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MARYLAND INCOME TAX ALERT

June 2005

Increase in the Withholding Rate for Sale of Property by a Nonresident

The Revenue Administration Division of the Comptroller of Maryland's office is providing this notice of a recent change in **Maryland's withholding requirements for sales or transfers of real property and associated personal property by Nonresidents** under Section 10-912(c)(1) of the Tax-General Article, Annotated Code of Maryland.

This change was made by the Maryland General Assembly during the 2005 Legislative Session (H.B. 147, Chapter 444, Acts of 2005) and is **effective on July 1, 2005**. It requires a new amount to be withheld from the Total Payment on a sale or transfer of real property and associated personal property in Maryland by a Nonresident Individual.

The new withholding amount is equal to the sum of the rate of the tax imposed under Md. Code Ann., Tax-Gen. § 10-106.1 (currently 1.25%) and the top marginal State income tax rate for individuals under Md. Code Ann., Tax-Gen. § 10-105(a) (currently 4.75%). This means that, when applicable, **6 percent of the Total Payment amount must be withheld**.

In summary, this change specifically applies to the following:

- A Nonresident Individual (individual is defined to include a natural person or fiduciary);
- Who does not qualify for a full exemption from withholding; and
- Who sells or transfers Maryland real property and associated personal property.

The tax withheld (6 percent of the Total Payment) must be paid to the clerk of the circuit court for the county in which the real property is located in order for the deed or other instrument of transfer to be recorded and must be accompanied by Copies A and B of Form MW506NRS.

The clerks of the circuit court will accept deeds for recordation with tax withheld at the rate of 4.75% until June 30, 2005. Beginning July 1, 2005, the clerks of the circuit court will only accept deeds for recordation if accompanied by tax withheld at the rate of 6%.

Please Note: This change alters the rate of tax that must be paid to the clerk of the circuit court. The payment of the applicable withholding amount is not a separate Maryland tax – it is simply a part of the “pay as you go” method of tax collection. However, this payment does not effect the requirement for the Nonresident Individual to timely file the appropriate Maryland income tax return for the year of the sale or transfer.

For additional information please contact taxhelp@comp.state.md.us, or call 410-260-7980 from Central Maryland or 1-800 MD TAXES (1-800-638-2937) from elsewhere.

For the hearing impaired: TTY users call via Maryland Relay at 711 in Maryland or 1800-735-2258 from anywhere. If you need a reasonable accommodation for a disability, or need the information in this Alert in an alternative format, contact the Comptroller's Office.