresidential Income Tax Return*, annually. If the Form 505 has not been filed for previous years, the Comptroller's office may reject the application for exemption as there is no Maryland record that the property was held for business or rental purposes to qualify for the IRC Section 1031 exemption.

No tax will be collected if the seller certifies the property was their principal residence in accordance with the federal rules in IRC Section 121.

If an individual or a corporation has paid withholding tax at settlement in excess of the amount owed, they may file an *Application for Tentative Refund of Withholding on Sales of Real Property by Nonresidents* (Maryland Form MW506NRS). The request for refund may be filed with the Comptroller after 60 days have elapsed from the date the tax was paid to the Clerk of the Court or Department of Assessments and Taxation.

For additional information, contact taxhelp@comp.state.md.us or call 1-800-638-2937.

[Click here for Maryland Form MW506AE](#)

This publication is designed to provide accurate information on tax-deferred exchanges. The publisher is not engaged in rendering legal or accounting services. If legal or tax advice is required, the services of a competent professional should be sought.

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Tax Alert



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12-07

Changes in Maryland Income Tax Law for Sales of Real Property by Nonresidents

In the 2007 Special Session, the Maryland General Assembly enacted the Tax Reform Act of 2007 which resulted in changes in the income tax law that provides for withholding requirements on the sale or transfer of real property by a nonresident individual or a nonresident entity. The changes go into effect January 1, 2008. For more details on these changes, and for updated 2008 forms that include these changes, visit the Comptroller's Web site www.marylandtaxes.com.

Sale or Transfer of Real Property and Associated Personal Property by a Nonresident Individual or a Nonresident Entity: For tax years beginning after December 31, 2007, the tax rates that apply to withholding on a sale or transfer of real property and associated personal property will be 6.75 percent for a nonresident individual and 8.25 percent for a nonresident entity.

Updated: December 13, 2007