

REAL ESTATE WITHHOLDING TAX

Colorado 2% Real Estate Withholding Tax

Nonresident real estate transactions for Colorado real property are subject to income tax withholding upon the sale of the property if the sales price is in excess of \$100,000.00.

WHO IS SUBJECT TO THE TAX WITHHOLDING?

- » Individuals
- » Estates
- » Trusts
- » Corporations that do not maintain a permanent place of business in Colorado

WHEN IS THE TAX WITHHOLDING NOT REQUIRED?

- » If the sales price is NOT more than \$100,000.00
- » If the transferor is an individual, estate, or trust, and both the form 1099-S and the authorization for disbursement of funds, show a Colorado address for the transferor
- » If the transferee is a bank or corporate beneficiary under a mortgage, or beneficiary under a deed of trust, and the Colorado real property is acquired in a judicial or non-judicial foreclosure, or by deed in lieu of foreclosure
- » If the transferor is a corporation incorporated under Colorado law, or currently registered with the Secretary of State's Office as authorized to transact business in Colorado

OR

The title insurance company or the person providing the closing and settlement services, in good faith, relies upon a written affirmation executed by the transferor (DR 1083), certifying under the penalty of perjury one of the following:

- » That the transferor, if a corporation, has a permanent place of business in Colorado
- » That the transferor is a partnership as defined in section 761(a) of the Internal Revenue Code required to file an annual federal return of income under section 6031(a) of the Internal Revenue Code
- » That the Colorado real property being conveyed is the principal residence of the transferor which could qualify for the exclusion of gain provisions of section 121 of the Internal Revenue Code
- » That the transferor will not owe Colorado income tax reasonably estimated to be due from the inclusion of the actual gain required to be recognized on the transaction in the gross income of the transferor

IF IT IS DETERMINED THAT WITHHOLDING IS REQUIRED, THE AMOUNT TO BE WITHHELD WILL BE THE LESSER OF:

- » Two percent of the selling price of the property interest OR
- » The net proceeds that would otherwise be due to the transferor as shown on the settlement statement

IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT YOUR SETTLEMENT AGENT.