

FIRPTA
Withholding
Requirements

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 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 \$300,000.00 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.



Phoenix Ayotte
Title Attorney
Equity Title and Escrow, LLC
8500 Leesburg Pike, Suite 403
Office: 703-544-9004 Cell: 571-449-7239
payotte@etetitle.com
www.etetitle.com

Authorized Policy-Issuing Agent of WFG NTIC

