



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

I-290
(Rev. 10/5/17)
3271

NONRESIDENT REAL ESTATE WITHHOLDING

Mail to: South Carolina Department of Revenue, Real Estate Withholding, Columbia, SC 29214-0024
Return and payment are both due by 15th day of month following month of sale.
I-290 must be completed for each seller.

AMENDED

County _____	Location of Property Tax Map No. _____	Date of Withholding (PD CVD) Month _____ Date _____ Year _____
Seller's First Name _____ <small>(More than one seller? See instructions.)</small> Seller's Last Name _____ Address _____ _____ Phone _____		Buyer's First Name _____ Buyer's Last Name _____ Address _____ _____ Phone _____
Seller's <input type="checkbox"/> SSN _____ <input type="checkbox"/> FEIN _____		Buyer's <input type="checkbox"/> SSN _____ <input type="checkbox"/> FEIN _____
Withholding by Third Party (check one): <input type="checkbox"/> Lending Institution <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Closing Attorney <input type="checkbox"/> Other _____		Third Party's Name _____ Address _____ Phone _____ FEIN or SSN _____
1. The amount withheld is based on (check one): <input type="checkbox"/> Gain, if seller provides affidavit of gain (if installment sale, see reverse side) <input type="checkbox"/> Amount realized, if no affidavit of gain is provided (if installment sale, see reverse side)		Date of Closing Month _____ Date _____ Year _____ 1. _____
2. Check appropriate % and multiply by amount on line 1. 7% <input type="checkbox"/> If seller is not a corporation 5% <input type="checkbox"/> If seller is a corporation		2. _____
3. Total payment to seller (gross sales price less selling expenses less certain mortgages paid or assumed).		3. _____
4. Compare lines 2 and 3, enter the smaller amount.		4. _____
5. For late payments, calculate penalty and interest due.		5. _____ (Total Penalty and Interest Due)
6. Total tax, penalty and interest due.		6. _____
7. <input type="checkbox"/> The Seller has elected out of installment sales treatment for South Carolina purposes. (See reverse side.)		
8. Due date of first installment		
9. The seller is to receive payment in the following manner: <input type="checkbox"/> Monthly <input type="checkbox"/> Annually <input type="checkbox"/> Other - Attach an explanation		
The buyer must give two copies of this form to each seller each time the buyer remits a withholding payment to the South Carolina Department of Revenue. Missing or incomplete information on this form will cause processing delays and you may receive additional correspondence. I-290 must be completed for each seller.		

When signing this form, it is important that the information contained in your report be correct and complete. To wilfully furnish a false or fraudulent statement to the SC Department of Revenue is a crime.

Buyer's Signature _____ Name _____ Date ____/____/____
Title _____ Telephone (____) _____ Email _____

INSTRUCTIONS FOR FILING FORM I-290

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. See **SC Revenue Ruling #09-13** or any subsequent advisory opinion regarding Nonresident Seller Withholding on our website dor.sc.gov under **News & Resources, Law & Policy**.

You must complete information concerning the location of property, date of withholding (date of payment), the seller's name, and address, **seller's social security number (SSN) or federal identification number (FEIN)**, buyer's name and address, and **buyer's SSN or FEIN**, and the date of closing (date of sale of property). If the seller is a partnership, subchapter S corporation, estate, or trust, enter the entity name in the seller's first name field. Only in the case of installment sales will the date of withholding and the date of closing be a different date. Four copies must be completed for each sale. The buyer must receive two copies, one for his or her records and one to send to the Department of Revenue with his or her withholding payment. The seller must receive two copies, one to be sent in with his or her income tax return reporting the sale and one for his or her records. **Missing or incomplete information on this form will cause processing delays and you may receive additional correspondence.**

How do nonresidents claim credit for or request a refund for the amount withheld?

Nonresidents must file an income tax return during the appropriate filing season, reporting the capital gain from the sale and take credit for the nonresident real estate withholding. File the I-290, marking the Amended check box, to claim credit for or request a refund **prior** to the end of the tax year of the sale. **After** year end, the appropriate income tax return must be used.

Is there more than one seller?

If there is more than one seller (filing separate individual income tax returns), then separate I-290 forms must be filed. If the seller is a partnership, subchapter 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 percent of ownership in the property sold.

What if the buyer or seller has no SSN?

In the case of a nonresident alien who cannot obtain a social security number (SSN), contact the Internal Revenue Service to apply for and obtain an individual taxpayer identification number (ITIN) by using federal Form W-7.

Line 1 - Enter the amount of gain or amount realized from the sale. The amount realized on the sale is the selling price less selling expenses, as defined in Internal Revenue Code Section 1001(b). Amount realized is the figure used for computing gain or loss by subtracting the basis of the property. Or, if the seller provides the buyer with an affidavit (I-295) stating the amount of gain he is required to recognize on the sale, enter the amount of gain. I-295 can be obtained from our website: dor.sc.gov

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 election on line 7 is made, line 1 must indicate the entire gain if an affidavit of gain is provided by seller.

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

Line 3 - Selling expenses include real estate commissions, advertising fees, legal fees, deed recording fees and termite or heat/air letter fees. The net proceeds payable to the seller is computed by reducing the sales price by mortgages or liens paid at closing on the property being sold and selling expenses. Mortgages, liens, advances on credit lines, and other debt secured by the properties assumed by the buyer in contemplation of the sale may not be deducted from the sales price. 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, which states that the loan or advance was not made in contemplation of the sale.

Line 5 - A Penalty and Interest Calculator is available on our website MyDORWAY.dor.sc.gov as a reference tool.

Line 7 - The seller may give the buyer an affidavit (I-295) stating that, for South Carolina income tax purposes, he elects out of the installment sales treatment and chooses to remit the amount of tax due on the entire gain by its due date.

Remitting the tax - I-290 must be completed for each seller. The withholding must be sent to the SC Department of Revenue on or before the fifteenth day of the month following the month in which the sale took place. Withholding on an installment sale, however, is not required where the total amount required to be withheld for the entire year would be less than \$350. Also, withholding on installment sales when the amount to be withheld is less than \$500 the buyer may wait to remit the amounts withheld to the SC Department of Revenue until the 15th day of the month following the month when the amounts withheld equals \$500 or more. However, if amounts withheld during a calendar year do not equal \$500 they must be remitted to the SC Department of Revenue by January 15th of the following year. See **SC Revenue Ruling #09-13** regarding installment sales.

Amended - If filing an amended I-290, check the "amended" box. Note: Form I-290X is no longer used for filing an amended return.

INSTRUCTIONS FOR FILING AMENDED FORM I-290

You must complete information concerning the location of property, date of withholding (date of payment), the seller's name, and address, **seller's SSN or FEIN**, buyer's name and address, and **buyer's SSN or FEIN**, and the date of closing (date of sale of property). Only in the case of installment sales will the date of withholding and the date of closing be a different date.

An amended I-290 is used to correct the amount of withholding remitted to the South Carolina Department of Revenue from a sale of real and tangible personal property by a nonresident of South Carolina.

An amended I-290 can be filed only after an original I-290 has been filed. When items are in question, refer to instructions for preparing I-290. Attach the original I-290 to the amended I-290.

An amended I-290 can only be used to request a refund prior to the filing period for the individual income tax return. Once an individual income tax return is filed, we can no longer consider a refund from an amended I-290. An amended I-290 must be attached to the individual income tax return if there is an amount on line 8 of the amended I-290. **Do Not Attach Form I-290.**

REASONS FOR FILING AN AMENDED FORM I-290

No Affidavit (I-295) - A refund can be issued from an amended I-290 if the seller does not file an affidavit (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 as well as the tax due at the time of the sale.

Please Note: The net capital gain calculation is not taken into consideration when figuring the 7% nonresident seller withholding. The capital gain is only reported with the filing of the individual income tax return.

Previous Computation Error - A refund can be issued from an amended I-290 if the amount withheld and remitted to the SC Department of Revenue was incorrect due to an error in computing the amount to withhold **OR** at the time of the closing, the seller and buyer were not aware of the exceptions to the withholding (then part of the withholding may be refunded to the seller). **Attach supporting computations.**

Social Security Privacy Act It is mandatory that you provide your social security number on this tax form. 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 SC Department of Revenue shall 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 Department of Revenue is limited to the information necessary for the Department to fulfill its statutory duties. In most instances, once this information is collected by the Department, 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.

Mail Requests For Refunds To:

**SC Department of Revenue
Real Estate Withholding
Columbia, SC 29214-0024**