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FIRPTA Withholding for Foreign Sellers

Under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) when a foreign person sells U.S. real property, the buyer is obligated to withhold either 10% or 15% of the gross sales price and remit this amount to the IRS, unless there is an applicable exception from withholding.

The applicable rate of withholding is determined based upon the selling price and whether or not the buyer is acquiring the property for use as a personal residence.

Sales Price \$300,000 or less and <u>buyer acquires as a personal residence</u>	No Withholding
Sales Price is greater than \$300,000, but does not exceed \$1,000,000 and <u>buyer acquires as a personal residence</u>	10% Withholding
Sales Price is greater than \$1,000,000 and <u>buyer acquires as a personal residence</u>	15% Withholding
All transactions—Any Sales Price and <u>buyer NOT acquiring as a personal residence</u>	15% Withholding

Exceptions from withholding are as follows:

- Buyer acquires for use as a personal residence and the sales price is not more than \$300,000
- Seller provides Non-Foreign Affidavit
- Seller provides a Withholding Certificate from the IRS which excuses the withholding
- The amount realized by the seller is zero
- The property is acquired by the United States or a political subdivision thereof

For more information on FIRPTA withholding, please visit <https://www.irs.gov/pub/irs-pdf/p515.pdf>, IRS Pub. 515.

Always consult with your tax advisor if you are uncertain whether FIRPTA withholding will have an effect on your exchange.

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