

MARYLAND NON-RESIDENT TRANSFER WITHHOLDING TAX

What is it?

It is a withholding levied by the State of Maryland to facilitate payment of capital gains income taxes by non-residents.

How much tax is withheld?

Individuals: 7.5% of the total payment received from the sale (rate as of July 1, 2008)
Entities: 8.25% of the total payment received from the sale

“Total payment” is defined as the sales price less: 1) payoffs of any existing liens over 90 days old; and 2) other expenses arising out of the sale.

To whom does it apply?

Any non-resident individual or entity (corporation, partnership, LLC that is not formed under the laws of the State of Maryland or registered with SDAT to do business in the State).

How does it work?

At settlement, the settlement agent is required by law to withhold the prescribed funds unless the Seller provides:

1. A Maryland Residency Affidavit;
2. A certificate from the Comptroller’s office showing that **no** tax is due on the sale of the property (must apply at least 21 days before settlement);
3. A certificate from the Comptroller’s office showing that **less** tax is due than the withholding rate provided, in which case the lesser amount will be withheld (must apply at least 21 days before settlement); or
4. An Affidavit that the property sold is the Seller’s principal residence (must be listed as primary residence with SDAT)

What happens to the money withheld?

The funds are remitted to the Clerk of the Court who will in turn forward the funds to the Comptroller’s office.