



Georgia Withholding Tax Affidavit Information

Property Address:

This form is being completed by the Seller in conjunction with the sale or transfer of the Property from _____ to _____.

This form is for the purpose determining your status as the Seller of Georgia property, and, if necessary, obtaining the necessary numbers to complete an Affidavit of Seller's Gain.

O.C.G.A. §48-7-128 states that unless a seller is a resident of Georgia, deemed a resident of Georgia for purposes of withholding, or is exempt under one of the provisions provided for in O.C.G.A. §48-7-128, the State of Georgia requires 3% of the sales price of this Property be withheld at the time of closing and paid to the state of Georgia as a non-resident withholding tax.

O.C.G.A. §48-7-128 further states that to minimize the non-resident withholding tax, a Seller may execute an Affidavit of Seller's Gain determining the net taxable gain from the sale of this Georgia property. Completion of this Affidavit results in the 3% tax being based on the net taxable gain instead of the sales price of the Property.

If Seller is a trust, corporation, limited liability company, limited partnership, partnership, or any other type of entity, then Seller completes this form in his or her representative capacity on behalf of said entity as well as in Seller's individual capacity and completes this form for, on behalf of, and pursuant to proper authority granted by said entity. Seller completes this form knowing the same will be relied upon by certain purchasers, lenders, attorneys, and title companies interested in title to the Property.

Are you a Georgia resident?

- ☐ Yes

Select any boxes that apply:

- ☐ Seller is exempt from withholding on the sale of the Property because Seller is a resident of Georgia or an entity whose principal place of business is in Georgia.
- ☐ The Property being sold or transferred is the principal residence of Seller within the meaning of Section 1034 of the Internal Revenue Code.

Are you a Georgia resident?

- No, but seller is deemed a resident for purposes of withholding

Seller is not a resident of Georgia, but is deemed a resident for purposes of withholding by virtue of ALL of the following applying to Seller:

- Seller is a non-resident who has filed Georgia income tax returns or appropriate extensions have been received for the two income tax years immediately preceding the sale; AND
- Seller is an established business in Georgia and will continue substantially the same business in Georgia after the sale or Seller has real property remaining in the state at the time of closing of equal or greater value than the withholding tax liability as measure by the 100 percent property tax assessment of such remaining property; AND
- Seller will report the sale on a Georgia income tax return for the current year and file it by its due date; AND
- If seller is a corporation or Limited Partnership, Seller is registered to do business in Georgia.

Are you a Georgia resident?

- No, but seller is exempt from the withholding provisions of O.C.G.A. §48-7-128

Seller is not a resident of Georgia, but is exempt from the withholding provisions of O.C.G.A. §48-7-128 by virtue of any of the following:

- Seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
- Seller is an agency or authority of the United States of America, an agency or authority of the State of Georgia, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association, or a private mortgage insurance company; or
- The purchase price of the property is less than \$20,000.00.
- The Seller is a partnership, Subchapter "S" corporation or limited liability company subject to withholding under O.C.G.A. §48-7-129, and a composite return has been filed or will be filed on the Seller's behalf.
- The Seller is a tax-exempt organization and the income from this sale is not subject to federal or state income tax.
- The Seller is an insurance company which pays to Georgia a tax on its premium income.
- The transaction is a like-kind exchange and the income from this sale is not subject to federal or state income tax.
- The withholding liability is less than \$600.00.

Are you a Georgia resident?

- No, seller is not exempt from withholding

If seller is not exempt from withholding, the State of Georgia requires the following equation be used to determine your net taxable gain for the purpose of the non-resident withholding tax. Through the course of closing, our office already possesses the sales price and selling expenses terms of the equation; however, we require you to complete the cost basis and depreciation terms of the equation to accurately calculate your net taxable gain.

Our office cannot assist in determining the cost basis or depreciation; we recommend seeking the advice of an accountant if assistance is necessary. We require these numbers prior to closing in order to complete the settlement statements of the closing.

An Affidavit of Seller's Gain attesting to the completed equation below will be created by our office and executed by you at closing and relied upon by certain purchasers, lenders, attorneys, and title companies interested in title to the Property.

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|--|--------------------------|
| 1. Sales Price: | We will complete for you |
| 2. Cost Basis Including Improvements: | _____ |
| 3. Depreciation: | _____ |
| 4. Adjusted Cost Basis (line 2 minus line 3): | We will complete for you |
| 5. Selling Expenses: | We will complete for you |
| 6. Net Taxable Gain (LOSS) (line 1 minus lines 4 and 5): | We will complete for you |

Under penalty of perjury, I swear that the above information is to the best of my knowledge and belief, true, correct, and complete.

Please provide your full legal:

_____	_____	_____
First Name	Middle Name	Last Name

Signature