



To: All Massachusetts Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: October 20, 2025
Bulletin No.: MA 2025-12
Subject: Nonresident Withholding on Sale of Real Estate of \$1,000,000 or More

Beginning November 1, 2025, the Massachusetts Department of Revenue (DOR) will require the withholding and electronic remittance of tax on the sale or transfer of Massachusetts Real Estate when the seller (known as the Transferor) is a nonresident and the Gross Sales Price equals or exceeds \$1 million. The new regulation, [830 CMR 62B.2.4](#), establishes clear responsibilities for the Withholding Agent, which includes closing attorneys, settlement agents, title and escrow companies. Its purpose is to ensure that tax due from nonresident sellers is collected before sale proceeds leave the state. This rule imposes specific deadlines and documentation requirements on closing professionals.

Withholding Amounts and Computation

Under the regulation, the default withholding amount is four (4%) percent of the Gross Sales Price. An individual, nonresident seller may instead elect to have the withholding calculated on their estimated net gain, rather than on the gross proceeds. In that case, the amount withheld for an individual Transferor must equal five (5%) percent of the Estimated Net Gain, plus an additional four (4%) percent on any portion of gain that exceeds the Massachusetts surtax threshold set forth in *M.G.L. c. 62, § 4(d)*. A nonresident corporation that is subject to corporate excise tax may also elect withholding based upon its Estimated Net Gain, but the withholding amount is eight (8%) percent. *830 CMR 62B.2.4(6)*. If the Transferor makes no valid election or fails to supply the required Transferor's Certification at or before closing, the Withholding Agent must withhold at the default four (4%) percent rate.

Certifications and Reliance

For each transaction meeting the Withholding Threshold (\$1,000,000), the Transferor must prepare and provide the Withholding Agent with a Transferor's Certification. *830 CMR 62B.2.4(8) and (10)*. This document confirms residency or nonresidency status, including any applicable Transferor exemptions (*830 CMR 62B.2.4(4)*), and, if applicable, elects the gain method of calculation. The certification must be received and reviewed by the Withholding Agent prior to disbursement. The regulation does provide a reasonable-reliance standard: a Withholding Agent who, in good faith, relies on a facially valid Transferor's Certification or DOR certificate is not liable for under-withholding unless the Withholding Agent has actual knowledge that the document is false or altered. *830 CMR 62B.2.4(8)*. Reliance on an electronic or scanned copy is permissible if the document appears genuine and complete.

Information Bulletins are designed to provide our agents with information we think will help in managing their business or just being better title professionals, but which does not rise to the level of being an underwriting mandate and are not within the scope of the agency agreement.

Filing and Payment Requirements

The Withholding Agent is responsible for filing the Transferor's Certification and the return, along with supporting documentation including the HUD-1 Settlement Statement, and remitting payment to the DOR, no later than ten (10) days after the Closing. Both filing and payment must be completed electronically through the [MassTaxConnect](#) portal unless the DOR grants a waiver for cause. The regulation eliminates paper filings and checks, and it imposes joint liability on the Transferor and Withholding Agent for any failure to withhold, file, or remit in a timely manner. *830 CMR 62B.2.4(11)*. Withholding Agents must therefore confirm that their office systems and escrow accounts can process electronic payments and produce confirmations suitable for closing records.

Recordkeeping and Compliance

Withholding Agents must retain copies of the Transferor's Certification, any DOR certificate or correspondence, the HUD-1 Settlement Statement, the MassTaxConnect filing confirmation, and proof of electronic payment for a period of seven (7) years. Failure to maintain complete records or to timely remit the withheld tax may expose the agent to personal liability for the tax, as well as interest and penalties under *M.G.L. c. 62C*. Because the regulation imposes specific procedural duties on settlement agents and attorneys, WFG recommends reviewing internal checklists now to ensure compliance once the rule takes effect.

Summary

The new withholding requirements mark a significant procedural change for Massachusetts nonresident sellers, as well as closing and settlement attorneys. Nonresident sellers are now expected to calculate net gain on their sale of real estate prior to the sale, rather than waiting until filing of their yearly tax returns, or default to a 4% withholding. While good faith reliance on the Transferor's Certification gives closing attorneys some relief, because of the necessary strict adherence to the new timing and documentation requirements, their office's workflow and liability have increased to an unprecedented level.

WFG encourages all agents to familiarize themselves with *830 CMR 62B.2.4*. However, at this time, the Transferor's Certification form and instructions, and Form NRW (the return) have not been finalized by the DOR. WFG agents are therefore advised to monitor the DOR website (<https://www.mass.gov/info-details/withholding-requirement-sale-of-real-estate-by-non-residents>) and keep an eye out for the final forms. Various stakeholders are still working to revise and/or delay implementation of the regulation so this is very much in flux, but agents should be prepared for the November 1 implementation date. Please contact WFG underwriting counsel should you have any questions.

[Click here to view a replay of the October 17, 2025 session of New England Underwriting Office Hours](#), which covered this topic.

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