

The sale of Colorado real estate by nonresidents, with some exceptions, is subject to a withholding tax in the anticipation of Colorado income tax that will be due from the gain of the sale. The Colorado withholding statute can be found at C.R.S. §39-22-604.5.

AMOUNT

The amount withheld is to be the lesser of:

1. Two percent of the selling price of the property interest or,
2. The net proceeds that would otherwise be due to the transferor as shown on the settlement statement.

EXCEPTIONS

1. The Colorado real estate is valued at less than \$100,000; or
2. The transferor is an individual, estate, or trust and both the Form 1099-S and the authorization for disbursement of funds show a Colorado address for the transferor; or
3. The transferee is a bank or corporate beneficiary under a mortgage or beneficiary under deed of trust and the Colorado real property is acquired in judicial or nonjudicial foreclosure by deed in lieu of foreclosure; or
4. The transferor is a corporation incorporated under Colorado law or currently registered with the Secretary of State's Office as authorized to transact business in Colorado; or
5. The transferor is an organization recognized as partnerships for federal income tax purposes and required to file annual federal partnership returns of income (includes limited liability companies who elect to be treated as a partnership for federal income tax purposes); or
6. The title insurance company or the person providing the closing and settlement services, in good faith, relies upon a written affirmation executed by the transferor, certifying under the penalty of perjury one of the following:
 - a) That the transferor, if an individual, estate, or trust, is a resident of Colorado;
 - b) That the transferor, if a corporation, has a permanent place of business in Colorado;
 - c) That the transferor is a partnership as defined in section 761(a) of the Internal Revenue Code required to file an annual federal return of income under section 6031(a) of the Internal revenue Code;
 - d) That the Colorado real property being conveyed is the principal residence of the transferor which could qualify for the exclusion of gain provisions of section 121 of the Internal Revenue Code;
 - e) That the transferor will not owe Colorado income tax reasonably estimated to be due from the inclusion of the actual gain required to be recognized on the transaction in the gross income of the transferor.

First Integrity Title Company will provide the Seller with the Colorado Withholding Affirmation. If the Seller is able to affirm to one or more of the affirmations on the Colorado Withholding Affirmation, then no withholding is required.