



Non-Resident Sellers: Conveyancers' obligation to withhold tax

Where the seller of immovable property is a non-resident, the purchaser is obliged by law to withhold part of the purchase price and pay such portion to SARS.

This obligation is by implication applicable to conveyancers attending to the transfer. If this obligation is not fulfilled personally liability might be incurred by such Conveyancer or Agent, as the case may be.

In transfers where the purchase price of the property is less than R2,000,000.00 (two million rand), such transactions are exempt from this obligation.

How much is withheld?

- 5% of the purchase price where the Seller is a natural person
- 7.5% of the purchase price where the Seller is a company or Closed Corporation
- 10% of the purchase price where the Seller is a Trust

These amounts are to be paid to SARS within 14 days after the amount was withheld where the Purchaser is a resident, and within 28 days where the purchaser is a non-resident.

There is however a way to reduce the amount that needs to be withheld and paid over. The Seller may apply for a directive from SARS requesting the actual amount of Transfer Duty to be paid, and consequently the actual amount that needs to be withheld. This will often alleviate cash flow issues from the Sellers point of view.

Please speak to one of our Conveyancers for more information.