

FIRPTA: CLOSING THE FOREIGN SELLER

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INTRODUCTION

WHAT IS IT?

INTRODUCTION

FIRPTA is the Foreign Investment in Real Property Act of 1980. It is a withholding tax on dispositions of real property located in the United States by foreign persons or entities.



INTRODUCTION

- ❑ The Foreign Investment in Real Property Tax Act of 1980 (**FIRPTA**)
- ❑ Codified in Section 1445 of the IRS Code
 - Creates a withholding tax on the sale of U.S. real property interests (USRPI) by a foreign person or entity



INTRODUCTION

- ❑ Protecting Americans from Tax Hike (PATH) Act of 2015.
 - Signed into law on December 18, 2015
 - Effective for closing after February 17, 2016

INTRODUCTION

- ❑ If a “foreign person” is transferring (disposing of) any real property interest, the purchaser must deduct and withhold the FIRPTA tax based on a percentage of the sales price (amount realized), not the net proceeds.

INTRODUCTION

- ❑ Transferring a property includes any “**disposition**” of real property including, sales, exchanges, liquidation, redemption, gifts, etc...

INTRODUCTION

□ What is a “real property interest”?

An interest other than as a creditor in real property including mines, wells or natural deposits located in the US or the US Virgin Islands and can include certain farm equipment.

It also includes any domestic corporation unless it is established that the corporation was at no time a US real property holding corporation during the shorter of the period the interest was held or the 5 year period ending on the date of disposition.

INTRODUCTION

□ What is the “amount realized”?

Amount realized = Gross Sales price

- a. Cash paid or to be paid (principal only);
- b. fair market values of other property being transferred, or to be transferred; and
- c. the amount of liability assumed by the transferee or to which the property is subject before and after the transfer.

INTRODUCTION

- ❑ The **TRANSFeree** purchasing property from a foreign person is the **WITHHOLDING AGENT** and is required to deduct and withhold the FIRPTA tax on the amount realized (gross sales price) on the date of disposition (closing).
- ❑ The **WITHHOLDING AGENT** as the person paying an amount to the foreign person subject to withholding is the person that must do the FIRPTA withholding/reporting.

INTRODUCTION

- ❑ The TRANSFEREE/BUYER must find out if the TRANSFEROR is a foreign person. If the TRANSFEREE fails to withhold, the TRANSFEREE is personally liable for the tax plus interest and penalty.

INTRODUCTION

THE BURDEN IS ON THE BUYER

- Although the statute says the purchaser must withhold the funds, as a practical matter, the purchaser often expects this to be done by the settlement agent.

INTRODUCTION

☐ Who is the “withholding agent”?

A withholding agent is any person having control, receipt, custody, disposal or payment of income that is subject to withholding. Generally, the person who pays an amount to a foreign person subject to withholding must do the FIRPTA withholding.

☐ What is a “qualified substitute”?

An attorney or title company responsible for closing the transaction.

[illegible]

- or does not meet the “substantial presence test”;
- foreign partnerships, trusts or estates; or
- foreign corporations that have not elected to be treated as domestic corporations.
- a disregarded entity owned by a foreign member.

FIRPTA – IS THE SELLER A FOREIGN PERSON?

❑ Resident alien transferor – Green Card Test

- Not subject to withholding
- Has “green card” – lawful permanent resident (permanent immigrant visa) - A resident alien with a “green card” is a legal resident of the U.S., and thus not a “foreign person.”



FIRPTA – IS THE SELLER A FOREIGN PERSON?

☐ Substantial Presence Test

- See IRS publication 515
- An individual is not a “foreign person” if he/she is physically present in the U.S. on at least:
 - 31 days during the current calendar year; and
 - 183 days during current calendar year and the two preceding years counting
 - all days of physical presence in the current year; - but only 1/3 of number of days of presence in the first preceding year;
 - and only 1/6 the number of days in the second preceding year

☐ Transferor must sign Certificate of Nonforeign Status

FIRPTA – IS THE SELLER A FOREIGN PERSON?

Substantial Presence Example

- Your sellers were physically present in the United States for 120 days in each of years 2018, 2019 and 2020. To determine if they meet the substantial presence test, count:
- 120 days of presence in 2020;
- 40 days in 2019 (1/3 of 120); and
- 20 days in 2018 (1/6 of 120).
- Since the total for the 3-year period is 180 days (183 days required), your seller is not considered a resident under the substantial presence test. **Also note: they must be here at least 31 days in the current year.**

FIRPTA – IS THE SELLER A FOREIGN PERSON?

Substantial Presence Example – How it seems when you do the math.

$$\sqrt{\frac{x_i - y^2}{i + \frac{1}{y_i^k} - k}}$$

FIRPTA – IS THE SELLER A FOREIGN PERSON?

ENTITIES

- A business entity formed outside of the United States is a “foreign person.”
- An entity that is formed in the U.S. but is owned by someone other than a U.S. citizen or resident alien and is a “disregarded entity for tax purposes” (e.g., S-corporations, partnerships, and most LLCs), is a “foreign person.”

FIRPTA – IS THE SELLER A FOREIGN PERSON?

- SINGLE MEMBER US LLC

The IRS does not recognize single member LLC's and all taxes are assessed based upon the status of the sole member of the LLC. Accordingly, if the sole member of the LLC is a Foreign Seller, as defined by FIRPTA, the withholding rules of FIRPTA apply and the Buyer would be liable to the IRS for the actual tax plus penalties and interest for failing to withhold or timely remit the required withholding to the IRS.

FIRPTA – IS THE SELLER A FOREIGN PERSON?

- **MULTI- MEMBER US LLC**

The IRS treats multi-member LLC's as a partnership and the FIRPTA withholding rules do not apply. Partnerships with Foreign Partners are subject to US Income Tax for the sale of US real property, but the tax is assessed through a different section of the IRS Code and is not part of FIRPTA. Accordingly, multi-member US LLC's selling real property are not subject to the FIRPTA requirements.

FIRPTA – IS THE SELLER A FOREIGN PERSON?

- US LLC – elects to be taxed as a corporation.

Form 8832 – Entity Classification Election.

If a US LLC elects to file tax returns as a U.S. corporation then the FIRPTA withholding rules do not apply even if the sole member of a single member LLC is a Foreign Seller as defined by FIRPTA.

FIRPTA – IS THE SELLER A FOREIGN PERSON?

- ☐ Generally, the settlement agent will rely on a Certificate of Non-Foreign Status from the seller. It must include:
 - the seller's address;
 - social security or tax identification number; and
 - an affirmative statement that he/she is not a foreign person as defined by the Act.

- ☐ All statements are made under penalty of perjury.

GENERAL APPLICATION

- On the date of disposition (closing) the TRANSFEREE (buyer) is required to deduct and withhold 15% of the total amount realized by the TRANSFEROR (seller) (gross sales price) including
- i. the cash paid or to be paid (principal only);
 - ii. the fair market value of other property transferred; and
 - iii. any outstanding amount of liability assumed by transferee) in the transaction by the transferor (foreign seller).

NOTE: For assumed liabilities the tax is in addition to the purchase price. Thus, if the purchase price was \$300,000.00 but the Buyer assumed a \$50,000 mortgage, the tax would be on \$350,000.

GENERAL APPLICATION

- ☐ Transferee has 20 days from date of transfer to forward the amount withheld along with completed IRS Forms 8288 and 8288-A

- ☐ Transferee who fails to withhold proper amount may be liable for
 - Payment of tax
 - Applicable penalties and interest
 - Possible civil and criminal penalties

GENERAL APPLICATION

Tiers for Withholding

- ☐ If the property being acquired will be used as the transferee/buyer's or a family member's residence, withholding is:
 - If purchase price is less than \$300,000 = 0%
 - If the purchase price is more than \$300,000 but not more than \$1,000,000 = 10%
 - If the purchase price is greater than \$1,000,000 = 15%
- ☐ If the property will NOT be used as the transferee/buyer's or their family member's residence = 15%

GENERAL APPLICATION

☐ Corporations:

35% prior to January 2018

21% after January 2018, -special rules apply.

GENERAL APPLICATION

Allocation:

- ☐ If property was jointly owned by US and Foreign persons – the amount realized gets allocated based on the capital contribution of each TRANSFEROR.

GENERAL APPLICATION

- ❑ If one seller is a foreign person and the other is not, withholding is required on the portion of the sales price attributable to the foreign person. (50/50 is presumed with married couples).
- ❑ For example, if one of two sellers is a foreign person and the sales price is \$500,000, the amount to withhold is \$25,000. (10% of $\frac{1}{2}$ of \$500,000.)

EXCEPTIONS / EXEMPTIONS

When the transferee is permitted to withhold less than 15% or is not required to withhold any tax at all.)

1. Principal Residence - A. Underlying Rules:

- i. The **TRANSFeree** or a family member must have definite plans to reside at the property 50% of the days the property is used by any person during the first two (2) twelve (12) month periods following the date of transfer.



EXCEPTIONS / EXEMPTIONS

- ii. **TRANSFeree** must be an individual for this exception.
Exception does not apply to a transferee who is a entity because an entity cannot use property as a residence.
- iii. **TRANSFEROR's** use of property is not relevant.
- iv. Buyer's/Transferor's Certification must be signed.

EXCEPTIONS / EXEMPTIONS

B. Thresholds

- i. Sale for \$300,000 or less for use as a principal residence – No withholding tax would be due.
- ii. If the sale price is between \$300,000 and \$1 million and the buyer intends to use the property as a personal residence, the withholding rate is 10 percent.
- iii. If the sale price exceeds \$1 million the withholding rate is 15 percent, regardless if the buyer intends to use the property as a personal residence.

EXCEPTIONS / EXEMPTIONS

NOTE: For properties being acquired by the transferee not for use as a residence, the withholding rate is 15 percent.

EXCEPTIONS / EXEMPTIONS

2. The property disposed of is an interest in a domestic corporation if any class of stock of the corporation is regularly traded on an established securities market. – DOES NOT APPLY to certain dispositions of non-publicly traded interests in publicly traded corporations

EXCEPTIONS / EXEMPTIONS

3. The disposition is of an interest in a domestic corporation and that corporation furnishes the BUYER with a certification stating under the penalty of perjury that the interest is not a US real property interest. But either 4 and 5 below must also be true;

EXCEPTIONS / EXEMPTIONS

4. During the previous 5 years or shorter (period of current owner) the corporation was not a USRPHC (US real property holding company).
5. As of the date of disposition, the interest in the corporation is not a real property interest by reason of Section 897(c)(1)(B) of the Code. The Certification must be dated within 30 days of the transfer.

EXCEPTIONS / EXEMPTIONS

NOTE: THE CERTIFICATIONS – in items 3 and 4 above do not apply if the TRANSFEREE has actual knowledge or has received notice from a qualified substitute that they are false.

ALSO, if you are required by regulation to furnish a copy of the certification or statement to the IRS and fail to do so in the manner prescribed, the certification or statement is not effective.

EXCEPTIONS / EXEMPTIONS

Certifications received under items 3 and 4 or a statement in item 4 above, and the agent or qualified substitute has actual knowledge that the Certification is false, or in the case of item 3 that the corporation is a foreign corporation, the agent (or qualified substitute) must notify the TRANSFEREE or the agent or the qualified substitute will be liable for the tax. The agent or substitutes liability is limited to the compensation the agent (or qualified substitute) gets from the transaction.

EXCEPTIONS / EXEMPTIONS

6. The Transferor is not a Foreigner

- Certificate with taxpayer ID number and Statement that not a foreign person (Certificate of Non-Foreign Status)
 - Does not need to be executed before a notary public
 - Executed under penalties of perjury
 - Maintain certification for 5 years
 - Transferee can rely on Transferor's Certification in Certificate of Non-Foreign Status
 - Transferee is not required to investigate unless he/she has knowledge that certificate is false
 - If Transferee has knowledge that certificate is false he/she must furnish notice to IRS

EXCEPTIONS / EXEMPTIONS

- ❑ Certificate of Non-Foreign Status is a statement from the TRANSFEROR under the penalties of perjury that he/she is not a foreign person and contains the
 - a. name;
 - b. taxpayer ID;
 - c. home address or office address of an entity.

THIS SHOULD BE OBTAINED AT EVERY SALE TRANSACTION.

EXCEPTIONS / EXEMPTIONS

- ❑ The Certificate of Non-Foreign Status can be provided to the qualified substitute (i.e. attorney or title company responsible for closing the transaction, who then gives the TRANSFEREE a statement under penalty of perjury that they are in possession of the certificate.

EXCEPTIONS / EXEMPTIONS

7. IRS issues a withholding certificate

Form 8288B – Application for Withholding Certificate for Dispositions by Foreign Persons of US Real Property Interests.

The IRS can adjust the amount of the withholding via the Withholding Certificate. The Transferee can also request this. The IRS will act within ninety (90) days of receipt of a complete application (including the TIN) of all parties to the transaction.

EXCEPTIONS / EXEMPTIONS

The TRANSFEROR must notify the TRANSFEREE in writing that the Withholding Certificate has been applied for on the day of or day prior to the transfer.

EXCEPTIONS / EXEMPTIONS

- The 10% to 15% withholding requirement is reduced or eliminated. IRS determines the transferor is exempt or partially exempt from U.S. tax
- Agreement for payment with Secretary of Treasury – Section 1445(a)(4) in lieu of withholding
- Withholding tax liability has already been satisfied

EXCEPTIONS / EXEMPTIONS

- A. The Withholding Certificate can be issued due to a determination by the IRS that reduced withholding is appropriate because either:
 - i. the amount that must be withheld would be more than the TRANSFEROR's maximum tax liability;
 - ii. withholding of the reduced amount would not jeopardize the collection of the tax;

EXCEPTIONS / EXEMPTIONS

- iii. the exemption from US tax of all gain realized by the TRANSFEROR; or
- iv. an agreement for payment of the tax providing security for the tax liability entered into by the TRANSFEROR or TRANSFEREE.

EXCEPTIONS / EXEMPTIONS

- B. There are four (4) major types of acceptable security:
- i. Bond with surety or guarantor
 - ii. Bond with collateral
 - iii. Letter of Credit
 - iv. Guarantee (corporate transferors)

NOTE: The IRS can also consider other forms of security in it's discretion

EXCEPTIONS / EXEMPTIONS

- C. There are six (6) categories of withholding certificate applications:
 - i. Based on a claim that the transfer is entitled to non-recognition treatment or otherwise exempt from tax – USE FORM 8288B
 - ii. Based solely on a calculation of the TRANSFEROR's maximum tax liability – USE FORM 8288B
 - iii. Special installment sales rules – USE FORM 8288 B

EXCEPTIONS / EXEMPTIONS

- iv. Based on an agreement for the payment of tax with conforming security – Follow the instructions in the Internal Revenue Code
 - a. provide information establishing the maximum tax liability or amount to be withheld;
 - b. signed copy of the proposed agreement;

EXCEPTIONS / EXEMPTIONS

- c. copy of the proposed security agreement;
- d. provide a detailed description of the rights and obligations of each party; either the TRANSFEROR or the TRANSFEREE may enter into this agreement;
- e. a security agreement or other form of security acceptable to the Commissioner or his delegate.

SEE REVENUE PROCEDURE 2000-35; and CUMULATIVE BULLETIN 2000-2

EXCEPTIONS / EXEMPTIONS

- v. Blanket withholding certificate – provided if the TRANSFEROR provides an irrevocable letter of credit or guarantees and enters into a tax payment and security agreement with the IRS.

This can provide for an excuse withholding concerning multiple dispositions during a period of no more than 12 months.

SEE REVENUE PROCEDURE 2000-35

EXCEPTIONS / EXEMPTIONS

- vi. Any other basis. Non-Standard Applications
 - a. Agreement for the Payment of Tax with Non-conforming security.

Provide the information required in item iv above.

- 1) provide information establishing the maximum tax liability or amount to be withheld;
- 2) signed copy of the proposed agreement;

EXCEPTIONS / EXEMPTIONS

- 3) copy of the proposed security agreement;
- 4) provide a detailed description of the rights and obligations of each party;
- 5) a security agreement or other form of security acceptable to the Commissioner or his delegate;

EXCEPTIONS / EXEMPTIONS

- 6) a description of the non-conforming security;
and
- 7) a Memo of Law and Facts establishing that
the proposed security is valid, enforceable and
adequately protects the government's interest.

EXCEPTIONS / EXEMPTIONS

- b. OTHER NON STANDARD APPLICATIONS – explaining in full detail the proposed basis for issuing the Certificate of Withholding and reasons justifying the issuance of the Certificate on that basis.

EXCEPTIONS / EXEMPTIONS

8. The Transferee/buyer receives a “Notice of Nonrecognition of Gain or Loss” from foreign seller and transferee/buyer files (by the 20th day after the date of transfer) a copy of the Notice with the IRS
- Notice must be signed under penalties of perjury, and state that the foreign seller is not required to recognize gain or loss on the transfer pursuant to a specific nonrecognition of gain provision within the Internal Revenue Code (e.g. 1031 like kind exchange)
 - Use caution with regard to this exemption – it’s best to withhold here

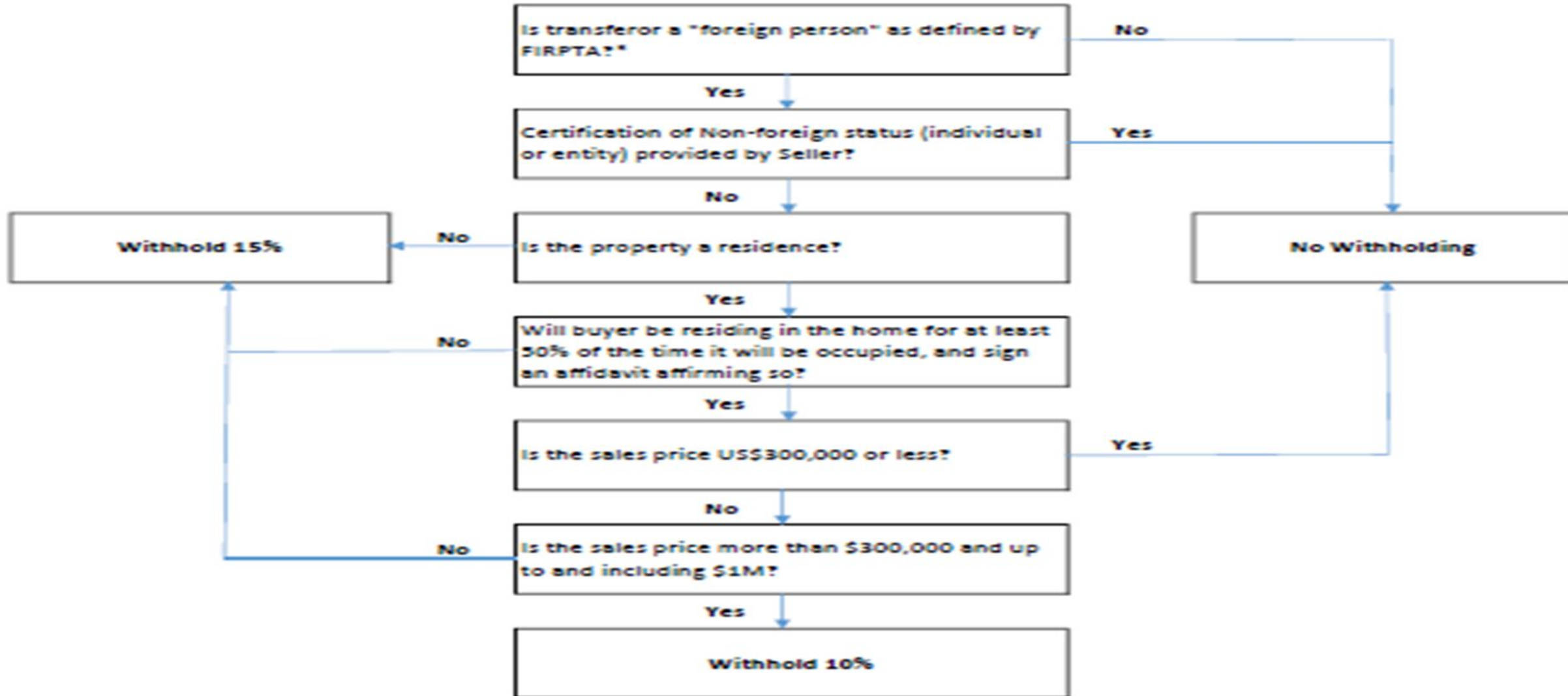
EXCEPTIONS / EXEMPTIONS

9. The amount the TRANSFEROR realizes on the transfer of a US real property interest is zero;
10. The property is acquired by the US, a US State or possession, a political subdivision or the District of Columbia.
11. The TRANSFEROR realizes an amount on the grant or lapse of an option to acquire US Real property interest. However, you must withhold on the sale, exchange or exercise of that option.

EXCEPTIONS / EXEMPTIONS

12. The disposition is of an interest in a publicly traded partnership or trust. DOES NOT APPLY to certain dispositions of non-publicly traded interests in publicly traded corporations.

FIRPTA – FLOW CHART



SETTLEMENT AGENT'S ROLE

- ❑ Although Purchasers often look to the Settlement Agent for assistance in meeting FIRPTA requirements, compliance with the requirements is ultimately the responsibility of the Purchaser, not the Settlement Agent.
- ❑ Who is an agent?
An Agent is any person who represents either the TRANSFEROR or the TRANSFEREE in any negotiation with another person (or other person's agent) relating to the transaction or settling the transaction.

SETTLEMENT AGENT'S ROLE

❑ Is Not transferor's or transferee's agent if only performing one or more of the following:

- Receiving and disbursing proceeds;
- Recording documents;
- Performing clerical tasks;
- Obtaining title insurance reports;
- Not providing advice;
- Transmitting documents between the parties; and



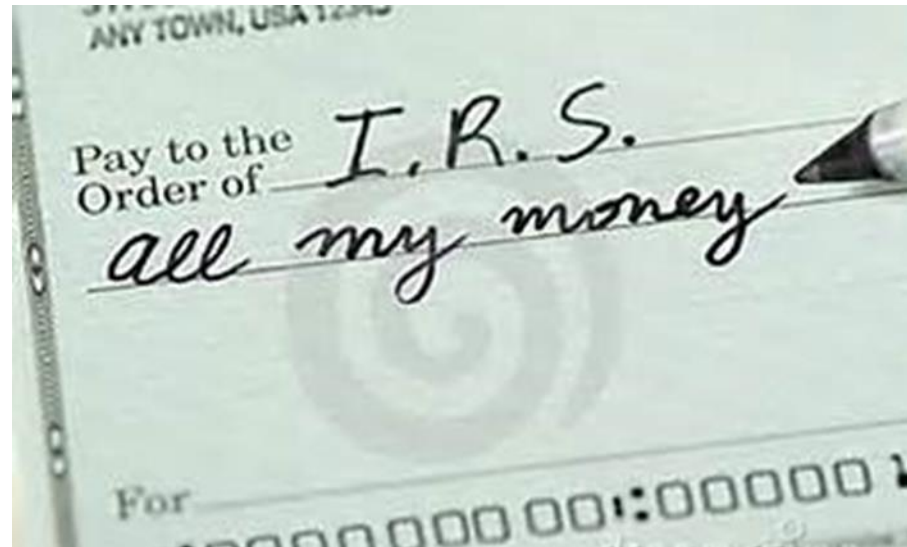
❑ Obtain a written waiver

SETTLEMENT AGENT'S ROLE

- ❑ Settlement Agents are encouraged to obtain from Purchasers written waivers of the settlement agent's responsibility when FIRPTA withholding is required.

WITHHOLDING IS REQUIRED, WHAT NOW?

- ☐ If withholding is required



WITHHOLDING IS REQUIRED, WHAT NOW?

BOTH FORMS 8288 and 8288-A (copies A and B) must be used to report and pay FIRPTA.

THE FORMS MUST INCLUDE THE TAXPAYER ID NUMBER (TIN) OF BOTH THE TRANSFEROR AND THE TRANSFEREE.

WITHHOLDING IS REQUIRED, WHAT NOW?

WHAT: FIRPTA FORMS

Form 8288 – US Withholding Tax Return for Dispositions by Foreign Persons of US Real Property Interests

Form 8288A – Statement of Withholding on Dispositions by Foreign Persons of US Real Property Interests. This form must be prepared for each person for whom the tax is being withheld. Submit with both copies A and B.

WITHHOLDING IS REQUIRED, WHAT NOW?

- Remittance to the IRS is
- required within 20 days of closing, together with:
 - Form 8288; and
 - Form 8288-A:

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. 1545-0902	
		2 Federal income tax withheld		
Withholding agent's Federal identification number	Identification number of foreign person subject to withholding (see instructions)	3 Amount realized	4 Gain recognized by foreign corporation	Copy A For Internal Revenue Service Center For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 8288.
Name of person subject to withholding		5 Description of property transferred		
Foreign address (number, street, and apt. or suite no.)		6 Person subject to withholding is: An individual <input type="checkbox"/> A corporation <input type="checkbox"/> Other (specify) <input type="checkbox"/>		
City, province or state, postal code, and country (not U.S.)	7 Country code	Mailing address of person subject to withholding (if different)		

Form **8288-A** (Rev. 2-2016) Cat. No. 62261L **Attach Copies A and B to Form 8288** Department of the Treasury - Internal Revenue Service

Form 8288 (Rev. February 2017) Department of the Treasury Internal Revenue Service		U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests ▶ Information about Form 8288 and its separate instructions is at www.irs.gov/form8288 .		OMB No. 1545-0902
If this is an amended return, check here <input type="checkbox"/>				
Complete Part I or Part II. Also complete and attach Copies A and B of Form(s) 8288-A. Attach additional sheets if you need more space.				
Part I To Be Completed by the Buyer or Other Transferee Required To Withhold Under Section 1445(a)				
1 Name of buyer or other transferee responsible for withholding. See instructions.		Identifying number		
Street address, apt. or suite no., or rural route. Do not use a P.O. box.				
City or town, province or state, country, and ZIP or foreign postal code				Phone number (optional)
2 Description and location of property acquired				
3 Date of transfer				
5 Complete all items that apply. Enter dollar amounts on applicable lines.		6 Total amount withheld		
a Amount subject to withholding at 15%				
b Amount subject to withholding at 10%				
c Withholding is at a reduced rate. See instructions.				
Part II To Be Completed by an Entity Subject to the Provisions of Section 1445(e)				
1 Name of entity or fiduciary responsible for withholding. See instructions.		Identifying number		
Street address, apt. or suite no., or rural route. Do not use a P.O. box.				
City or town, province or state, country, and ZIP or foreign postal code				Phone number (optional)
2 Description of U.S. real property interest transferred or distributed				
3 Date of transfer				
5 Complete all items that apply. Enter dollar amounts on applicable lines.		6 Total amount withheld		
a Amount subject to withholding at 15%				
b Amount subject to withholding at 10%				
c Amount subject to withholding at 35%				
d Withholding is at a reduced rate. See instructions.				
e Large trust election to withhold at distribution				
Sign Here Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.				
Signature of withholding agent, partner, fiduciary, or corporate officer		Title (if applicable)		Date
Print type preparer's name		Preparer's signature		Date
Firm's name		Firm's EIN		Check <input type="checkbox"/> if self-employed
Firm's address		Phone no.		PTIN
For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.				

Cat. No. 62260A Form **8288** (Rev. 2-2017)



Form **8288-A** (Rev. 4-2018) Cat. No. 62261L **Attach Copies A and B to Form 8288** Department of the Treasury - Internal Revenue Service

WITHHOLDING IS REQUIRED, WHAT NOW?

TRANSFEROR must have a TIN. If the TRANSFEROR does not have a TIN, require a W-7 Application for IRS Individual Taxpayer Identification Number. DIRECT THEM TO THEIR CPA OR THE IRS WEBSITE.

FIRPTA – OBJECTIONS TO REPORTING

- ❑ What if the Seller refuses or is unable to provide a tax identification number?
 - Require a certificate to this effect from the seller.
 - Report to the IRS that the seller does not have TIN.
 - It generally is in the interest of the seller to have a TIN, because any refund of the amount withheld will not be delivered to a seller who does not have one.

FIRPTA – OBJECTIONS TO REPORTING

In addition to legal requirements, compliance with these regulations are usually contractual requirements under most earnest money contracts.

FIRPTA – OBJECTIONS TO REPORTING

Treasury Decision 9082 effective 11/04/2003 requires all buyers and foreign transferors to provide their TIN, names and addresses on withholding tax returns, applications for withholding certificates, notices of non-recognition, or elections under Section 897(i) when disposing of a US real property interest. The IRS will process a form with missing information but they will not date stamp Form 8288A or forward it to the foreign transferor.

WITHHOLDING IS REQUIRED, WHAT NOW?

WHERE: FIRPTA DOCUMENTS ARE PROCESSED AT:

INTERNAL REVENUE SERVICE

PO BOX 409101

OGDEN, UT 84409

WITHHOLDING IS REQUIRED, WHAT NOW?

WHEN: FORMS 8288 and 8288-A (copies A and B) and payment must be filed within 20 days of the date of transfer. If a Certificate of Withholding was denied FIRPTA must be paid within 20 days of the Certificate of Denial.

FIRPTA - RESOURCES

□ HELPFUL RESOURCES

- Form 8821 – Tax Information Authorization – Each party should complete.
- W-8BEN- Certificate of Foreign Status of Beneficial Owner
- Foreign Person's US Source Income Subject to Withholding Forms 1042 and 1042S
- Partnerships - see special section
- PUBLICATION 515 – Withholding of Tax on Nonresident Aliens and Foreign Entities

FIRPTA - RESOURCES

- Form 8288B – Application for Withholding Certificate for Dispositions by Foreign Persons of US Real Property Interests
- Buyer's Certification Under the Foreign Investment in Real Property Tax Act of 1980
- Certificate of Non-Foreign Status by Individual, Corporation, Partnership, Trust and/or Estate
- Foreign Person Declaration and Notice of Nonrecognition of Gain
- Waiver of Settlement Agent Responsibility
- Substantial Presence Test Formula

FIRPTA - RESOURCES

- IRS Publication 515

<http://www.irs.gov/pub/irs-pdf/p515.pdf>

- Form 8288

<http://www.irs.gov/pub/irs-pdf/f8288.pdf>

- Form 8288A

<http://www.irs.gov/pub/irs-pdf/f8288a.pdf>

QUESTIONS?

