

# FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT FIRPTA PROCESS



All Sellers are presumed to be Foreign Sellers



Is the seller willing to sign the Affidavit & provide proof that they are not a Foreign National?

**NO**

**YES**

FIRPTA Transaction

Proceed to close as normal

Apply for ITIN with W-7 unless Seller has SSN/ITIN

Amount realized is \$300,000 or less and individual Buyers will occupy 50% time?

**YES**

Have Buyers sign 50% occupancy affidavit

**NO**

The proper withholding rate is 15% of the amount realized

**NO**

**YES**

Amount realized is \$1,000,000 or less and Buyers will occupy?

Have Buyers sign occupancy affidavit- Proper withholding rate is 10% of amount realized

Close and withhold at proper rate

**NO**

**YES**

Does the Seller want to apply for W/H Certificate?

Send form 8288-B to IRS

Remit W/H \$ with 8288 and 8288-A to IRS within 20 days of Closing

**NO**

Response to 8288-B received prior to closing?

**YES**

Close and withhold at proper rate

Close and only W/H Certificate Amount or proper rate if denied

When one can submit:

- W-7
- 8288-B

Receive W/H Cert. or denial from IRS

Remit W/H \$ if denied or W/H Cert. amount with 8288 and 8288-A & W/H Cert. or denial letter to IRS within 20 days of date of letter

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