



Sellers need to know: Federal & State Withholding Regulations



FIRPTA – Foreign Investors Real Property Taxation Act

- ❖ Requires 10% of sales price be withheld for foreign ownership.
- ❖ Applies to non-resident aliens of USA, including foreign partnerships, foreign trusts, foreign estates.
- ❖ Buyer's responsibility to report and withhold, not the escrow office.
- ❖ Exceptions under Internal Revenue Code (IRC 1034): Sales price not over \$300,000 and buyer will use the property as hi/her principal residence
- ❖ Seller can request a waiver or reduced withholding on Form 8288-B (tax identification number required).
- ❖ Payment and Forms 8288 and 8288-A are due within 20 days of closing (tax identification number required)
- ❖ IRS penalties are steep if forms and/or payment are received late.

CAL – Withholding – Additional California Withholding

- ❖ Requires that $3\frac{1}{3}\%$ of sales price be paid to the Franchise Tax Board
- ❖ Applies to non-owner-occupied property
- ❖ Prepayment of California state income tax for sellers on the taxable gain of California real property
- ❖ Require buyer to withhold $3\frac{1}{3}\%$ of the total sale price
- ❖ Buyer's responsibility to report and withhold; it can be passed onto escrow.
- ❖ Escrow must inform buyer of the responsibility (in escrow general provisions)
- ❖ Escrow must accept responsibility if buyer requests it.
- ❖ Payment and Form 593 and 593-B to FTB by the 20th day of month after closing.
- ❖ Interest due on all late payments (FTB calculates, and interest can be substantial)
- ❖ Escrow can charge a fee for processing withholding or waiver
- ❖ Escrow cannot charge for giving written notice to parties or obtaining 593-C and 593-W Certification

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