



FIRPTA WITHHOLDINGS REQUIREMENT CHEAT SHEET

The transfer of a U.S. real property interest by foreign Seller(s) is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) as amended by Protecting Americans from Tax Hikes Act of 2015 (PATH) for income tax withholding. Advise buyer and seller that failure to comply with IRS FIRPTA withholding may result in the buyer being responsible to pay the entire withholding requirement plus penalties to IRS which could include an IRS lien being placed against the subject property.

Seller is NON-EXEMPT from withholding if

- Seller is a foreign individual or married person
- Seller is a Foreign Trust
- Seller is a Foreign Estate
- Seller is Foreign Partnership
- Seller is a Foreign corporation
- Buyer DOES NOT intend to occupy the property (hereafter referred to as "non-occupied") as a principal residence regardless of Sales Price
- Buyer DOES intend to occupy the property as a principal residence and the Sales Price is \$300,001.00 or more

How much do I have to withhold if the Seller is NON EXEMPT?

The amount of withholding is based upon a percentage of the Sales Price and is withheld from the Seller at close of escrow as follows:

- 15% of Sales Price for all non-occupied properties
- 10% of Sales Price for all occupied properties that are \$300,001 to \$1,000,000
- 15% of Sales Price for all occupied properties that are \$1,000,001 and up

When and where do I send the FIRPTA withholding?

100% of the funds withheld must be remitted within 20 days from close of escrow to:

Internal Revenue Service Center
P.O. Box 409101
Ogden, UT 84409

What forms do I need from the Buyer?

- IRS Forms 8288 and 8288A as applicable must be COMPLETED and signed by the Buyer and submitted along with the tax withholding to the IRS.
- Refer the principals to their attorney, tax professional, or to the IRS website at www.irs.gov for tax forms and Publication 515 for assistance.



Withholding agent's name, street address, city, state, and ZIP code		1. Date of transfer		Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests OMB No. 1545-0082	
2. Federal income tax withheld		3. Amount realized		4. Gain recognized by foreign corporation	
Withholding agent's Federal identification number	Identification number of foreign person subject to withholding (see instructions)	5. Assessor realized		6. Person subject to withholding to: - An individual <input type="checkbox"/> - A corporation <input type="checkbox"/> - Other (specify) <input type="checkbox"/>	
Name of person subject to withholding		7. Country code		8. Making address of person subject to withholding (if different)	
Foreign address (number, street, and apt. or suite no.)		9. City, province or state, postal code, and country (not U.S.)		10. Country code	

Form 8288-A (Rev. 2-2015) Cat. No. 52041 Attach Copies A and B to Form 8288 Department of the Treasury - Internal Revenue Service





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Seller is EXEMPT from withholding if:

- Seller is a naturalized U.S. individual or married citizen
- Seller is a resident alien (has been issued a green card by the U.S. Government)
- Seller is a U.S. Corporation
- Seller is a Qualified Foreign Pension Plan
- Buyer intends to occupy the property (hereafter referred to as "occupied")
- as a principal residence and the Sales Price is \$300,000 or less.
- Seller provides a Withholding Exemption Certificate issued by IRS to Escrow prior to close of escrow

What forms do I need from the Seller if the Seller is EXEMPT?

- Seller completed Non-Foreign Seller Affidavit
- Review the Purchase Contract and local company FIRPTA guidelines for required forms
- Form 8288B Application For A Withholding Certificate*

*Withholding Exemption Certificate issued by IRS

A withholding certificate may be issued by the IRS for either no or reduced withholding if:

1. The amount that must be withheld would be more than the Seller's maximum tax liability, or
2. Withholding of the reduced amount would not jeopardize collection of the tax,
3. The exemption from U.S. tax of all gain realized by the Seller, or
4. An agreement for the payment of tax providing security for the tax liability, entered into by the Buyer or Seller.

For further information and to file an application direct sellers and buyers to IRS at:

<https://www.irs.gov/uac/Publication-515,-Withholding-of-Tax-on-Nonresident-Aliens-and-Foreign-Entities>

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