

FIRPTA WITHHOLDING

Understanding Foreign Investment in Real Property Tax Act Requirements



1 WHAT IS FIRPTA?

The Foreign Investment in Real Property Tax Act (FIRPTA) is a federal law requiring buyers to withhold a portion of the sales proceeds when purchasing U.S. real property from a foreign seller.

The withholding is not a tax on the sale itself. It serves as a prepayment toward any U.S. income tax the foreign seller may ultimately owe.

A seller's immigration status does not determine whether FIRPTA applies. Rather, the determining factor is whether the seller is considered a **foreign person** under IRS regulations.



2 WHO ENFORCES FIRPTA?

The Internal Revenue Service (IRS) administers and enforces FIRPTA compliance.

Although title and escrow companies help facilitate the transaction, the buyer is **legally responsible** for ensuring the required withholding is collected and remitted to the IRS when applicable.

Failure to comply may result in:

- Buyer liability for unpaid withholding
- Interest
- IRS penalties



3 HOW MUCH IS WITHHELD?

Generally:

15% OF THE AMOUNT
REALIZED (SALES PRICE)

Certain residential transactions may qualify for reduced withholding or exemptions depending on:



Purchase
Price



Buyer's Intended
Occupancy



IRS Withholding
Certificates

Professional tax advice should always be obtained before relying on an exemption.



4 HOW IS THE MONEY WITHHELD?

- 1 Escrow calculates the required withholding.
- 2 Funds are withheld from the seller's proceeds at closing.
- 3 Escrow prepares the IRS reporting package.
- 4 Funds are remitted to the IRS within the required filing period.



The withheld funds are not retained by the title or escrow company.
They are transmitted directly to the Internal Revenue Service.



5 IRS FORMS COMMONLY USED

Form 8288	U.S. Withholding Tax Return for Foreign Persons
Form 8288-A	Statement of Withholding for each foreign transferor
Form 8288-B	Application for Reduced Withholding Certificate (when applicable)
Form W-9	Certification of U.S. taxpayer status (when appropriate)
Form W-8BEN / W-8BEN-E	Foreign status certification in certain situations



6 WHAT ROLE DO TITLE & ESCROW PLAY?

Title and escrow companies assist with compliance by:



Identifying potential
FIRPTA transactions



Collecting seller
certifications



Coordinating with
buyers and tax
professionals



Preparing required
withholding
documents



Holding and
disbursing
withheld funds



Assisting with
IRS forms and
payments



Maintaining
transaction
records



Important: Title and escrow companies do not determine a seller's tax liability and cannot provide tax or legal advice.

THE FIRPTA WITHHOLDING PROCESS



Purchase
Agreement



Escrow
Opens



Determine
FIRPTA Status



Withhold
Funds



File IRS
Forms



Send Payment
to IRS



BUYERS SHOULD CONSULT THEIR TAX ADVISOR

Because FIRPTA regulations can be complex and exemptions may apply, buyers and sellers should consult qualified tax professionals whenever a transaction involves a foreign seller.



This information is provided as a courtesy of Monarch Title Company. Monarch Title Company is not responsible for any damage or loss due to the use of the information contained herein. Always consult a tax professional about your particular situation.



MONARCH
TITLE COMPANY