

Major Changes for Foreign Seller Transactions

29 Jan 2016

Title professionals are familiar with the requirement to withhold 10% on sales of real property (including short-sales) by foreign nationals pursuant to the Foreign Investment in Real Property Tax Act (FIRPTA).

Beginning on February 16, 2016, the percentage will increase to 15%.

There are a few exemptions:

- On properties that sell for between \$300,000 and \$1,000,000 and the purchaser will be using the house as his residence, the withholding requirement drops to 10%.
- On properties that sell for is less than \$300,000 and the purchaser will be using the house as his residence, the withholding requirement drops to zero.

In an [excellent article](#) prepared by Steven Gottheim (ALTA) and Melissa Murphy (Attorney's Title Fund Services), title professionals are counseled to document the buyer's intent to occupy either of the exemptions above should be utilized. At the very least, a statement from the buyer, under penalty of perjury should be secured.

It is also recommended that the purchaser be advised of the legal ramifications of misstating intent to occupy, which could include personal liability for any uncollected withholding tax, penalties and interest.

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