SRA Strategic Realty Advisors

FIRPTA Withholding Rules for Foreign Sellers of Texas Real Estate

What is FIRPTA?

The Foreign Investment in Real Property Tax Act (FIRPTA) is a federal law that requires withholding taxes when a foreign person or entity sells U.S. real estate.

Who is Considered “Foreign”?

• A non-U.S. citizen individual (not a resident alien).
• A foreign corporation, partnership, trust, or estate.
• A seller who cannot provide a valid IRS “Non-Foreign Affidavit.”

The Withholding Requirement

• 15% of the gross sales price must be withheld at closing.
• The buyer (or closing agent) is legally responsible for withholding and sending it to the IRS, not the seller.
• Example: If a property sells for $500,000, the IRS withholding is $75,000.

Where Does the Money Go?

The withheld funds are sent to the IRS as a credit against the foreign seller’s tax liability. When the foreign seller files a U.S. tax return, they may get a refund if the actual tax owed is less than the withheld amount.

Common Exceptions & Reductions

• Primary Residence Exception: If the property sells for $300,000 or less and the buyer will use it as their personal residence, no withholding is required.
• IRS Withholding Certificate: The seller can apply to the IRS to reduce or eliminate withholding if the expected tax will be less than 15%.
• Non-Foreign Affidavit: If the seller certifies they are not foreign, withholding is not required.

Texas Taxes

Texas has no state income tax, so FIRPTA is the only withholding requirement.

Key Takeaways

• Buyer is responsible for collecting and remitting the withholding to the IRS.
• Sellers who are foreign should plan ahead and may want to apply for an IRS Withholding Certificate before closing.
• Always involve a tax professional to ensure compliance.

■■ Important: This is general information only, not legal or tax advice. Parties should consult a CPA, tax advisor, or attorney familiar with FIRPTA.

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