

IMPORTANT NOTICE

Virginia Department of Taxation
August 6, 1990

The 1990 Session of the General Assembly enacted Senate Bill 240, which requires all nonresidents who receive *income from the rental or sale of Virginia real estate* to register with the Department of Taxation.

If you are a broker or real estate reporting person for purposes of federal Form 1099 reporting requirements on real estate rental or sale transactions, you will be required to obtain a completed registration, Form R-5, from each nonresident client and submit the form to the department. *Brokers and real estate reporting persons will be expected to begin compliance with the new law effective August 15, 1990.*

Who Must Register?

Registration *is* required by property owners or sellers who are: (1) nonresident individuals (persons who are not domiciled in Virginia or who live in Virginia for less than 183 days during a taxable year), (2) nonresident estates and trusts (estates and trusts administered outside of Virginia or relating to other than a Virginia domiciliary), (3) partnerships and S-corporations which have any nonresident partners or shareholders, and (4) corporations which are not formed or organized under Virginia law.

Registration is *not* required in the case of transactions that are not subject to the federal or Virginia income taxes or where an individual is living outside the state but continues to maintain his Virginia domicile. An exemption certificate, Form R-5E, is provided for this purpose. In addition, rental property owners who have previously registered with the department may be excused from completing forms if they furnish the broker with a copy of their previous registration.

Your Duties Under the Law

If you are a **broker**, as defined in Internal Revenue Code § 6045 (c) for federal Form 1099-MISC reporting purposes, you must furnish forms to all current nonresident clients and all future clients to whom annual rental payments of more than \$600 are or will be made. If a client fails to complete a registration form or exemption certificate within 60 days after you request him to do so, you are required to complete a registration form on his behalf.

If you are a **real estate reporting person**, as defined in Internal Revenue Code § 6045 (e) for federal Form 1099-S reporting purposes, you must furnish forms to nonresident sellers for all property closings occurring *on or after August 15, 1990*. If the nonresident seller fails to complete a registration form or exemption certificate at closing, you are required to complete a registration form on his behalf.

In cases where clients fail to complete a registration form or complete the form only partially, you need only complete that information that is available to you in your records, i.e., the owner or seller's name, address, Social Security or taxpayer identification number, average monthly rental payments or gross proceeds from sale, closing date, etc. You are *not* responsible for obtaining any information that clients fail to furnish and which is not in your client records.

Completed registration forms *and* exemption certificates must be submitted to the department by the 15th day of the month following the month in which the forms were received from clients. You should also retain a copy of these forms in your files.

If you fail to submit a registration form or exemption certificate to the department on behalf of a client — or to complete a form when a client fails to do so — you will be subject to a penalty of \$50 per month up to a maximum of six months for each failure to file.

In addition, any owner or seller who willfully furnishes false or fraudulent information on a registration form with the intent to evade Virginia income tax -- or any broker or real estate reporting person who has actual knowledge that false or fraudulent information was furnished and who fails to notify the department -- is guilty of a Class 1 misdemeanor.

Information for Completing Forms

The information required on Form R-5 is similar to that required for federal Form 1099 purposes. In all cases, the owner or seller's name, address, and Social Security or taxpayer identification number must be furnished. This same information also must be furnished on Form R-5P for *each* nonresident partner, shareholder, or beneficiary of a partnership, S-corporation, or trust renting or selling Virginia property.

On **rental** transactions, the owner must also provide the date rentals of Virginia property began and the *average* gross monthly rental income being received.

On **sale** transactions, the seller must list the gross proceeds from the sale and the date of closing — the *same* amount and date that will be listed on federal Form 1099-S. Also, if the sale is treated as an installment sale for federal income tax purposes, the seller must list the period over which installment payments will be received.

Forms and Questions

Additional copies of Form R-5 (registration form), R-5E (exemption certificate), and R-5P (schedule for partners, S-corporation shareholders, and trust beneficiaries) may be ordered by calling (804) 367-8055 or 367-8205. The department will accept substitute forms that are facsimiles of the official forms produced by photo-offset, photoengraving, photocopying or other similar reproduction process.

You may call (804) 367-2062 if you or your clients have questions in completing the forms or write:

Department of Taxation
Taxpayer Assistance Section
P. O. Box 6-L
Richmond, Virginia 23282

Filing of Completed Forms

Completed registration forms and exemption certificates should be mailed to:

Department of Taxation
P. O. Box 2390
Richmond, Virginia 23218-2390

Form R-5

Commonwealth of Virginia Department of Taxation Nonresident Real Property Owner Registration

(Do not complete if exemptions on R-5E Apply.)

Part I. Nonresident Payee

1 Social Security Number, (circle one and enter number)	
2 Federal Employer Identification Number or	
3 Virginia Business Account Number	
Name	
(If Trust) Name and Title of Fiduciary	
Address (of Fiduciary if Trust) Number and Street or Rural Route and Box Number	
City or Town, State and ZIP Code	

PARTNERSHIPS, S-CORPORATIONS, ESTATES and TRUSTS must provide the above information on all nonresident partners, shareholders, and beneficiaries on Form R-5P. Substitute schedules may be used provided the same format is followed.

Part III. Property Information

If more than one piece of property is being rented or sold, attach a separate schedule listing the legal description of each property.

LEGAL DESCRIPTION
Address (Number and Street or Rural Route and Box Number)
City or County

Part V. Broker or Real Estate Reporting Person (see instructions)

1 Social Security Number, (circle one and enter number)	
2 Federal Employer Identification Number or	
3 Virginia Business Account Number	
Name	
Address (Number and Street)	
City or Town, State and ZIP Code	

I, the undersigned, do declare under penalties provided by law that the information provided in Parts I, II, III, IV and V is true, correct and complete to the best of my knowledge and belief.

Signature _____ Date _____

Part II.

Type of Entity (check one) ●	
Individual 1.	<input type="checkbox"/>
Trust/Estate 2.	<input type="checkbox"/>
C-Corporation 3.	<input type="checkbox"/>
S-Corporation 4.	<input type="checkbox"/>
Partnership 5.	<input type="checkbox"/>
Check here if filing a unified individual income tax return for nonresident shareholders or partners . . . <input type="checkbox"/>	
Number of Partners, Shareholders or Beneficiaries: _____ Total ●	

Part IV.

Check either Sales and/or Rentals and complete the appropriate information

<input type="checkbox"/> Rentals	
Average Gross Monthly Rental Income \$	_____ ●
First Date Property Placed In Service By Nonresident Payee	____ / ____ / ____ ● (month / day / year)
<input type="checkbox"/> Sales	
Gross Proceeds From Sale \$	_____ ●
Date of Closing	____ / ____ / ____ ● (month / day / year)
Installment Sale: Date Payments Begin	____ / ____ / ____ ● (month / day / year)
Date Payments End	____ / ____ / ____ ● (month / day / year)

Nonresident Real Property Owner Registration Instructions

Rentals

Brokers (as defined in Internal Revenue Code section 6045) managing Virginia rental properties are required to request registration from all existing clients.

Future clients must be requested to register when they engage the broker to manage rental property.

Brokers must file on behalf of nonresident property owners (payees) who do not furnish the requested forms within 60 days. Brokers are only responsible for the information available in their records.

Nonresident owners previously registered may furnish subsequent brokers with a copy of current registration form in lieu of completing a new form. These copies do not need to be filed with the department by the broker.

Nonresident owners of rental properties not managed by a broker also must comply with the registration requirement.

Sales

Real estate reporting persons (as defined in Internal Revenue Code section 6045) are required to request registration forms from all nonresident sellers upon closings.

If a client does not complete the form at closing, the real estate reporting person must complete a form on the client's behalf. Real estate reporting persons are only responsible for information that is available in their files.

Sales exempt from federal and state income tax are also exempt from registration; an exemption certificate must be completed and given to the real estate reporting person.

Filing Information

Brokers and real estate reporting persons are required to transmit the registration forms by the 15th day of the month following the month in which the closing occurred (sales) or the form was received from the nonresident property owner (rentals).

The penalty to the broker or real estate reporting person for failure to file is \$50 per month up to a maximum of six months.

Nonresident payees are: Individuals who are not domiciled in Virginia or who do not live in Virginia for more than 183 days during a year; Corporations not organized under Virginia law; Estates and Trusts (1) which consist of real property belonging to a nonresident individual (or decedent), or (2) that are being administered outside of Virginia; and Partnerships and S-Corporations which have nonresident partners or shareholders who receive income from the sale or rental of real property located in Virginia.

Completing the Form

Items not specifically mentioned below are self-explanatory on the form. Each section, Parts I-IV is to be filled out completely. All dates are to be in month, day and year order (i.e. July 4, 1992 should be written 07/04/92).

If the nonresident payee does not use the services of a broker or real estate reporting person, Part V should not be completed. The nonresident payee should mail the Form R-5 or R-5E to the Department of Taxation. If, however, the nonresident payee uses a broker or real estate reporting person, Part V should be completed and the nonresident payee should mail Form R-5 or R-5E to the address given in Part V.

Gross Proceeds and Closing Date - The amount of gross proceeds and the closing date are the same as the information reported on federal Form 1099-S, if applicable.

Installment Sale - Generally - If at least one payment is to be received after the close of the taxable year in which the sale occurs (see Internal Revenue Code section 453(b)), list the dates payments will be made.

Mail Registration Forms to: Department of Taxation
P O Box 2390
Richmond VA 23218-2390

Send Inquiries to: Department of Taxation
Taxpayers Assistance Section
P O Box 1880
Richmond VA 23282-1880
Or call (804) 367-2062

To request forms call (804) 367-8055 or 367-8205

Form R-5E

Commonwealth of Virginia
Department of Taxation

Nonresident Real Property Owner Exemption Certificate

Part I. Owner/Seller

1 Social Security Number, (circle one and enter number)
2 Federal Employer Identification Number or
3 Virginia Business Account Number
Name
(If Trust) Name and Title of Fiduciary
Address (of Fiduciary if Trust) Number and Street or Rural Route and Box Number
City or Town, State and ZIP Code

Part II.

Type of Entity (check one)	
Individual	<input type="checkbox"/>
Trust/Estate	<input type="checkbox"/>
C-Corporation	<input type="checkbox"/>
S-Corporation	<input type="checkbox"/>
Partnership	<input type="checkbox"/>

Part III. Property Information

LEGAL DESCRIPTION
Address (Number and Street or Rural Route and Box Number)
City or County

Part IV.

Transaction Type (check one)	
Sales	<input type="checkbox"/>
Rental	<input type="checkbox"/>

Part V. Broker or Real Estate Reporting Person

1 Social Security Number, (circle one and enter number)
2 Federal Employer Identification Number or
3 Virginia Business Account Number
Name
Address (Number and Street)
City or Town, State and ZIP Code

Part VI. Exemptions for Rentals/Leases (check one)

Gross annual rental payments are less than \$600.

Sales Exemptions are listed on the reverse side of this form.

THIS FORM IS NOT VALID UNLESS THE CERTIFICATION ON THE REVERSE SIDE IS SIGNED BY THE OWNER/SELLER

Exemption Certificate for Nonresident Real Property Owners

Exempt Transfers of Real Property

- Sale of principal residence with the intent to defer taxes by rolling over the proceeds into a new principal residence pursuant to Internal Revenue Code section 1034.
- Sale of principal residence with the intent to utilize the onetime \$125,000 exclusion for taxpayers age 55 and over, pursuant to Internal Revenue Code section 121.
- Like-kind exchange under Internal Revenue Code section 1031.
- Involuntary conversions eligible for tax deferral under Internal Revenue Code sections 1033 and 1034.
- Tax free gift or inheritance under Internal Revenue Code section 102.
- Tax free contribution for partnership interest under Internal Revenue Code section 721.
- Transfer of property pursuant to tax-free corporate reorganization.
- Tax free contribution to corporation in exchange for stock under Internal Revenue Code section 351.
- Other transactions not subject to federal or Virginia income taxes. Explain _____

I, the undersigned, hereby certify that the condition cited applies to the property described herein and that this transaction, property and/or income is exempt from the Virginia Nonresident Real Property Owner Registration Requirements.

Signature _____ Date _____

Mail this certificate to: Department of Taxation
P O Box 2390
Richmond VA 23218-2390

Send Inquiries to: Department of Taxation
Taxpayers Assistance Section
P O Box 1880
Richmond VA 23282-1880
Or call (804) 367-2062

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