



Rate Change to Withholding on Sale of Real Property by a Nonresident; Alteration of Eligibility for Tentative Refund

I. General Information

Effective July 1, 2025, the rate of withholding on nonresident sales of real property is 8.75% for nonresident individuals and 8.25% for nonresident entities. Additionally, nonresidents who sell real property for \$1,500,000 or more are no longer eligible to apply for a tentative refund. This Tax Alert provides additional explanation.

II. Existing Law and 2025 Amendments

In a sale or exchange of real property and associated tangible personal property owned by a nonresident or nonresident entity, the deed or other instrument of writing that effects the change of ownership may not be recorded unless an income tax withholding payment accompanies the deed. The rate of withholding for nonresident individuals is the sum of the lowest county income tax rate plus the highest marginal State income tax rate. For entities, the rate of withholding is the corporate income tax rate. The rates are applied to the total payment to a nonresident.

The Comptroller's Office has established a procedure by which a nonresident transferor may apply for an early refund of the tax collected if the transferor establishes that no tax will be owed or that less tax than collected will be owed.

Chapter 604 of the Acts of 2025, also known as the Budget Reconciliation and Financing Act of 2025 ("BRFA"), increased the highest marginal State income tax rate. The increase in the highest marginal State income tax rate also has the effect of increasing the withholding rate on the sale of real property by a nonresident individual to

8.75%.

The BRFA also contained a provision applying an additional 2% tax on net capital gains included in the Maryland adjusted gross income of individuals and fiduciaries whose federal adjusted gross income (“FAGI”) exceeds \$350,000. Additionally, capital gains from the sales of a residential dwelling, including the land and any accessory dwelling units, that is the taxpayer’s primary residence sold for less than \$1,500,000 are excluded from the additional 2% tax. For information on other exceptions, see Technical Bulletin No. 58, Maryland Taxation of Individual Capital Gain Income.

III. Withholding Rate

Effective July 1, 2025, the rate of withholding on the sale of real property by nonresident individuals is 8.75%. The rate of withholding on the sale of real property by nonresident entities remains 8.25%.

The rate is effective for all sales occurring after June 30, 2025. The new nonresident withholding rate appears on Maryland Forms MW506AE (Application for Certificate of Full or Partial Exemption), MW506NRS (Maryland Return of Income Tax Withholding for Nonresident Sale of Real Property), and MW506R (Application for Tentative Refund of Withholding 2026 Sales of Real Property by Nonresidents).

IV. Eligibility for Tentative Refund

For individual taxpayers with FAGI in excess of \$350,000, income from the sale of real property is subject to an additional 2% tax on income from net capital gain. This includes all real property, except the taxpayer’s primary dwelling if it sold for less than \$1,500,000.

In order to ensure that the correct amount of tax is paid to the State, a nonresident transferor may not apply for a tentative refund if the sales price of the property was \$1,500,000 or higher. To request a refund, that taxpayer must file a complete annual

return, and include Form 502CG Capital Gain Income, if required, to calculate the total State tax owed.

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