

# FIRPTA: FOREIGN INVESTMENT IN REAL PROPERTY TAX

## BUYER'S INFORMATION



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### 1. Are all buyers' real estate purchases subject to FIRPTA withholding requirements?

Yes.

### 2. What does FIRPTA require the buyer to do at the closing of their real estate purchase?

- Determine if all sellers have provided the buyer with proof of an exemption to FIRPTA withholding.
- If any seller does not provide proof of an exemption to FIRPTA withholding, the buyer completes the FIRPTA withholding forms and remits 15% of the property sale price to the IRS at closing.
- Any buyer who fails to comply with FIRPTA withholding at closing may be held liable by the IRS for the tax, penalty and interest.

### 3. Are there exemptions or reductions to the buyers' FIRPTA withholding requirements?

Yes. The following are the most common examples:

- Buyer receives sellers' Certification of Non-Foreign Status (CNFS) or a Qualified Substitute Statement (QSS) as evidence that the seller is not a foreign person and is not subject to FIRPTA withholding;
- The property is acquired for use as the buyer's residence (see question #4); or
- Seller provides buyer with an IRS "withholding certificate" stating that no FIRPTA withholding or a reduction in FIRPTA withholding is required.

### 4. What are the residency rules for an exemption or reduction to FIRPTA withholding for property 1 million or less acquired for use as the buyer's residence?

The buyer must comply with all IRS residency requirements including but not limited to the following:

- Buyer(s) must be individuals and use the property as their residence
- Buyer(s) must reside in the property at least 50% of days during first two 12 month periods excluding any travel days, days residing at a seasonal home, or days the property is unoccupied for rehab or other reasons.

Buyer should seek legal or tax advice regarding all of the IRS residency requirements. If the IRS determines the buyer did or does not comply with all IRS residency requirements, buyer may be held liable by the IRS for the tax, interest and penalty.

PURCHASE PRICE OF PROPERTY	FIRPTA WITHHOLDING PERCENT
\$0-\$300,000	Exempt subject to IRS residency requirements
More than \$300,000 and no more than \$1 million	Reduce withholding to 10% of purchase price subject to IRS residency requirements

### 5. May real estate agents, closing agents and title companies determine if FIRPTA withholding is required?

No. Real estate agents, closing agents and title companies are not permitted by state or federal law to provide legal or tax advice regarding FIRPTA or any other tax or legal matter.

**Information regarding FIRPTA may be obtained at: [www.irs.gov](http://www.irs.gov)**

***Buyer and Seller are advised to seek legal and tax advice regarding FIRPTA compliance. Burnet Title employees are not authorized by law to provide advice regarding any legal or tax matter.***