



# Withholding Requirements for Sales or Transfers of Real Property by Nonresidents

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# Act 2008-504

## INTRODUCTION

*Code of Alabama 1975*, Section 40-18-86, provides for income tax withholding at a rate of 3 or 4 percent on sales or transfers of real property and associated tangible personal property by nonresidents of Alabama. This Code Section is applicable to any sale or transfer occurring on or after August 1, 2008. For the purposes of this Code Section, nonresidents include individuals, trusts, partnerships, corporations, limited liability companies, limited liability partnerships, and unincorporated organizations.

The rate of withholding is 3 or 4 percent of the purchase price. An alternative for calculating the withholding is to use the seller's gain. In order to apply the withholding to the gain, the seller must complete Form NR-AF2 (Affidavit of Seller's Gain) attesting to the amount of the taxable gain. The seller is responsible for the calculation of the gain. The completed Form NR-AF2 must be sent to the Department of Revenue. A copy of this form along with an explanation of the cost basis and expenses should be kept with the closing file. The buyer may rely on the seller's affidavit with the above mentioned explanation unless the buyer knows or should know, based on the buyer's knowledge at the time of closing, that statements made on the affidavit are false. The buyer has no duty to investigate the statements made on a seller's affidavit. If the calculated amount for the withholding is more than the cash received at closing, the buyer must withhold and remit only the net proceeds otherwise payable to the seller.

There are a number of **exemptions to the withholding requirement**. If the property qualifies as a **principal residence** under the Internal Revenue Code, the exemption from withholding applies for the gain that is excluded from federal and Alabama adjusted gross income.

### **Other exemptions are as follows:**

A. Residents of Alabama - The withholding requirements under this law do not apply to residents of Alabama. Alabama residents include both individuals and business entities domiciled in Alabama. Business entities will be considered domiciled in Alabama if they are organized under Alabama law or they have their principal place of business in Alabama.

B. Purchase Price Threshold - Beginning August 1, 2008, withholding is not required on transactions prior to January 1, 2009, where the purchase price is less than \$800,000. For transactions after December 31, 2008, the purchase price threshold drops to \$300,000.

C. Foreclosures - The buyer is not subject to the withholding requirements if the seller is a mortgagor conveying the mortgaged property to a mortgagee in a foreclosure or in a transfer in lieu of foreclosure with no additional consideration.

D. Federal and State Agencies - The transaction is not subject to the withholding requirements if the seller or buyer is an agency or authority of the United States or the State of Alabama, or a private mortgage insurance company.

E. Composite Returns - If the seller is an entity which files a composite return with Alabama and remits the tax on the gain on behalf of its members, partners, or shareholders, then the buyer is not required to withhold.

F. FNMA, GNMA, or FHLMC - The seller or buyer is the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation.

G. Tax Exempt Organization - The seller is a tax exempt organization, and the income from the sale is not subject to Alabama income tax.

H. Insurance Company - The seller is an insurance company which pays tax on its premium income to Alabama.

I. Non-Recognition Transactions - Transfers of real property where gain is realized by the seller, but completely not recognized by the seller for Alabama income tax purposes, such as a like kind exchange, are not subject to the withholding provisions of Alabama Code Section 40-18-86. Transfers of real property where gain is realized by the seller, but partially not recognized by the seller for Alabama income tax purposes, are subject to the withholding provisions of Alabama Code Section 40-18-86 only to the extent of the recognized gain.

J. Transfers of Certain Limited Interests in Real Property - Certain transfers of limited interests in real property, including easements, rights of way, mortgages or other instruments that secure indebtedness, or leases (not including capital leases), are not subject to the withholding provisions of Alabama Code Section 40-18-86.

For questions and additional information, contact the Alabama Department of Revenue at (334) 242-1300.

1 HB357  
2 96665-2  
3 By Representative Lindsey  
4 RFD: Education Appropriations  
5 First Read: 07-FEB-08



1  
2 ENROLLED, An Act,

3 To create a new Section 40-18-86 of the Code of  
4 Alabama 1975, relating to withholding tax on the sale or  
5 transfer of real property and associated tangible property by  
6 nonresidents.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. A new Section 40-18-86 is added to the  
9 Code of Alabama 1975, to read as follows:

10 §40-18-86.

11 (a) As used in this section, the term nonresident of  
12 Alabama shall include individuals, trusts, partnerships,  
13 corporations, and unincorporated organizations. Any seller or  
14 transferor who meets all of the following conditions and who  
15 provides the buyer or transferee with an affidavit signed  
16 under oath swearing or affirming that all of the following  
17 conditions are met will be deemed a resident for purposes of  
18 this section:

19 (1) The seller or transferor has filed Alabama  
20 income tax returns or appropriate extensions have been  
21 received for the two income tax years immediately preceding  
22 the year of sale.

23 (2) The seller or transferor is in business in  
24 Alabama and will continue substantially the same business in  
25 Alabama after the sale or the seller or transferor has real

1 property remaining in the state at the time of closing of  
2 equal or greater value than the withholding tax liability as  
3 measured by the 100 percent property tax assessment of such  
4 remaining property.

5 (3) The seller or transferor will report the sale on  
6 an Alabama income tax return for the current year and file it  
7 by the due date.

8 (4) If the seller or transferor is a corporation or  
9 limited partnership, it is registered to do business in  
10 Alabama.

11 (b) (1) Except as otherwise provided in this section,  
12 in the case of any sale or transfer of real property and  
13 related tangible personal property located in Alabama by a  
14 nonresident of Alabama, the buyer or transferee shall be  
15 required to withhold and remit to the Commissioner of Revenue  
16 on forms provided by the commissioner a withholding tax for  
17 individual buyers or transferees equal to three percent of the  
18 purchase price or consideration paid for the sale or transfer,  
19 and for corporate, partnership, or unincorporated association  
20 buyers or transferees equal to four percent of the purchase  
21 price or consideration paid for the sale or transfer;  
22 provided, however, that if the amount required to be withheld  
23 pursuant to this subsection exceeds the net proceeds payable  
24 to the seller or transferor, the buyer or transferee shall  
25 withhold and pay over to the commissioner only the net

1 proceeds otherwise payable to the seller or transferor. Any  
2 buyer or transferee who fails to withhold such amount shall be  
3 personally liable for the amount of the tax.

4 (2) The liability imposed by this subsection shall  
5 be paid upon notice and demand by the commissioner or the  
6 commissioner's delegate and shall be assessed and collected in  
7 the same manner as all other withholding taxes imposed by this  
8 article.

9 (c) If the seller or transferor determines that the  
10 amount required to be withheld pursuant to subdivision (1) of  
11 subsection (b) of this section will result in excess  
12 withholding on any gain required to be recognized from the  
13 sale, the seller or transferor may provide the buyer or  
14 transferee with an affidavit signed under oath swearing or  
15 affirming to the amount of the gain required to be recognized  
16 from the sale, and any individual buyer or transferee shall  
17 withhold three percent of the amount of the gain required to  
18 be recognized, if any, and the corporate, partnership, or  
19 unincorporated association buyers or transferee shall withhold  
20 four percent of the amount of the gain required to be  
21 recognized, if any, stated in the affidavit rather than as  
22 provided in subdivision (1) of subsection (b) of this section.  
23 If, however, the amount required to be withheld pursuant to  
24 this subsection exceeds the net proceeds payable to the seller  
25 or transferor, the buyer or transferee shall withhold and pay

1 over to the commissioner only the net proceeds otherwise  
2 payable to the seller or transferor.

3 (d) Subsection (b) of this section shall not apply  
4 where any of the following occur:

5 (1) The real property being sold or transferred is a  
6 principal residence of the seller or transferor within the  
7 meaning of Section 121 of the Internal Revenue Code.

8 (2) The seller or transferor is a mortgagor  
9 conveying the mortgaged property to a mortgagee in foreclosure  
10 or in a transfer in lieu of foreclosure with no additional  
11 consideration.

12 (3) The transferor or transferee is an agency or  
13 authority of the United States of America, an agency or  
14 authority of the State of Alabama, the Federal National  
15 Mortgage Association, the Federal Home Loan Mortgage  
16 Corporation, or the Government National Mortgage Association,  
17 or a private mortgage insurance company.

18 The commissioner may by rule set a purchase price  
19 amount below which no withholding is required.

20 (e) (1) Unless otherwise provided, if the seller or  
21 transferor is a partnership or Subchapter "S" corporation or  
22 other unincorporated organization which certifies to the buyer  
23 or transferee that a composite return is being filed on behalf  
24 of the nonresident partners, shareholders, or members and that  
25 the partnership, Subchapter "S" corporation, or unincorporated

1 organization remits the tax on the gain on behalf of the  
2 nonresident partners, shareholders, or members, the buyer or  
3 transferee shall not be required to withhold as provided in  
4 this section. Any nonresident partner, shareholder, or member  
5 who falsely certifies that a composite return is being filed  
6 on behalf of such partner, shareholder, or member shall be  
7 liable for a penalty in the amount of five hundred dollars  
8 (\$500) or 10 percent of the amount required to be withheld,  
9 whichever is greater.

10 (2) The penalty imposed by this subsection shall be  
11 paid upon notice and demand by the commissioner or the  
12 commissioner's delegate and shall be assessed and collected in  
13 the same manner as the withholding tax imposed by this  
14 article.

15 (f) Every buyer or transferee of real property  
16 located in Alabama who is required to deduct and withhold the  
17 withholding tax imposed by subsection (b) shall file the  
18 required return and remit payment to the Department of Revenue  
19 on or before the last day of the calendar month following the  
20 calendar month within which the sale or transfer giving rise  
21 to the withholding tax occurred.

22 Section 2. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.

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*Adm. / Hunt*

Speaker of the House of Representatives

*Jim Folsom*

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 04-MAR-08.

Greg Pappas  
Clerk

Senate

19-MAY-08

Passed

APPROVED *May 29, 2008*  
TIME *4:20 p.m.*  
*Bob Riley*  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2008-504  
Bill Num....: H-357

Recv'd 05/29/08 05:32pmJJB

# ANSWERS TO FREQUENTLY ASKED QUESTIONS

**Q. What kind of tax is this? Sales tax? Real estate transfer tax?**

A. No, this is neither a sales tax nor a real estate transfer tax. It is income tax withholding. The principle is similar to income tax withholding by employers. The buyer withholds Alabama income tax from the payment to the nonresident seller. The buyer is responsible for providing the seller with a copy of Form WNR-V. The seller will claim credit for the taxes paid on the appropriate line of the Alabama tax return, Form 40NR. The taxes withheld will be considered as an estimated payment made on behalf of the seller.

**Q. So the nonresident seller is still required to file an Alabama income tax return, even with the withholding?**

A. Yes. In general, income from the sale of Alabama property is required to be reported on an Alabama income tax return. Once the nonresident return, Form 40NR, is completed and filed by the due date of the return including extensions, the actual tax liability will be determined, and the taxpayer either claims a refund for any overpayment, or pays the amount of any underpayment, the same as with any other income tax return.

**Q. How is the amount to be withheld determined?**

A. *Code of Alabama 1975*, Section 40-18-86, generally requires that 3 or 4 percent of the purchase price be withheld. However, if the gain recognized on the sale is less than the purchase price, and the seller provides the buyer with an Affidavit of Seller's Gain (see Form NR-AF2), then the buyer may withhold 3 or 4 percent of the amount of the gain. If the amount to be withheld, as based on the purchase price or the gain, is greater than the net proceeds of the transfer, then only the net proceeds need be withheld and remitted by the purchaser. Generally, the net proceeds of the sale are the net payments to the transferor as shown on the closing statement, but "net proceeds" may be calculated as the amount of money and other consideration received by the seller after deducting mortgage or other secured debt, ad valorem taxes, sales commissions, title premiums, survey expense, costs for environmental and other reports, and all other closing costs and expenses.

**Q. Are only transactions which result in taxable income to the seller subject to withholding?**

A. Yes. Since *Code of Alabama 1975*, Section 40-18-86, allows a seller to base withholding on the recognizable gain from a transaction, transactions which result in no taxable income do not require withholding. Please see Form NR-AF2.

**Q. Is withholding required when there are several owners, and some of the owners are nonresidents?**

A. Yes. The residency of the owners of the property will be determined separately. Withholding is required only on the purchase price or gain recognized by the nonresident sellers. In the case of co-owners who are married, ownership is determined separately if one owner is a nonresident.

**Q. If a buyer reasonably relies on a seller's sworn affidavit of residency, will the buyer be liable if it later turns out that the seller does not meet the conditions of deemed residency?**

A. A buyer's reasonable reliance on a seller's affidavit should be sufficient. The standard is a "good faith" reliance standard. A buyer will be held liable if he had actual or constructive knowledge that the seller's affidavit was false or contained erroneous information. The buyer may rely on the seller's affidavit unless the buyer knows or should know, based on the buyer's knowledge at the time of closing, that statements made on the affidavit are false. The buyer has no duty to investigate the statements made on a seller's affidavit.

**Q. If the seller is an Alabama resident, must he provide the buyer with a sworn affidavit Form NR-AF1 (or for deemed residency)?**

A. No, an Alabama resident does not need to provide an affidavit since this withholding law does not apply to residents. The affidavit is for **nonresident** sellers who wish to be “deemed” residents for withholding purposes. An affidavit is not required when the seller is an Alabama resident. The affidavit may be used by a resident seller, however, if the buyer wishes to document the seller’s representation of Alabama residency.

**Q. Must a certificate of exemption (Form NR-AF3) be filed when the seller is exempt by law from the withholding requirement?**

A. No. The filing of an affidavit establishing an exemption is not required. However, the buyer may wish to have the seller execute Form NR-AF3 or a similar affidavit, in order to document the buyer’s reliance on the seller’s representation of exemption.

**Q. Is withholding required on a like-kind exchange of property?**

A. Withholding is not required to the extent that the income from the sale is not subject to Alabama income tax.

**Q. If an Alabama resident relocates to another state and buys another residence, does his Alabama residence cease to be his principal residence for purposes of Alabama law?**

A. In order to be exempt from withholding, the property must be the principal residence of the seller or transferor for purposes of the income exclusion under the Internal Revenue Code. This rule applies no matter how much time elapses after the seller relocates to another state. As long as the property qualifies as a principal residence under the Internal Revenue Code, the exemption from withholding applies for the gain that is excluded from federal and Alabama AGI under the Internal Revenue Code.

**Q. If the seller of the property is an exempt organization, is the sale subject to withholding?**

A. Not unless the transaction results in unrelated business taxable income under Internal Revenue Code Section 512. In general, any transaction which results in unrelated business income as defined in IRC Section 512 is subject to withholding. Transactions which do not result in unrelated income are not subject to withholding.

**Q. If the seller is an insurance company, is the sale subject to withholding?**

A. If the insurance company pays a tax to Alabama on its premium income, it is not subject to Alabama income tax, and withholding on the sale is not required.

**Q. Does the withholding required under *Code of Alabama 1975, Section 40-18-86*, apply to the sale or transfer of timber located in Alabama by a nonresident of Alabama?**

A. Under Alabama law, standing timber is real property. Once timber is severed from the stump, it becomes personal property. If title to the timber passes before it is severed from the stump, withholding under *Code of Alabama 1975, Section 40-18-86* is required. If title to the timber does not pass until after it is severed from the stump, withholding is required only if the underlying land is sold with the timber.

**Q. If tax is withheld from a nonresident seller who is a partnership, S corporation, or limited liability company, how does the seller claim credit for the withholding?**

**A.** The pass-through entity seller must allocate and pass through the withholding credit in the same manner as it passes through its income. It should be passed through each tier in multitiered situations until it is claimed. Each partner's, shareholder's, or member's share of the withholding should be listed on the K-1 Form with a schedule showing how it was passed through and each partner, shareholder, and member should be provided a copy of the original withholding statement issued to the seller by the purchaser (Form WNR-V). The partner, shareholder, or member should claim credit for his or her share of the withholding on the Alabama income tax return, and attach a copy of the K-1 Form, the schedule showing how it was passed through, and a copy of the withholding statement issued to the seller by the purchaser (Form WNR-V). If the pass-through entity files a composite return, it may claim credit on the return, and attach the withholding statement. If some of the nonresident partners, shareholders, or members are not included on the composite return, credit may only be claimed for the portion of the withholding that is attributable to the partners, shareholders, or members who are included on the composite return.

**Q. If the seller is a corporation, how does it claim the withholding credit since the corporation income tax return does not have a line for tax withheld?**

**A.** The payment of the amount withheld by the buyer is considered as an estimate paid on behalf of the nonresident seller. If the seller is a corporation, the amount paid by the buyer for the seller will be claimed on the seller's Form 20C as an estimate payment.

**Q. Can a nonresident seller qualify as a deemed resident in order to be exempt from withholding, if he satisfies some, but not all of the listed conditions?**

**A.** No. In order to qualify as a deemed resident, all of the qualifying conditions must be satisfied.

**Q. One of the conditions for a nonresident seller to be considered a deemed resident under *Code of Alabama 1975, Section 40-18-86*, is that the seller has filed Alabama income tax returns, or appropriate extensions, for the two income tax years immediately preceding the year of the sale. What if the sale occurs before the due date for the previous year's income tax return?**

**A.** If the seller or transferor has filed Alabama returns or appropriate extensions for the most recent two tax years whose original due dates have passed, that condition will be considered satisfied.

**Q. Is a single-member limited liability company (SMLLC), whose status is disregarded for federal income tax purposes, considered to be the seller for purposes of *Code of Alabama 1975, Section 40-18-86*?**

**A.** The federal classification for income tax purposes applies for Alabama income tax purposes. Since Section 40-18-86 is the withholding of income tax, the federal classification also applies for income tax withholding purposes. Accordingly, a SMLLC whose status is disregarded for federal income tax purposes is not considered the seller for purposes of Section 40-18-86. Instead the owner of the SMLLC is considered the seller for purposes of the Alabama law.

**Q. Is a buyer required to inquire as to whether a LLC-seller is a "disregarded" entity?**

**A.** Alabama law requires the buyer to withhold tax on the sale or transfer of Alabama real estate by a nonresident. In order to withhold, the buyer must determine if the "seller" is a nonresident. Inherent in this provision is the need to properly determine the "seller" of the property. As such, the buyer must inquire as to whether the LLC-seller is a disregarded entity in order to properly determine the seller.

# FORMS

Form NR-AF1 is the seller's attestation of residency or request to be deemed an Alabama resident for purposes of this Code Section. This form must be filed with the Alabama Department of Revenue.

Form NR-AF2 is the seller's attestation of the gain if the seller wishes to use the gain to compute the withholding instead of the purchase price. The buyer must submit this form along with the withholding return.

Form NR-AF3 is the seller's attestation of exemption from the withholding requirement for any of the reasons shown on the form. This form is not required to be submitted to the Department.

Form WNR-V has two purposes: First, it is used by the purchaser to remit the withholding to the State. Second, a copy should be retained by the seller and the buyer as proof of taxes withheld.

Substitute forms may be used as Form WNR-V, upon approval by the Alabama Department of Revenue.

The closing file must contain all affidavits completed by the seller relating to that transaction. The due date is the last day of the month following the month in which the sale or other transfer took place. The address to mail the Form WNR-V and any other required affidavits is:

Alabama Department of Revenue  
Individual and Corporate Tax Division  
Post Office Box 327950  
Montgomery, Alabama 36132-7950





50 North Ripley Street  
Montgomery, Alabama 36132  
For Information Call 334-242-1170

**SELLER'S CERTIFICATE OF EXEMPTION**

_____		_____	
Seller's Name		Seller's Identification Number (SSN or FEIN)	
_____		_____	
_____		Spouse's Identification Number (if jointly owned)	
_____		_____	
Street Address	City	State	Zip

**INSTRUCTIONS**

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 when the seller is exempt from the withholding requirements imposed by the Alabama Department of Revenue pursuant to Section 40-18-86, *Code of Alabama 1975*. This form is not required to be used or submitted to the Department, but the seller may wish to execute this form or a similar document to protect all parties to the transaction. The buyer may rely on the seller's affidavit unless the buyer knows or should know, based on the buyer's knowledge at the time of closing, that statements made on the affidavit are false. The buyer has no duty to investigate the statements made on a seller's affidavit. To execute this form, the seller is to initial any statement which applies. 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 Alabama, but is exempt from the withholding provisions of the Alabama Department of Revenue Section 40-18-86 by virtue of the following:

- \_\_\_\_\_ The property being sold is the seller's 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 a subdivision, agency or authority of the United States of America or the State of Alabama.
- \_\_\_\_\_ The seller or buyer is the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation.
- \_\_\_\_\_ The seller or buyer is a private mortgage insurance company.
- \_\_\_\_\_ The purchase price of the property is less than \$800,000.00, for property sold prior to January 1, 2009.
- \_\_\_\_\_ The seller is an S corporation or a partnership subject to withholding under Section 40-18-86, and an Alabama composite return will be filed on behalf of the nonresident shareholders, members, or partners.
- \_\_\_\_\_ The seller is a tax exempt organization, and the income from this sale is not subject to Alabama income tax.
- \_\_\_\_\_ The seller is an insurance company which pays to Alabama a tax on its premium income.
- \_\_\_\_\_ The transaction is a non-recognition transaction such as a like kind exchange where gain is realized by the seller but completely not recognized for Alabama income tax purposes.
- \_\_\_\_\_ The transaction is a transfer of a limited interest in real property, including easements, rights of way, mortgages or other instruments that secure indebtedness, or leases (not including capital leases).

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

_____	_____
Seller's Signature (and Title, if applicable)	Date

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
 \_\_\_\_\_ Notary public  
 My commission expires \_\_\_\_\_



50 North Ripley Street  
Montgomery, Alabama 36132  
For Information Call 334-242-1170

**AFFIDAVIT OF SELLER'S GAIN**

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

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

\_\_\_\_\_  
Spouse's Identification Number (if jointly owned)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

**INSTRUCTIONS**

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 a sale of real property, against which gain the withholding imposed by the Alabama Department of Revenue under Section 40-18-86, *Code of Alabama 1975*, 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. The buyer may rely on the seller's affidavit unless the buyer knows or should know, based on the buyer's knowledge at the time of closing, that statements made on the affidavit are false. The buyer has no duty to investigate the statements made on a seller's affidavit.

"Net proceeds" means the amount of money and other consideration received by the seller after deducting mortgage or other secured debt, ad valorem taxes, sales commissions, title premiums, survey expense, costs for environmental and other reports, and all other closing costs and expenses.

The seller is to complete this document by calculating the gain in the below schedule. The seller should retain a copy of the documentation of the cost basis, depreciation, and selling expenses claimed. This documentation should only be provided to the Department when requested. However, this form, Form NR-AF2, along with Form WNR-V, and any remittance must be mailed to the Alabama Department of Revenue, Individual and Corporate Tax Division, P O Box 327950, Montgomery, AL 36132-7950. The buyer should retain a copy of these documents.

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) \$ \_\_\_\_\_
7. AMOUNT OF NET PROCEEDS RECEIVED BY SELLER FROM THE TRANSACTION \$ \_\_\_\_\_

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

\_\_\_\_\_  
Seller's Signature (and Title, if applicable)

\_\_\_\_\_  
Date

Sworn to and subscribed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Notary public  
My commission expires \_\_\_\_\_

Withholding on Sales or Transfers of Real Property and Associated Tangible Personal Property by Nonresidents Payment Voucher

<b>1.</b> Seller's / Transferor's Name  <b>3.</b> Seller's / Transferor's Mailing Address  <b>4.</b> City _____ State _____ Zip _____  <b>5.</b> Buyer's / Transferee's Name  <b>6.</b> Buyer's / Transferee's SSN or FEIN  <b>7.</b> Buyer's / Transferee's Mailing Address  <b>8.</b> City _____ State _____ Zip _____  <b>9.</b> Date of Sale _____	<b>13.</b> Seller / Transferor is: <input type="checkbox"/> <b>a.</b> Individual <input type="checkbox"/> <b>b.</b> Corporation <input type="checkbox"/> <b>c.</b> Trust or Estate <input type="checkbox"/> <b>d.</b> Business Trust <input type="checkbox"/> <b>e.</b> Partnership <input type="checkbox"/> <b>f.</b> S Corporation <input type="checkbox"/> <b>g.</b> Limited Liability Company <input type="checkbox"/> <b>h.</b> Limited Liability Partnership	
<b>10.</b> Total Sales Price .....	<b>10</b>	
<b>11.</b> Taxable Amount or Gain .....	<b>11</b>	
<b>12.</b> Amount Withheld or Remitted to State ( <i>not to exceed net proceeds</i> ) .....	<b>12</b>	

**The seller/transferor should retain 2 copies of this form and give a copy to the buyer/transferee.**

Payment is due on or before the last day of the calendar month following the calendar month within which the sale or transfer of property occurred. The voucher below and payment should be mailed to the **Alabama Department of Revenue, Individual and Corporate Tax Division, PO Box 327950, Montgomery, AL 36132-7950.**



**DETACH ALONG THIS LINE AND MAIL VOUCHER WITH YOUR FULL PAYMENT**

DO NOT STAPLE OR ATTACH THIS VOUCHER TO YOUR PAYMENT

ALABAMA DEPARTMENT OF REVENUE  
Withholding on Sales or Transfers of Real Property and  
Associated Tangible Personal Property by Nonresidents Payment Voucher

**Tax Period of Seller:** ● \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
MONTH                      DAY                      YEAR

**SSN:** ● \_\_\_\_\_ **Seller/Transferor is:**  **a.** Individual  **b.** Corporation  **c.** Trust or Estate  **d.** Business Trust  
CHECK ONLY ONE BOX

**FEIN:** ● \_\_\_\_\_  **e.** Partnership  **f.** S Corporation  **g.** Limited Liability Company  **h.** Limited Liability Partnership

**Amount Paid:** \$ ● \_\_\_\_\_

NAME OF SELLER / TRANSFEROR  
● \_\_\_\_\_

SELLER'S / TRANSFEROR'S MAILING ADDRESS  
● \_\_\_\_\_

CITY	STATE	ZIP CODE
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## Instructions for Form WNR-V

Use Form WNR-V to remit Alabama tax withheld on sales or transfers of real property and associated tangible personal property by non-residents. The determination of the amount to be withheld (if any), not to exceed net proceeds, will be made on Form NR-AF2, Affidavit of Seller's Gain.

The amount of withholding tax remitted will be credited to the Alabama income tax account of the seller/transferor as an estimated tax payment. The seller/transferor must claim credit for the payment on the Alabama income tax return. A separate form must be completed for each seller/transferor who will be required to file an Alabama income tax return.

Remit tax by mailing this form with payment for the amount on Line 12 on or before the last day of the month following the closing. The seller/transferor should retain 2 copies of the form and give a copy to the buyer/transferee. For additional information or assistance, contact the Individual and Corporate Tax Division at 334-242-1300.

The buyer may rely on the seller's affidavit unless the buyer knows or should know, based on the buyer's knowledge at the time of closing, that statements made on the affidavit are false. The buyer has no duty to investigate the statements made on a seller's affidavit.

Form WNR-V and remittance should be mailed to the

Alabama Department of Revenue  
Individual and Corporate Tax Division  
PO Box 327950  
Montgomery, AL 36132-7950.

## Instructions for Preparing Form WNR-V

**Line 1.** If more than one seller/transferor, submit a separate form for each.

**Line 2.** Social security number if an individual; FEIN if a corporation or other organization with an FEIN.

**Lines 3. and 4.** If mailing address is a Post Office Box, also list street address.

**Line 5.** If more than one buyer/transferee, submit a separate form for each.

**Line 6.** Social security number if an individual; FEIN if a corporation or other organization with an FEIN.

**Lines 7. and 8.** If mailing address is a Post Office Box, also list street address.

**Line 9.** Date the sale or transfer of real property and associated tangible personal property took place.

**Line 10.** Total amount paid for the real property and associated tangible personal property, including the value of any real, personal, tangible or intangible property given in consideration of the sale or transfer.

**Line 11.** If the taxable gain from the sale or transfer is known, and the taxable amount or gain is less than the sales price, the seller/transferor may execute an Affidavit of Seller's Gain (Form NR-AF2) to the buyer, swearing to the taxable amount or gain, and the amount to be withheld (Line 12) may be computed using the taxable amount or gain; otherwise, the amount to be withheld and remitted (Line 12) is to be calculated based on the total sales price (Line 10).

**Line 12.** For individual buyers or transferees, the amount withheld and remitted (not to exceed net proceeds) to the State is 3% of the total sales price (Line 10), unless the seller/transferor has supplied an affidavit (Form NR-AF2) to the buyer/transferee, swearing to the taxable amount or gain, in which case, the amount to be withheld and remitted to the State shall be computed as 3% of the taxable amount or gain (Line 11).

For corporate, partnership, unincorporated association, or other entity buyers or transferees, the amount withheld and remitted (not to exceed net proceeds) to the State is 4% of the total sales price (Line 10), unless the seller/transferor has supplied an affidavit (Form NR-AF2) to the buyer/transferee swearing to the taxable amount or gain, in which case, the amount to be withheld and remitted to the State shall be computed as 4% of the taxable amount or gain (Line 11).

**Line 13.** Check the appropriate box for the seller/transferor.

**On the voucher portion of the Form WNR-V, "Tax Period of Seller"** – Enter the last day of the current year (year of the sale of the property). For example, a taxpayer who files an income tax return on a calendar year basis would enter, "12/31/2008." A taxpayer who files an income tax return on a fiscal year basis would enter the last day of the taxpayer's fiscal year.