



**This is an affidavit of facts. Whether or not this affidavit is sufficient to relieve the buyer of the responsibility to withhold is governed by SC Revenue Ruling #09-13. Please read this affidavit carefully in conjunction with this Advisory Opinion.**

The undersigned on oath, being first duly sworn, hereby certifies as follows:

1. This affidavit is being given in connection with a sale of real estate pursuant to SC Revenue Ruling #09-13.
2. I have attached to this affidavit a description of the real property and any tangible personal property being sold as a part of this sale. The real property is located in the county of \_\_\_\_\_ and its tax map number(s) is \_\_\_\_\_.
3. The undersigned is the seller of the property described in the attached description.
4. The closing date of this sale is \_\_\_\_\_.
5. The Seller's name is \_\_\_\_\_.
6. The Seller's address is \_\_\_\_\_  
(number, street or rural route)  
\_\_\_\_\_  
(city, state and zip code)
7. The Seller's Social Security Number (SSN) or Federal Employer Identification Number (FEIN) is \_\_\_\_\_.
8. The undersigned acknowledges his obligation to file a South Carolina income tax return for the year of sale.
9.  **Resident.** The seller is a resident of South Carolina, as that term is defined in the South Carolina income tax laws (Code Section 12-6-30 et seq.).
10.  **Deemed Resident (must be a business).** Pursuant to Code Section 12-8-580(C) and SC Revenue Ruling #09-13, the seller is deemed to be a resident of South Carolina because:
  1. a. The seller is a corporation incorporated outside South Carolina, has its principal place of business in South Carolina, and does no business in its state of incorporation, **or**
  - b. The seller (i) has been in business in South Carolina during the last two taxable years, including the year of sale, (ii) will continue substantially the same business in South Carolina after the sale, (iii) is not delinquent with respect to filing any South Carolina income tax returns, (iv) has filed at least one South Carolina income tax return, and (v) has a certificate of authority to do business in South Carolina or is registered to do business in South Carolina **and**
  2. The seller agrees to report the sale on a timely filed South Carolina income tax return.
11.  **Tax-Exempt Organizations.** The seller is an organization exempt from income taxes under Internal Revenue Code Section 501(a) or is an insurance company exempt from South Carolina taxes on income.
12.  **Gain Amount.** The seller affirms pursuant to Code Section 12-8-580(B) that the amount of gain required to be recognized on this transaction and on which buyer is to make the requisite withholding will not exceed \$ \_\_\_\_\_.
13.  **Withholding Amount Equals Entire Net Proceeds.** If the withholding amount is limited to the entire net proceeds, any lien, mortgage or credit line advance which was made within one year prior to the closing was not made in contemplation of the sale. See Question and Answer 15 in SC Revenue Ruling #09-13 for a discussion of loans made in contemplation of the sale.
14.  **Installment Sale.**

The seller will report this sale on the installment method for South Carolina income tax purposes, and has attached an amortization schedule correctly designating the principal and interest portions of the payments. If withholding is to be limited to the gain, the seller has entered the gain amount in item 12.

The seller elects out of the installment sale method for South Carolina purposes and will report the entire withholding in one payment. If withholding is to be limited to the gain, the seller has entered the gain amount in item 12.

**Retain for your records. DO NOT mail to the Department of Revenue.**

15.  **Principal Residence or Involuntary Conversion - Nonrecognition of Gain.** The sale of the property will not be subject to taxes because of Internal Revenue Code Section 121 (sale of a principal residence) or Internal Revenue Code Section 1033 (involuntary conversions.) If the seller fails to comply with Section 1033, the seller acknowledges an obligation to file an amended South Carolina income tax return for the year of the sale.

**Like Kind Exchange.**

16.  In a simultaneous exchange, the entire gain is deferred under Internal Revenue Code Section 1031.
- A gain will be partially recognized. Enter the gain amount in item 12.
- The gain is intended to be deferred under Internal Revenue Code Section 1031 using a qualified intermediary and the steps required by SC Revenue Ruling #09-13 have been completed. The seller authorizes the qualified intermediary to release modified forms and any other information relevant to the withholding, including information otherwise confidential in Code Section 12-54-240 as described in SC Revenue Ruling #09-13, Question 22, Option 2.
17.  **Employee Relocation.** The transaction involves the sale of an employee's property which is being sold by an employer or relocation company in connection with the employee's transfer. For income tax purposes the sale is treated as a sale by the employer or relocation company.

The undersigned understands that this affidavit may be disclosed to the Department and that any false statement contained herein could be punished by fine, imprisonment, or both.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name - Please Print)

If the person making the affidavit is not the Seller, complete the following:

\_\_\_\_\_  
(Affiant's SSN or FEIN)

\_\_\_\_\_  
(Affiant's number, street or rural route)

\_\_\_\_\_  
(Affiant's city, state and zip code)

SUBSCRIBED AND SWORN to

Before me this \_\_\_\_\_ day of

\_\_\_\_\_, year of \_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_

**Social Security Privacy Act Disclosure**

It is mandatory that you provide your social security number on this tax form if you are an individual taxpayer. 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.

Our Internet address is: **www.sctax.org**