

1350



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

I-290
(Rev. 7/17/23)
3271

dor.sc.gov

NONRESIDENT REAL ESTATE WITHHOLDING

Mail to: SCDOR, Withholding Taxable, PO Box 100161, Columbia, SC 29202

Return and payment are due by the 15th day of the month following the month of the sale.

Check if
 AMENDED

Location of Property County _____ Tax Map Number _____		Date of Closing Month Day Year			Date of Withholding (PD CVD) Month Day Year		
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SELLER (Complete an I-290 for each seller.) First name _____ Last name _____ Address _____ Phone _____ <input type="checkbox"/> SSN/ITIN _____ <input type="checkbox"/> FEIN _____				BUYER First name _____ Last name _____ Address _____ Phone _____ <input type="checkbox"/> SSN/ITIN _____ <input type="checkbox"/> FEIN _____			
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THIRD PARTY Select the type of third party withholding <input type="checkbox"/> Lending Institution <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Closing Attorney <input type="checkbox"/> Other _____				Name _____ Address _____ Phone _____ SSN/ITIN/FEIN _____			
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1. Basis of withholding (check one, see instructions for installment sales) <input type="checkbox"/> Gain, if seller provides affidavit of gain <input type="checkbox"/> Amount realized, if no affidavit of gain is provided	1.
2. Is the seller a corporation? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES , multiply line 1 by 5%. If NO , multiply line 1 by South Carolina's top marginal Individual Income Tax rate for the tax year of the sale.	2.
3. Total payment to seller (subtract selling expenses and certain mortgages paid or assumed from the gross sales price)	3.
4. Amount withheld (lesser of line 2 and line 3)	4.
5. For late payments, calculate penalty and interest due. Enter total of 5a and 5b on line 5. 5a. Penalty _____ 5b. Interest _____	5.
6. Total (add line 4 and line 5)	6.

Line 7 through line 9 are for installment sales only.

7. <input type="checkbox"/> Check if the seller has elected out of installment sales treatment for South Carolina purposes (see instructions)
8. Due date of first installment (MM-DD-YYYY)
9. The seller is to receive payment: <input type="checkbox"/> Monthly <input type="checkbox"/> Annually <input type="checkbox"/> Other (attach an explanation)

Complete a separate copy of this form for each seller. The buyer must give each seller two copies of this form each time the buyer submits a withholding payment to the SCDOR. Missing or incomplete information will cause processing delays.

Under penalty of law, I certify that this information is correct, true, and complete to the best of my knowledge.

Buyer's signature _____ Name _____ Date ____/____/____

Title _____ Phone _____ Email _____

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INSTRUCTIONS

Anyone making payment to a nonresident seller for the purchase of real property or real and associated tangible personal property must deduct and withhold on the sale. For more information, see **SC Revenue Ruling #09-13** and any other advisory opinions on Nonresident Seller Withholding at dor.sc.gov/policy.

Enter the:

- Location of property
- Date of withholding (date of payment)
- Seller's name and address
- Seller's SSN, ITIN, or FEIN
- Buyer's name
- Buyer's SSN, ITIN, or FEIN, and
- Date of closing (date of sale of property)

If the seller is a Partnership, S Corporation, Estate, or Trust, enter the entity name in the seller's first name field. If you don't provide complete information about the buyer, seller, and property, we will not be able to process the return.

Only in the case of installment sales will the date of withholding and the date of closing be a different date.

Complete four copies of this form for each sale. The buyer receives two copies, one to keep for their records and one to send to the SCDOR with the withholding payment. The seller receives two copies, one to include with their Income Tax return and one to keep for their records.

Send the withholding payment to the SCDOR by the 15th day of the month following the month of the sale. Withholding on an installment sale is not required if the total amount required to be withheld for the entire year would be less than \$350.

If the amount to be withheld on installment sales is less than \$500, the buyer may wait to submit withholding payments until the month when the amount equals \$500 or more. If amounts withheld during a calendar year are more than \$350 but less than \$500, you must send them to the SCDOR by January 15 of the following year.

Common questions:

- **How do I request a refund for the amount withheld?**
To request a refund for the withholding prior to the end of the tax year of the sale, file the I-290 and check the **Amended** box. The I-290 cannot be amended after the end of the tax year. Instead, file an Income Tax return, reporting the capital gain from the sale and taking credit for the Nonresident Real Estate Withholding.
- **How do I claim credit for the amount withheld?**
When you file your Income Tax return, report the capital gain from the sale as income. Take credit for the Nonresident Real Estate Withholding on the appropriate line in the payments/withholding section of your Income Tax return.
- **How do I complete the form for more than one seller?**
If there is more than one seller (filing separate Individual Income Tax returns), then you must file separate copies of the I-290. Make separate payments for each I-290 submitted. If the seller is a Partnership, S Corporation, Estate, or Trust, the buyer must issue one I-290 to the entity, reporting the total amount of withholding (using the FEIN). The entity will then allocate the tax withheld to each partner, shareholder, or beneficiary in proportion to their percentage of ownership in the property sold.
- **What if the buyer or seller has no SSN?**
They should apply for an ITIN at irs.gov.

Line instructions:

Line 1: Enter the amount of gain or amount realized from the sale. Subtract the selling expenses from the selling price to compute the amount realized. Use the definition of amount realized found in IRC Section 1001(b). Subtract the basis of the property from the amount realized to compute the gain or loss. If the seller provides the buyer with an I-295, Seller's Affidavit Nonresident Seller Withholding, available at dor.sc.gov/forms, stating the amount of gain they are required to recognize on the sale, enter the amount of gain.

If the transaction reported is an installment sale, enter on line 1 only the portion of gain (if the seller provided an affidavit of gain) or the portion of the amount realized (if the seller does not provide an affidavit of gain) the withholding payment is based upon. If the seller makes the election on line 7 and provides an I-295, Seller's Affidavit Nonresident Seller Withholding, include the entire gain on line 1.

Line 2: Check the appropriate box and multiply by the amount on line 1.

Line 3: Enter the total payment made to the seller. The total payment is the gross sales price reduced by any selling expenses and certain mortgages paid or assumed. Selling expenses include real estate commissions, advertising fees, legal fees, deed recording fees, and termite or heat/air letter fees. Reduce the sales price by mortgages or liens paid at closing on the property being sold. Do not deduct any mortgages, liens, advances on credit lines, or other debt secured by the properties and assumed by the buyer in contemplation of the sale. Loans or advances where the entire proceeds are used to purchase or improve the property being sold are not loans in contemplation of the sale.

Unless the buyer knows otherwise, the buyer can presume that any liens, mortgages, or advances on credit lines made more than one year before the closing are not in contemplation of the sale and may be deducted. If the lien, mortgage, or credit line advance is made less than one year prior to the closing, the buyer cannot deduct the mortgage, lien, or credit line advance unless the buyer obtains an affidavit from the seller, stating that the loan or advance was not made in contemplation of the sale.

Line 5: The return and payment are due by the 15th day of the month following the month of the sale. If the payment is late, enter penalty and interest. A Penalty and Interest Calculator is available at dor.sc.gov/calculator.

Line 7: The seller may give the buyer an I-295, Seller's Affidavit Nonresident Seller Withholding, stating that, for South Carolina Income Tax purposes, they choose to pay the tax due on the entire gain by its due date instead of using the installment sales treatment.

Amended returns:

Check the **Amended** box and follow instructions on the previous page, making whatever changes are necessary. Attach a copy of your original I-290 to your amended I-290. The I-290X is no longer used to file an amended return.

An amended I-290 can only be used to request a refund if it is submitted before the end of the seller's tax year. Once the tax year has ended and an Income Tax return is filed, we cannot issue a refund from an amended I-290. Attach the amended I-290 to the Income Tax return if you are claiming Nonresident Real Estate Withholding. **Do not attach the original I-290.**

Why file an amended I-290?

- **No I-295, Seller's Affidavit Nonresident Seller Withholding:** A refund can be issued from an amended I-290 if the seller did not file an I-295 with the buyer stating the amount of gain the seller is required to recognize.
- **Overstatement of gain:** A refund can be issued from an amended I-290 if the seller overestimated the gain and the tax due at the time of the sale.
- **Calculation error:** A refund can be issued from an amended I-290 if the amount withheld and paid to the SCDOR was incorrect due to an error in computing the amount to withhold **OR** if at the time of the closing, the seller and buyer were not aware of the exceptions to the withholding. **You must attach supporting calculations.**

The net capital gain calculation is not taken into consideration when figuring the applicable percentage of Nonresident Seller Withholding. The capital gain is only reported with the filing of the SC1040, Individual Income Tax return.

If filing an **amended I-290** and **requesting a refund**, mail to:
SCDOR, PO Box 125, Columbia, SC, 29214-0400

If filing an **amended I-290** and **making a payment**, mail to:
SCDOR, Withholding Taxable, PO Box 100161, Columbia, SC, 29202

Social Security Privacy Act Disclosure

It is mandatory that you provide your Social Security Number on this tax form if you are an individual taxpayer. 42 U.S.C. 405(c)(2)(C)(i) permits a state to use an individual's Social Security Number as means of identification in administration of any tax. SC Regulation 117-201 mandates that any person required to make a return to the SCDOR must provide identifying numbers, as prescribed, for securing proper identification. Your Social Security Number is used for identification purposes.

The Family Privacy Protection Act

Under the Family Privacy Protection Act, the collection of personal information from citizens by the SCDOR is limited to the information necessary for the SCDOR to fulfill its statutory duties. In most instances, once this information is collected by the SCDOR, it is protected by law from public disclosure. In those situations where public disclosure is not prohibited, the Family Privacy Protection Act prevents such information from being used by third parties for commercial solicitation purposes.