

**TITLE 4: ECONOMIC RESOURCES**  
**DIVISION 1: REVENUE AND TAXATION**

**§ 1823. Withholding on Real Estate Transactions.**

(a) *In General.* In the case of any transfer of a CNMI real property interest, the tax imposed by section 1301 or 1202 of this Division, on the gross revenue of a transferor of such an interest shall be collected by the transferee as follows. The transferee shall deduct and withhold the tax for the account of the transferor upon every payment of money or other consideration to be made to the transferor. The amount to be deducted and withheld shall be equal to the tax imposed by section 1301 of this Division on every such payment of money or other consideration. The transferee shall deduct and withhold said amount before any payment of money or other consideration is made to the transferor, and the transferee shall report and remit the withheld tax to the Secretary as provided below.

(b) *Payment of Tax and Filing an Information Return.*

(1) The transferee shall within 10 days of the transfer pay the tax withheld.

(2) On or before January 31 of the calendar year following payment, the transferee shall make a full, true and correct information return showing all taxes withheld and paid by him during the proceeding year for each transaction, providing with the return the receipts issued by the Treasurer for each payment. The return shall include such other information as required by the Secretary.

(3) The transferee required to deduct and withhold tax on the transfer of a real property interest, shall furnish to the transferor on or before January 31 of the succeeding calendar year a written statement in a form prescribed by the Secretary, showing the transfer of a real property interest of the transferor and money or other consideration paid by the transferee for the year and the tax withheld with respect to such transferor.

(4) Every person required to deduct and withhold tax on the transfer of a real property interest, shall file on or before February 28, of the succeeding calendar year a duplicate copy of each such statement described in subsection (b)(3) with the Secretary.

(c) *No Cause of Action Against Transferee for Withholding.* No person shall have any right of action against the transferee with respect to any monies deducted from such person on the transfer of the real property interest in compliance or intended compliance with this section and paid to the Secretary.

(d) *Tax Paid by Transferor.* If the transferee, in violation of the withholding and filing provisions herein, fails to deduct and withhold the tax, and thereafter the tax against which such tax is credited is paid, the tax so required to be deducted and withheld shall not be collected from the transferee; but this subsection shall in no case relieve the transferee from liability for any penalties or additions to the tax otherwise applicable in respect to such failure to deduct and withhold.

(e) *Penalty.* Any transferee who fails to deduct, withhold and collect, and/or fails to report, account for and pay over the tax required herein shall be personally liable for the total amount of such tax plus interest and penalties as provided in this Chapter.

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(f) *Definitions.* For purposes of this section, the following definitions shall apply:

(1) CNMI Real Property Interest. The term “CNMI real property interest” means a fee simple estate, estate for life or a multi-year lease in any real property located within the Commonwealth including an option to acquire the same, or any interest defined in NMTIT §897(c)(1)(A)(ii).

(2) Multi-year Lease. For purposes of this Division, the term “multi-year lease” means any lease of a CNMI real property interest extending beyond a period of five years.

(3) Transfer. The term “transfer” means any sale, multi-year lease or other disposition of a CNMI real property interest for money or other consideration. A transfer includes any assignment of a multi-year lease of a CNMI real property interest, but does not include the granting of a security interest in a CNMI real property interest.

(4) Transferor. The term “transferor” means any person or persons disposing of a CNMI real property interest.

(5) Transferee. The term “transferee” means any person or persons acquiring a CNMI real property interest.

(6) Other Consideration. The term “other consideration” means:

(A) The fair market value of any property transferred or to be transferred to the transferor; and

(B) The outstanding amount of any liability assumed by the transferee or to which the CNMI real property interest is subject immediately before and after the transfer.

(g) *Regulations.* The Secretary shall have broad authority to prescribe such regulations as may be necessary to ensure that the withholding tax imposed on the transfers of CNMI real property interests will be properly determined, reported and collected. Such regulations shall include, but not be limited to, the enactment of provisions for establishing the method by which withholding tax shall be determined, reported and collected upon the payment of other consideration as defined above.

**Source:** PL 14-35, § 4 (1823), modified.

**Commission Comment:** In subsection (f)(2) above, the Commission deleted an extra “(2)” to correct a manifest error and also deleted figures that were a repetition of words pursuant to its authority by 1 CMC § 3806(g) and (e), respectively.