

# FIRPTA Guide for Buyers



## Foreign Investments in Real Property Tax Act

### What is FIRPTA?

FIRPTA is a federal law requiring the buyer (transferee) of U.S. real property to withhold a portion of the sales price when purchasing from a foreign seller. The buyer must remit this withholding to the IRS as a prepayment of the seller's potential capital gains tax.

### Why Does FIRPTA Matter to Buyers?

Under FIRPTA, buyers are legally responsible for withholding and reporting – even though the tax applies to the seller. Key buyer responsibilities:

- Determine whether the seller is a foreign person.
- Withhold the required percentage (commonly 15%) of the sales price
- Submit Forms 8288 and 8288 A to the IRS within 20 days of closing.

If the buyer fails to withhold, the buyer becomes liable for the tax, plus penalties and interest.

### Who Is Considered a "Foreign Seller"?

A seller is considered "foreign" if they are a: Non resident alien individual, foreign corporation, or foreign partnership, trust, or estate. Buyers may rely on a signed non foreign affidavit from the seller to avoid withholding – but it must include a valid TIN and be signed under penalty of perjury.

### Are There Exceptions?

Yes, a common exception is 0% withholding if the sales price is \$300,000 or less AND the buyer will use the property as their residence. Other exceptions can be found on [irs.gov](https://irs.gov) website.

### How the Withholding Is Submitted to the IRS

- Buyers must file Forms 8288 and 8288 A and remit withheld funds to the IRS within 20 days of the sale
- The buyer can delegate the settlement agent involved to assist with submitting forms and withholding amount to the IRS.
- Recent federal directives require FIRPTA withholding payments to be made electronically. Paper checks will no longer be accepted once the mandate is fully implemented.

### Important Recommendation

FIRPTA compliance errors can create significant liability for buyers. Buyers should consult a tax professional experienced in FIRPTA – especially when determining seller status, withholding requirements, and exemptions.

### Where can Buyers Find the Official Rules?

The IRS FIRPTA Withholding page is the official and most authoritative resource for understanding FIRPTA requirements:

