

# STATE TAX WITHHOLDING

## "SUMMARY OF THE EXEMPTIONS AND RULES"



### Compliments of

Some states impose a withholding requirement on the sale of property by people who are not residents of their state. Often, an exemption is available for §1031 exchanges.

#### CALIFORNIA

- **Requirement:** 3.33% of the sales price withheld.
- **Exemption:** Submitting Form 593-C ("Real Estate Withholding Exemption Certificate for Individual Sellers") by certifying they are selling the property as part of a §1031 exchange. Non-resident sellers seeking an exemption must submit Form 593-W ("Withholding Exemption Certificate and Waiver Request for Non-Individual Sellers") to the California Franchise Tax board.
- **Information:** [www.ftb.ca.gov](http://www.ftb.ca.gov) or 800-998-3676.

#### COLORADO

- **Requirement:** 2% of the sales price on property over \$100,000.
- **Exemption:** If the seller is performing a §1031 exchange, the non-Colorado resident may sign an "Affirmation of No Reasonably Estimated Tax to be Due" on the Colorado Department of Revenue Form 1083.
- **Information:** C.R.C. 39-22-604.5.

#### HAWAII

- **Requirement:** 5% of the amount realized.
- **Exemption:** Completion of Form N-289 where the seller states they are not required to recognize any gain on the transfer because of Section 1031 exchange.
- **Information:** H.R.S. §235-68.

#### MAINE

- **Requirement:** 2.5% of the consideration.
- **Exemption:** Submitting Form REW 5 ("Request for Exemption or Reduction in Withholding or Maine Income Tax on the Disposition of Maine Real Property").
- **Information:** 207-626-8473 M.R.S. Title 36 §5250-A.

#### MISSISSIPPI

- **Requirement:** 5% of the amount realized if proceeds exceed \$100,000 and the sale is not considered an exchange.
- **Information:** M.R.S. Section 27-7-308.

#### NEW YORK

- **Requirement:** 7.7% of the capital gain.
- **Exemption:** Filing Form IT-2663 before closing with the New York State Department of Taxation and Revenue.
- **Information:** N.Y.R.S. Tax Law Article 22, Section 663

#### OREGON

- **Requirement:** Exchangers sells an Oregon property and buys outside Oregon, they can defer the Oregon capital gain taxes (9%) until a taxable sale happens
- **Information:** O.R.S. Chapter 316 and Chapter 317.

#### PENNSYLVANIA

- **Requirement:** The deferral of capital gain taxes is not available and the gain is subject to a 2.8% gross receipts tax.

#### RHODE ISLAND

- **Requirement:** 6% of the total payment to the seller.
- **Exemption:** Completion of Forms 71.3, Nonresident Election of Gain and Certificate of Withholding Due.
- **Information:** <http://www.tax.ri.gov>.



ASSET PRESERVATION  
INCORPORATED

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