



STATE OF RHODE ISLAND

Department of Revenue
DIVISION OF TAXATION
One Capitol Hill
Providence, RI 02908-5800
Fax (401) 574-8919

GENERAL INSTRUCTIONS

SALE OF RHODE ISLAND REAL ESTATE BY NONRESIDENTS

Two methods are available to obtain a Discharge of Lien on the sale of real estate by a nonresident. Instructions for both methods are shown below.

ELECTION OF GAIN METHOD

1. Seller completes the Election to have Withholding Based on Gain form and prepares the Certificate of Withholding Due in duplicate 20 days prior to the closing via mail or by email. Line by line instructions should be consulted for proper completion of the Election to have Withholding Based on Gain form.
2. Methods of submission (Choose one method):
 - a. Seller submits **signed** Election form and 2 copies of the Certificate to the Rhode Island Division of Taxation for approval. A return envelope should be provided if transaction is being completed by mail.
 - b. Seller submits signed Election form and a copy of the Certificate to Rhode Island Division of Taxation for approval via email to Tax.NonRes713@tax.ri.gov .
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. A 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 (7% 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. A remittance form must be submitted even if there is zero withholding due. A return envelope should be provided.
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 7%.

For further information, please refer to RI Regulation 280-RICR-20-10-1. This regulation is available on our website <http://www.tax.ri.gov/regulations/index.php>.

If there are any questions, please contact the Rhode Island Division of Taxation's Income Tax Section at (401) 574-8829, Option #4 or email Tax.NonRes713@tax.ri.gov .

SPECIFIC LINE INSTRUCTIONS

Seller #1

Name: Name of the entity/individual selling the property. This should be the name of the owner of the property.

Address: Current address of the seller.

SS# or FEI#: This is required to be the number used to file tax returns for the entity selling the property. If it is a trust selling the property, this should be the ID# of the trust and not the ID# of the bank, trustee or a Power of Attorney.

Phone#: This should be the contact information of the seller listed.

% of Ownership: If seller is a nonresident owner of pass through entity, then this would be the nonresident's ownership percentage.

Seller #2

Name: Name of the entity/individual selling the property. This should be the name of the owner of the property.

Address: Current address of the seller.

SS# or FEI#: This is required to be the number used to file tax returns for the entity selling the property. If it is a trust selling the property, this should be the ID# of the trust and not the ID# of the bank, trustee or a Power of Attorney.

Phone#: This should be the contact information of the seller listed.

% of Ownership: If seller is a nonresident owner of pass through entity, then this would be the nonresident's ownership percentage.

If there are more than two sellers, a schedule including the same information for any additional sellers shall be included.

Joint Return checkbox: If seller #1 and seller #2 file a joint federal and state tax return for the year of the sale, this box should be checked to allow for proper withholding allocation.

Expected Closing Date: This would be the date the closing is estimated to occur. Any paperwork for the election of gain **cannot** be processed if the closing occurred prior to the date the Election form is submitted for approval.

Election for Withholding Based on Gain: All of this information (Street Address, City/Town and Plot and Lot #) must be completed accurately.

Line 1: Gross sales price of the transaction.

Line 2: Less expenses of sale. Examples of deductible expenses would be realtor fees, attorney fees for the closing, recording fees and title fees.

Line 3: Net Sales Price. Subtract line 2 from line 1.

Line 4: Cost or other basis of the property being sold. This would be the original cost plus any capitalizable cost in accordance with Internal Revenue Code. Some examples can be a new roof, new siding, and other items included in federal publications including Publication 523.

Line 5: Gain. Subtract line 4 from line 3.

Line 6: Non-taxable/deferred portion of gain - Complete Page 2, Section labeled "Special Types of Transactions".

Line 7: Gain Subject to Withholding - Subtract line 6 from line 5.

Line 8: Nonresident Ownership % - If an entity, this would be the percentage of ownership of the entity by nonresidents.

Line 9: Subtotal - Multiply line 7 by line 8.

Line 10: Withholding rate:

Individual, estate, trust or pass-through entity owned by an individual estate or trust = 6%.

Corporations = 7%.

Line 11: Withholding amount - Multiply line 9 by line 10.

SPECIFIC LINE INSTRUCTIONS

(CONTINUED)

Special Types of Transactions:

These are situations that would cause the entire sale or a portion of the sale to be exempt from federal taxation and thus state taxation. Please check the appropriate box and provide any information required by the form:

- IRC Section 121-Sale of Principal Residence - See IRS Publication 523 for more details. In general, a taxpayer would need to reside in the home for 2 out of the last 5 years and have not used the primary residence exemption on another home sale within the previous 2 years. The publication does describe exceptions such as military service and work related moves.
- IRC Section 408 - Individual Retirement Account
- IRC Section 721 - Tax Free Exchange — Partnership Interest
- IRC Section 1031 - Like Kind Exchange — The name, address and phone number of the intermediary are required for this transaction
- IRC Section 1033 - Involuntary Conversion

Installment Sale Schedule - Federal Form 6252 must be attached to the election form.

Any amount of unrecognized gain should be listed on line 6.

Some additional information and situations addressed:

Pass-through entities and letters of good standing:

As part of a Letter of Good Standing request that includes the sale of real estate, the entity may be required to file a RI-1096PT. This requirement does not supersede the nonresident withholding requirements and should be completed following the Election to have Withholding Based on Gain. Any amounts due for nonresident withholding can be claimed as part of line 5 on the RI-1096PT to offset any amount due on that form.

Pass-through entity as seller:

If the seller is a pass-through entity, the entity name and federal ID# should be listed as the seller and a listing of the nonresident members/partners/owners should be attached. The list should include their social security or federal ID#s.