

FIRPTA Guide for Sellers

Foreign Investments in Real Property Tax Act

What is FIRPTA?

FIRPTA is a federal law requiring buyers of U.S. real property interests to withhold a portion of the sales price when the seller is a foreign person for U.S. tax purposes. This withholding is sent to the IRS as an advance payment of any potential capital gains tax.

Why Does FIRPTA Matter to Sellers?

If you are a foreign seller, FIRPTA withholding will apply (unless an exception is met)

Key points:

- Standard withholding is 15% of the sales price.
- FIRPTA withholding is not a penalty, it is a prepayment of potential tax liability.
- If too much is withheld, the seller may request a refund after filing a U.S. tax return.

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. Foreign sellers must provide proper identification such as an ITIN (Individual Taxpayer Identification Number) for tax filing and refund purposes.

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://www.irs.gov) website.

How the Withholding Is Submitted to the IRS

- The buyer (not the seller) is the withholding agent responsible for sending FIRPTA funds to the IRS.
- Forms 8288 and 8288 A must be filed 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 rules are complex and can significantly affect your proceeds and tax obligations. Sellers should consult a tax professional who is experienced in FIRPTA to review their specific situation and prepare any post closing tax filings or refund claims.

Where can Sellers Find the Official Rules?

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

