



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Revenue
DIVISION OF TAXATION
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INSTRUCTIONS

SALE OF RHODE ISLAND REAL ESTATE BY NONRESIDENTS

ELECTION OF GAIN METHOD

1. Seller completes election to have withholding based on gain and prepares certificate of withholding due in duplicate 20 days prior to the closing.

Note: Due to a recent law change in effect January 1, 2007, a portion of the gain may be unrecognized if the real estate has been held for more than five (5) years. This change applies only to individuals and pass-through entities to the extent that the members are individuals.
2. Seller submits **signed original** election form and 2 copies of the certificate to Rhode Island Division of Taxation for approval. A return envelope should be provided.
3. Division of Taxation reviews the election form and issues an approved certificate of withholding due to the seller.
4. Seller presents approved certificate at the closing.
5. Buyer completes and signs the remittance of withholding due form, attaches the approved certificate, encloses payment, if any, then files with the Division of Taxation along with 2 completed discharge of lien forms. Remittance form must be submitted even if there is zero withholding due.
6. After reviewing the above, the Tax Division issues a discharge of lien to the buyer.

NET PROCEEDS METHOD

1. If an approved certificate of withholding due has not been obtained prior to the closing, the buyer must withhold 6% of the seller's net proceeds (9% if seller is a nonresident corporation).
2. Buyer completes and signs the remittance of withholding due form, encloses payment, if any, then files with the Division of Taxation along with 2 completed discharge of lien forms. Remittance form must be submitted even if there is zero withholding due.
3. After reviewing the above, the Tax Division issues a discharge of lien to the buyer.

NOTE: If the seller is a Sub Chapter S Corporation or an LLC electing to be taxed as a partnership, you must provide the names, addresses, social security numbers and percentage of ownership for each of the nonresident members. The withholding rate for LLC's being taxed as a partnership is 6%; for LLC's being tax as a corporation 9%.

For further information please refer to regulations NRW 95-01, NRW 95-02 and NRW 95-03. These regulations are available on our website www.tax.ri.gov

If there are any questions, please contact Michael Canole, Steven Cobb, Gail McNamee or Barbara Masterson at (401) 222-6261 or (401) 222-6210.