

## FREQUENTLY ASKED QUESTIONS:

### **What does FIRPTA stand for?**

FIRPTA stands for the Foreign Investment in Real Property Tax Act of 1980.

### **Who is considered a foreign person?**

The seller of US real property is considered a foreign person if they are a: non-resident alien individual, or a foreign corporation that has not made an election to be treated as a domestic corporation, or a foreign partnership, or a foreign trust, or foreign estate.

### **What if the buyer determines the seller is not a foreign person?**

The seller can complete a Certification of Non-Foreign Status. The buyer will retain this certification for their records. Withholding is not required if this is the case.

### **Who is responsible for the withholding?**

The buyer is responsible for the withholding. The amount withheld must be submitted to the IRS within 20 days following the day the closing took place. If the funds are not submitted on time, interest and penalties will be assessed beginning on the 21<sup>st</sup> day after the date of transfer and ending on the day the payment is received by the IRS. These fees are payable by the Buyer.

### **Are there exceptions to the 10%?**

There are a few exceptions not covered in the scope of this brochure. Contact FIRPTA Solutions, Inc. for a full list of these exceptions.

### **Who can apply for the withholding certificate?**

Either the seller or the buyer may apply for the withholding certificate.



FIRPTA Solutions Inc. was founded on over 20 years of experience, continuing education and dedication. Our passion to assist Buyers, Sellers and other Professionals through the minefield that is *FIRPTA* is only surpassed by our commitment to prevent our clients from ever having to pay any unnecessary taxes, penalties, or interest.

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# The FACTS About FIRPTA



# HOW DOES FIRPTA AFFECT ME?

## I am a BUYER of US real property:

Let's pretend that you purchased a home from a foreign individual. You paid \$450,000 and can't wait to make it your own. Just as you get settled in, you receive a letter from the IRS demanding payment in the amount of \$45,000. The letter mentions FIRPTA. What is FIRPTA?

FIRPTA, which stands for the Foreign Investment in Real Property Tax Act of 1980, is an advance tax withholding. It was designed to ensure that foreign owners pay their share of taxes on the profits or gain from the sale of their US property. Since you purchased real estate from a foreign seller, you were responsible for withholding 10% of the gross purchase price from the seller's proceeds. This tax withholding should've been submitted to the IRS within 20 days of closing. Since it wasn't, the IRS is now looking to you, the buyer, to pay.

There are exceptions to this rule. Most notably, if you purchase a home for \$300,000 or less and are willing to sign an affidavit that you or your family members will reside in the property 50% of the time it is in use during each of the first two 12-month periods following the date of transfer, you can be exempt from withholding.

Improperly prepared documents and late submission can expose you to penalties and interest. FIRPTA Solutions Inc. will expertly prepare all of the required documents needed to ensure a smooth FIRPTA closing.

**Once you realize your seller is foreign, call us regarding your next step.**

## I am a SELLER of US real property:

The Foreign Investment in Real Property Tax Act of 1980 is not a tax at all; it's an advance tax withholding. This means, if you are a foreign seller, the IRS will "hold" 10% of the gross selling price of your property until you file a US tax return that calculates the actual tax due.

According to FIRPTA rules, the amount of tax required to be withheld cannot exceed the maximum tax liability owed. For example, if you are selling the property for less than what you paid for it, you might realize a loss instead of a gain and therefore would not owe a full 10%. In this case, FIRPTA Solutions, Inc. can help you apply for a withholding certificate asking the IRS to reduce your 10% withholding down to the actual taxes owed...sometimes even ZERO!

The application must be made no later than the day of closing and can take up to 90 days to process. During this time, the full 10% will remain in escrow until the IRS makes their determination.

FIRPTA Solutions, Inc. has a team of professionals dedicated to these types of transactions. We will guide you through the maze of FIRPTA regulations, skillfully assisting you with all of the required forms, affidavits, and certificates. We are highly proficient at submitting the paperwork for a reduced or excluded withholding amount.

**Timing is critical!**

**Call FIRPTA Solutions, Inc. the minute your property is under contract.**

## US Tax Identification Numbers:

The IRS requires both parties to a FIRPTA qualified sale to have an individual US tax identification number, commonly referred to as an ITIN. Buyers and Sellers must provide this number along with their names and addresses on all relevant applications and/or tax returns.

To apply for an ITIN, you will need to have your identity verified. As certified acceptance agents for the IRS, FIRPTA Solutions, Inc. can not only help you apply for such an ID, but we can also certify your passport.

## Living outside of the US?

FIRPTA Solutions, Inc., has a physical presence in Fort Lauderdale and Cape Coral, Florida. We also utilize technology to offer a virtual office that delivers convenience and flexibility. Meetings can be conducted via video conferencing, and most documents can be transmitted electronically.

## Are you a business professional who works with foreign clients?

As with any industry, buyers and sellers alike, naturally gravitate towards knowledgeable professionals. FIRPTA Solutions Inc. will empower you to handle FIRPTA transactions with confidence and ease; adding value to your customer service.

**Call FIRPTA Solutions, Inc. for advice on your next FIRPTA transaction.**