

IRAS CIRCULAR

REMOVAL OF STATUTORY DECLARATION REQUIREMENT FOR REAL PROPERTY TRANSACTIONS



**INLAND REVENUE
AUTHORITY
OF SINGAPORE**

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BACKGROUND OF STATUTORY DECLARATION REQUIREMENT

On 15 May 1996, when the anti-speculation measures for property transactions were introduced, sellers of the immovable property or shares of a private real property company are required to make a statutory declaration in the format specified by IRAS.

The statutory declaration is for the purposes of determining the seller's stamp duty, the taxability of gains from the disposal of the property as well as the obligation of the buyer or buyer's solicitor to withhold tax.

For cases of mortgagee's sale where the mortgagee is unable to secure a statutory declaration from the mortgagor, the mortgagee is to seek confirmation from IRAS on his obligation to withhold tax under Section 45D of the Income Tax Act (ITA).

The seller's stamp duty was abolished on 28 February 2003 while the provisions on income tax gains from short term real property transactions (Section 10F of the ITA) and short term transaction of shares in private real property company (Section 10G of the ITA) were repealed on 13 October 2001.

Following these tax changes, the statutory declaration currently serves the sole objective of facilitating buyer's decision on whether there is a need to withhold tax on a real property sale made by a person who may be a non-resident¹ property trader.

REMOVAL OF STATUTORY DECLARATION REQUIREMENT

IRAS has reviewed the statutory declaration requirement with a view of lowering compliance cost for taxpayers.

With effect from 1 November 2003, sellers of a real property are not required to make a statutory declaration pertaining to his tax residence and property trading status. Similarly, a mortgagee is also not required to seek confirmation from IRAS on his withholding tax obligation for cases of mortgagee's sale.

This change will apply to all real property transactions (including HDB resale flats) where the option to purchase is exercised on or after, or the sale and purchase agreement is signed on or after 1 November 2003.

¹ Where the word "non-resident" is used in this circular, it is to be construed as "not known to be resident in Singapore".

WITHHOLDING TAX OBLIGATIONS ON THE BUYER OR BUYER'S SOLICITOR

Notwithstanding the removal of the statutory declaration requirement, there is no change in the withholding tax obligations on the buyer of a real property or the solicitor acting on his behalf in a real property transaction where the seller is a non-resident property trader.

The buyer of a real property or his solicitor is obliged under Section 45D of the ITA to withhold tax at the rate of 15% on the payment made to seller of the real property who is a non-resident property trader. Form IR 37A is to be filed by the buyer or his solicitor at the time the tax is to be accounted to the Comptroller of Income Tax.

For cases where the buyer or his solicitor has reasons to believe that the seller of the real property may be a non-resident property trader (for examples, sellers who are non-Singaporeans, non-Singapore Permanent residents or foreign registered companies), he or his solicitor may ask for a letter of confirmation (not under oath), in lieu of a statutory declaration, from the seller stating that he or the company has not been treated as a property trader for tax purposes. Buyer or his solicitor is not required to forward the letter of confirmation to the Comptroller of Income Tax.

If you need further clarification, please call the following helplines :

For sale of real property involving

Corporate sellers : 1800-3568622

Individual sellers : 1800-3568300