

COMMONWEALTH OF PUERTO RICO
DEPARTMENT OF THE TREASURY
INTERNAL REVENUE AREA

**REQUIREMENTS TO REQUEST THE RETURN OF AMOUNTS WITHHELD
AT SOURCE TO NONRESIDENTS INDIVIDUALS**

Section 1147(g) of the Puerto Rico Internal Revenue Code of 1994, as amended (Code), provides a special rule in the case of sale of real property or stocks (Property) by nonresident individuals. The Code provides that the buyer of the Property must deduct and withhold a tax from the purchase price, as such term is defined in that Section. Section 6183 of the Code provides that the amount withheld must be deposited no later than the 15th day of the month following the withholding date. Notwithstanding, Section 1147(g) of the Code establishes that the amount withheld, as a result of the sale of the Property, may be returned directly by the purchaser to the seller in those cases where:

- prior to the payment of the tax to the Secretary, the nonresident individual has paid the tax on the gain derived from the transaction, and the Secretary so acknowledges it in writing; or
- when the Secretary determines that no gain was derived from the transaction and, therefore, no tax liability is due.

For such purposes, the seller or the authorized representative must submit a request for the return of the tax withheld no later than the due date provided by the Code to deposit such amount. The request must include a filing fee of \$100, either by check or money order, as provided by Act No. 15 of July 20, 1990, as amended and Regulation No. 6103 of February 25, 2000. *Requests received after the deposit's due date will not be accepted.* The request must be sent to:

Department of the Treasury
Internal Revenue Area
6th Floor, Office No. 620
P.O. Box 9024140
San Juan, P.R. 00902-4140

In those cases in which the request does not have all the information required for its issuance, an additional fee of \$150 will be imposed.

The request must be comply with the following:

1. A letter, signed in original, to the Director of the Tax Assistance and Specialized Consulting Bureau, requesting the return of the amount withheld at source for the sale of a property located in Puerto Rico by a nonresident individual (Authorization Letter).

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2. If the Authorization Letter is filed by a representative, a letter signed in original granting the taxpayer's authorization for representation before the Department of the Treasury (Department) must be submitted. For this purposes, the form *Power and Declaration of Representation* (Form AS 2745-A) can be used.

If the representative is acting by means of a Power of Attorney, the same must be extensive as to authorize representation of the taxpayer in any government agency or specifically before the Department. *If the Power of Attorney is executed outside of Puerto Rico, it has to be registered in Puerto Rico (signed and notarized).*

3. Notarized and signed copy of the Deed:
 - a. for when the property was purchased (Purchase Deed); and
 - b. for when the property was sold (Sales Deed).
4. Signed copy of the Settlement Statement.
5. Evidence of the tax withheld (copy of the check payable to the order of the Secretary of the Treasury), if the Settlement Statement does not indicate the amount withheld or when there is a cash sale.
6. Copy of the Income Tax Return (Return), stamped by the Department, with evidence of the tax liability payment, if applicable.
7. Evidence of payment of the selling expenses claimed in the Return.
8. Indicate the date when the taxpayer became a nonresident of Puerto Rico, and the use given to the property since its acquisition until sold.
9. Certification of permanent improvements, with their corresponding evidence, signed by the taxpayer or authorized representative (list of improvements, date and amount), if applicable.
10. When the sale's price includes amounts paid for personal and real property, the following must be provided:
 - a. buyer's certification indicating the detail and amount paid for the furniture included when the property was purchased; and
 - b. seller's certification indicating the sales price and the cost of the furniture sold (list of furniture and amount) with the corresponding evidence.

11. In the case of a structure built by the taxpayer or a contractor, the following copies must be submitted:
 - a. the Request of Permission for Construction submitted to ARPE;
 - b. the Construction Permit Notification Approval from ARPE;
 - c. the payment to the State Insurance Fund Corporation;
 - d. the construction contract;
 - e. the Edification Act; and
 - f. the Title Study.

12. If the one time exclusion provided on Section 1022 of the Code is claimed on Schedule D1, the taxpayer must submit a detail of the place of residence for the last 5 years, with the following information:
 - a. evidence of birth date;
 - b. copy of the Exemption Certificate from CRIM;
 - c. "*Certificación de Razones por las Cuales No Está Obligado en Ley a Rendir la Planilla de Contribución sobre Ingresos*" (Form SC 2781), if any of the income tax returns for the last 5 years have not been filed; and
 - d. indicate the date when the taxpayer became a nonresident of Puerto Rico and the use given to the property since its acquisition until sold.

13. In the case of property acquired by inheritance, the following must also be submitted:
 - a. copy of the Certificate of Release of Estate Tax Lien;
 - b. copy of the Will or Declaration of Heirs;
 - c. copy of the Instance to the Register of the Property or signed and notarized Inheritance Liquidation Deed; and
 - d. notarized and signed copy of the Purchase Deed, when the surviving spouse acquired the property.

14. In the case of property acquired by gift, the following must also be submitted:
 - a. copy of the Certificate of Release of Gift Tax Lien;
 - b. copy of the Gift Deed; and
 - c. notarized and signed copy of the Purchase Deed, when the donor acquired the property.