

# GEORGIA WITHHOLDING TAX AFFIDAVIT

\_\_\_\_\_  
Seller's Name

\_\_\_\_\_  
Seller's Identification Number (SSN or FEI)

This form is provided for the convenience of the Seller and the protection of the Buyer, to be executed in sales or transfers of real property by nonresidents in connection with O.C.G.A. § 48-7-128. Deponent is aware that if Seller is not exempt, Buyer is required under O.C.G.A. § 48-7-128, to withhold up to 3% of the sales price or gain. Deponent should complete EITHER section 1, 2 or 3 as instructed below. The Seller is to execute this affidavit by placing an initial in the blank preceding statements which apply. The Buyer is to keep the affidavit and furnish a copy to the Department of Revenue only if requested.

## INSTRUCTIONS:

1. Complete this section to establish Georgia residency of the Seller, so that withholding from the proceeds of the sale of property are not subject to the withholding laws of this State. Sellers are not subject to withholding from the proceeds of sale if either they reside in Georgia or they are deemed to be a Georgia resident by virtue of the fact that they have filed Georgia tax returns in the preceding two years, do business or own property in Georgia, intend to file a Georgia Tax return for the current year, and if they are a corporation or limited partnership, are registered to do business in Georgia.

A. The Seller is exempt from withholding on the sale of property because:

\_\_\_\_\_ Seller is exempt from withholding on the sale of the Property because Seller is a resident of Georgia.

B. The Seller is not a resident of Georgia, but is deemed a resident for purposes of withholding because all of the following apply:

\_\_\_\_\_ Seller is a nonresident who has filed Georgia income tax returns for the preceding two years; and

\_\_\_\_\_ Seller is an established business in Georgia and will continue substantially the same business in Georgia after the sale OR the Seller has real property in Georgia at the time of closing of equal or greater value than the withholding tax liability as measured 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, Partnership, or Limited Partnership, Seller is registered to do business in Georgia.

2. Complete this section in sales or transfers of real property by nonresidents when the Seller is exempt from the withholding requirements imposed by O.C.G.A. § 48-7-128. Of any one of the statements below applies to the Seller, the transaction is exempt. If any one of the statements below applies to the Seller, the transaction is exempt.

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

\_\_\_\_\_ The Property being sold or transferred is the principal residence and none of the gain is required to be included in Federal adjusted gross income.

\_\_\_\_\_ The 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.

\_\_\_\_\_ The Seller or Buyer is an agency or authority of the United States of America or of the State of Georgia.

\_\_\_\_\_ The Seller or Buyer is the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association.

\_\_\_\_\_ The Seller or Buyer is a private mortgage insurance company.

\_\_\_\_\_ The purchase price of the property is less than \$20,000.00.

\_\_\_\_\_ The Seller is subject to withholding under O.C.G.A. § 48-7-129, and a composite return has been 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 as shown on the completed Affidavit of Seller's Gain form.

3. The Seller is required to execute this form or a similar document and present it to the Buyer when the Seller wishes to establish the gain to be recognized from the sale of real property, against which gain the withholding imposed by O.C.G.A. § 48-7-128 is to be applied. In order to be subject to withholding only upon the gain recognized, the Seller must submit this affidavit to the Buyer. If a payment is due, the Buyer must submit this form along with the withholding return to the Department of Revenue. A copy is not required to be submitted to the Department when no withholding tax is due, unless specifically requested by the Department.

The Seller is to complete this document by calculating the gain below. The Seller should retain the documentation of the cost basis, depreciation, and selling expenses claimed. This documentation should only be provided to the Department when requested.

1. Sales Price		\$ _____
2. Cost Basis Including Improvements	\$ _____	
3. Depreciation	\$ _____	
4. Adjusted Cost Basis (line 2 minus line 3)		\$ _____
5. Selling Expenses		\$ _____
6. Net Taxable Gain (Loss) (line 1 minus lines 4 and 5)		\$ _____

4. If Seller is a Corporation, Limited Liability Company, Limited Partnership or Partnership, Deponent makes this affidavit in his or her representative capacity on behalf of said entity as well as in Deponent's individual capacity. Deponent makes this Affidavit knowing the same will be relied upon by certain purchasers, lenders, attorneys and title companies interested in title to the Property.

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

Sworn to and subscribed before me this \_\_\_\_\_.

\_\_\_\_\_

\_\_\_\_\_  
**NOTARY PUBLIC**