

# VERMONT LAND GAINS WITHHOLDING TAX RETURN

TO BE COMPLETED BY BUYER (TRANSFeree)

VERMONT DEPARTMENT OF TAXES

MONTPELIER, VERMONT 05633

PLEASE TYPE OR PRINT CLEARLY.

1. SELLER'S (TRANSFEROR'S) NAME(S)	COMPLETE MAILING ADDRESS FOLLOWING TRANSFER	SOCIAL SECURITY NO. (S) OR FEDERAL IDENTIFICATION NO.
2. BUYER'S (TRANSFeree'S) NAME(S)	COMPLETE MAILING ADDRESS FOLLOWING TRANSFER	SOCIAL SECURITY NO. (S) OR FEDERAL IDENTIFICATION NO.
3. PROPERTY LOCATION	4. DATE ACQUIRED BY SELLER	5. DATE OF CLOSING
6. TOTAL SALES PRICE	7. SALES PRICE ATTRIBUTABLE TO LAND (SEE INSTRUCTIONS)	

8. EXEMPTIONS CLAIMED BY BUYER - CHECK BOX IF APPLICABLE.  
 NOTE: IF BUYER FAILS TO COMPLY WITH ALL NECESSARY REQUIREMENTS FOR EXEMPTION, BUYER WILL BE LIABLE FOR THE TAX AS SHOWN ON LINE 19a OF FORM LG-2 IN THE AMOUNT OF \$ \_\_\_\_\_.

8a. <input type="checkbox"/> PURCHASER'S PRINCIPAL RESIDENCE EXEMPTION 8b. <input type="checkbox"/> BUILDER'S EXEMPTION 8c. <input type="checkbox"/> AGRICULTURAL EXEMPTION 1. <input type="checkbox"/> OR 2. <input type="checkbox"/> (IDENTIFY WHICH TYPE; SEE INSTRUCTIONS)	8d. <input type="checkbox"/> SELLER'S PRINCIPAL RESIDENCE EXEMPTION* 8e. <input type="checkbox"/> AFFORDABLE HOUSING 8f. <input type="checkbox"/> OTHER (PLEASE EXPLAIN)
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\* EXEMPTION MUST BE CLAIMED BY SELLER ON VERMONT LAND GAINS TAX RETURN (FORM LG-2)

9. SALES PRICE ATTRIBUTABLE TO TAXABLE LAND:  
 IF THIS ENTIRE PARCEL IS SUBJECT TO TAX, ENTER THE AMOUNT FROM LINE 7 ON LINE 9d.  
 IF THE ENTIRE PARCEL IS EXEMPT FROM TAX, ENTER ZERO ON LINE 9d.  
 IF ONLY A PORTION OF THE LAND IS EXEMPT FROM TAX, ENTER THE FOLLOWING:

9a. TOTAL NUMBER OF ACRES OR SQUARE FEET SOLD .....	9a.	
9b. NUMBER OF TAXABLE ACRES OR SQUARE FEET - SEE INSTRUCTIONS .....	9b.	
9c. DIVIDE LINE 9b BY LINE 9a .....	9c.	
9d. MULTIPLY LINE 9c BY LINE 7 .....	9d.	

IF THIS IS NOT AN INSTALLMENT SALE, SKIP TO LINE 11.

10. IF THIS IS AN INSTALLMENT SALE, ATTACH PROMISSORY NOTE AND ENTER THE FOLLOWING:

10a. AMOUNT OF THIS PRINCIPAL PAYMENT .....	10a.	\$
10b. DIVIDE LINE 9d BY LINE 6 .....	10b.	%
10c. AMOUNT OF THIS PAYMENT SUBJECT TO WITHHOLDING: MULTIPLY LINE 10a BY LINE 10b .....	10c.	

11. TAX DUE:

11a. ENTER THE AMOUNT ON LINE 9d (LINE 10c IF INSTALLMENT SALE) .....	11a.	\$
11b. WITHHOLDING TAX RATE .....	11b.	10%

11c. TAX DUE: MULTIPLY LINE 11a BY LINE 11b. IF SELLER OBTAINED ADVANCE CERTIFICATION, ENTER COMMISSIONER'S CERTIFICATE NO. \_\_\_\_\_ →

CHECK HERE IF SELLER IS SIMULTANEOUSLY FILING A VERMONT LAND GAINS TAX RETURN (FORM LG-2) AND PAYING THE FULL AMOUNT OF TAX DUE

WE HEREBY CERTIFY THIS RETURN IS TRUE, CORRECT AND COMPLETE TO THE BEST OF OUR KNOWLEDGE.

SIGNATURE OF BUYER (Transferee)	DATE	PREPARER'S SIGNATURE
SIGNATURE OF BUYER (Transferee)	DATE	PREPARED BY - PRINT OR TYPE <span style="float: right;">TELEPHONE NO.</span>
SIGNATURE OF BUYER (Transferee)	DATE	MAILING ADDRESS - STREET OR PO BOX
SIGNATURE OF BUYER (Transferee)	DATE	CITY, STATE, ZIP

MAKE CHECKS PAYABLE TO AND MAIL WITH THIS FORM TO:  
 VERMONT DEPARTMENT OF TAXES, LAND GAINS WITHHOLDING TAX, 133 STATE STREET, MONTPELIER, VT 05633

# VERMONT LAND GAINS WITHHOLDING TAX RETURN (Form LG-1) INSTRUCTIONS FOR BUYER (TRANSFeree)

## GENERAL INFORMATION

This form is used by the buyer to report withholding of Vermont land gains tax, which is a tax owed by the seller on the gain from the sale or exchange of Vermont land held for less than six years. The land gains tax is reported by the seller on Form LG-2.

If the seller is a nonresident of Vermont, the buyer is required to withhold Vermont income tax, and the Vermont Withholding Tax Return for Transfer of Real Property (Form RW-171) must also be filed with the Department.

### WHO IS REQUIRED TO WITHHOLD THE LAND GAINS TAX?

Anyone who purchases Vermont property that was held by the seller for less than six years is required to withhold 10% of the purchase price of the land from the seller and remit it to the Department of Taxes with this return immediately after the sale. A purchaser who fails to withhold or remit the tax is personally liable for the amount required to be withheld, plus statutory interest and penalty. Exceptions to the withholding requirement are as follows:

#### Simultaneous Filing

If the buyer and seller simultaneously file this return (Form LG-1) and the Vermont Land Gains Tax Return (Form LG-2) and the seller pays the full amount of land gains tax due, the buyer is not required to withhold tax from the purchase price. If the seller fails to pay the full amount of tax due, however, the buyer is liable for the deficiency, up to 10% of the purchase price of the land.

#### Advance Certification

If the seller, in advance of the sale, has obtained a certificate from the Commissioner of Taxes stating that the land gains tax has been paid or that no tax is due, the buyer is still required to file this return, but is not required to withhold the tax. If the seller has obtained certification of the amount required to be withheld, the buyer is required to withhold the amount of tax shown on the tax certificate.

#### Exemptions

The buyer is not required to withhold tax if the buyer or seller has a valid claim that the entire transaction is exempt from tax.

### WHO IS REQUIRED TO FILE A RETURN?

Anyone who purchases Vermont property that was held by the seller for less than six years is required to file this return at the time payment is made to the seller, even if no tax is required to be withheld. A withholding return is required if the buyer claims purchaser's principal residence exemption, builder's exemption, agricultural exemption, or affordable housing exemption. Exceptions to the filing requirement are listed on page 5 of this booklet (Line U instructions, Property Transfer Tax Return).

## LINE-BY-LINE INSTRUCTIONS

**Lines 1 and 2.** Enter the full name, mailing address and social security or federal identification number of each transferor and transferee.

**Line 3.** Enter the street address and town where the property is located. List all towns if more than one town is involved.

**Line 4.** Enter the date the seller acquired the property that is being sold.

**Line 5.** Enter the month, day and year the seller transferred title to the land. The transfer of an option is considered a transfer of title to land. The sale or exchange of shares in a corporation or other entity is also considered a transfer of title to land if it effectively entitles a purchaser to use or occupy land. In the case of a contract for deed, enter the date consideration first passed to the seller under the contract. A mere promise to purchase land and amounts paid as earnest money or amounts paid in deposit or escrow, to which the seller has no immediate right, do not constitute the passing of consideration.

**Line 6.** Enter the total sale price of land and buildings.

**Line 7.** Enter the fair market value of the land at the time of transfer. You may allocate gain between land and buildings using: 1) Percentages on municipal listers card. Divide the listed value of the land plus improvements (e.g.; septic system or well) by the listed value of the land, improvements and buildings. Multiply the result by the total sale price on Line 6, and enter the portion of the sale price attributable to the land on Line 7. Attach a separate sheet showing computation. 2) A qualified appraisal. Attach a copy of the appraisal. 3) The percentages specified in Technical Bulletin 34 found on our web site at <http://tax.vermont.gov>

Alternatively, you may allocate the amount realized between building and land. See Technical Bulletin 34 for more information on how to use this method.

**Line 8.** The buyer may claim the purchaser's principal residence exemption, the builder's exemption or the farmer's exemption.

**If the buyer claims one of these exemptions, the buyer relieves the seller of any liability for the payment of the land gains tax. If the conditions for exemption are not met, the buyer assumes liability for the payment of the seller's land gains tax plus statutory interest, penalties and late filing fees. Buyer's potential liability must be shown on Line 8. This amount may be obtained from the seller's return (Form LG-2) Line 19a.**

**Line 8a - Purchaser's Principal Residence Exemption.** Sale of a dwelling and up to ten acres of land on which the buyer will occupy within one year of purchase as a principal residence, or if no dwelling exists on the land, land on which the buyer will construct and occupy a principal residence within two years from purchase is exempt from land gains tax. If local zoning requires more than ten acres for residential property, then the acreage specified in the ordinance will be exempted, up to a maximum of 25 acres.

A principal residence includes a multi-family dwelling of four units or less if at least one unit will be used as the buyer's principal residence. A dwelling may qualify as a principal residence even though the resident maintains an office or retail store in the dwelling. In order for a pre-existing dwelling to qualify as a purchaser's principal residence, the purchaser must become a domiciliary of Vermont and occupy the dwelling as his principal residence within one year of the date of purchase.

**Line 8b - Builder's Exemption.** Sale of up to ten acres of land on which the buyer (a builder) will build a dwelling that will be the principal residence of the next purchaser is exempt from land gains tax. If local zoning requires more than ten acres for residential property, the acreage specified in the ordinance will be exempted, up to a maximum of 25 acres. The builder must begin construction of a dwelling within one year, complete construction within two years, and sell the dwelling within three

years to a buyer who will occupy it as a principal residence. (If the land is sold as more than one parcel by the builder who acquired it, each parcel must meet these three conditions.) In addition to claiming the exemption on Line 8, the builder must file three Certificates of Principal Residence Construction (Form LG 1.3, 1.4 and 1.5). The person buying from the builder must indicate on a subsequent Property Transfer Tax Return that the property will be used as the buyer's principal residence.

**Line 8c - Agricultural Exemption** - If this exemption is claimed, identify which type by checking Box 1 or Box 2.

**Box 1.** Sale of agricultural land by a farmer to the farmer's grandparent, parent, stepparent, brother, sister or child. The buyer must use the land as agricultural land for a period of time which, when added to the time the land was used as agricultural land by the transferor, equals or exceeds six years. To qualify as a farmer, an individual must earn at least one-half of his or her gross annual income from the business of farming. Agricultural land must be at least 25 acres or produce an annual gross income of \$2,000 from the sale of farm crops in one of two, or three of the five, preceding calendar years.

**Box 2.** Sale of 25 acres or less to a farmer (32 V.S.A. §3752) for active and direct use by that farmer, and which, upon transfer, but for the acreage, meets the definition of agricultural or forest land in §3752 and continues to meet that definition for at least six years after the transfer.

**Line 8d - Seller's Principal Residence Exemption** - Sale of up to ten acres of land (or up to 25 acres if required by a local zoning ordinance) that was occupied by the seller as a principal residence. The buyer cannot claim this exemption for withholding purposes unless the seller has claimed the exemption on a Vermont Land Gains Tax Return. **Note:** Check this box only if a portion of the land is subject to tax. If the entire parcel is exempt from tax, the buyer is not required to file this return. The seller may claim the exemption on the Property Transfer Tax Return.

**Line 8e - Affordable Housing Exemption.** An organization that qualifies under section 501(c)(3) of the Internal Revenue Code and also meets the "public support" test section 509(a)(2) of the Code and also has as one of the stated purposes of the organization to provide affordable housing may qualify for one of two exemptions:

1. If the land will be held by the organization for 6 years or more following the sale, then only one-half of the tax otherwise imposed is due. If the organization does not hold the land for at least 6 years, the organization is liable for the remainder of the tax.
2. If the organization sells the land within 12 months of the transfer to a buyer who qualifies under an affordable housing program and such buyer occupies a dwelling on the land as the principal residence as required by 32 V.S.A. §10002(b), no tax is due on the transfer to the organization. However, if the organization fails to transfer the land within 12 months to a qualified buyer, the organization is liable for the tax due on the original transfer and the transfer by the organization. Similarly, if the land is transferred without a dwelling and a qualified buyer fails to complete and occupy a principal dwelling within 2 years of purchase from the organization, the organization is liable for the tax on the first transfer and the buyer is liable for the tax on the subsequent transfer.

**Line 9** - If the entire parcel is subject to tax, enter the sales price attributable to land on Line 9d. If the entire parcel is exempt from tax, enter zero on Line 9d. If only a portion of the land is exempt (Line 7) from the land gains tax, enter the total number of acres or square feet sold on

Line 9a and the number of acres or square feet that are subject to tax on Line 9b.

Only ten acres of land qualify for the seller's or purchaser's principal residence exemption or the builder's exemption, unless local zoning requires more than ten acres for residential property. If so, the minimum acreage specified in the ordinance may be exempted, up to a maximum of 25 acres.

When the purchaser's or seller's principal residence exemption is claimed for a dwelling used in part for non-qualifying purposes, reduce the exempt area by the proportion that the square footage of the dwelling used for non-qualifying purposes bears to the total square footage of the dwelling. For example, if a five-unit apartment building is sold, and only 1/5 of the building will be occupied by the buyer as a principal residence, the buyer may claim exemption for only 1/5 of the ten acres that would otherwise qualify for exemption, or two acres. Attach a separate sheet showing the computation of the number of taxable acres or square feet.

**Line 10** - To qualify as an installment sale, the land must have been held by the seller for at least one year; the total land gains tax liability must exceed \$2,000; and the payments must be made directly to the seller in installments after the date of closing. A sale financed by a mortgage, deed of trust, or other financing arrangement in which the seller is paid in full on the date of closing is not an installment sale.

If the sale qualifies as an installment sale, a separate withholding return is required for each payment, including amounts paid at closing. On Line 10a, enter the amount of this principal payment. If this is the first withholding return filed for this sale, attach a copy of the promissory note or other documentation establishing the dates and amounts of payments. Divide Line 9d by Line 6 and enter the result on Line 10b. Multiply Line 10a by Line 10b and enter this amount on Line 10c.

*Example:* Seller sells land and buildings for \$60,000, of which \$15,000 is attributable to taxable land. Buyer is required to pay \$12,000 at closing and \$4,800 per year for ten years thereafter. At closing, the amount subject to withholding is \$3,000:

$$\frac{\$15,000 \text{ (Line 9d)}}{\$60,000 \text{ (Line 6)}} \times \$12,000 \text{ (Line 10a)} = \$3,000$$

For each subsequent payment, the amount subject to withholding is \$1,200:

$$\frac{\$15,000 \text{ (Line 9d)}}{\$60,000 \text{ (Line 6)}} \times \$4,800 \text{ (Line 10a)} = \$1,200$$

**Line 11** - If this is an installment sale, enter 10% of Line 10c on Line 11c. If the seller has obtained advance certification of the amount of tax due, enter the number of the Commissioner's Certificate and the amount of withholding required under that certificate. In all other cases, enter 10% of Line 9d on Line 11c. If the sale, qualifies for the affordable housing exemption, as stated in Line 8e instruction, please remit one-half of tax due if applicable.

If the seller is simultaneously filing a Vermont Land Gains Tax Return (Form LG-2) and paying the full amount of tax due, check the appropriate box. Under those circumstances, the buyer is not required to pay a withholding tax; if the seller fails to pay the full amount due, however, the buyer will be liable for the deficiency, up to 10% of the purchase price of the land.