FIRPTA WITHHOLDING GUIDE

MCKNIGHT TITLE

The transfer of a U.S. real property interest by foreign Seller(s) is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) as amended by Protecting Americans from Tax Hikes Act of 2015 (PATH) for income tax withholding. [1]

SELLER IS NON-EXEMPT FROM WITHHOLDING IF:

- Seller is a Foreign individual
- Seller is a Foreign Trust
- Seller is a Foreign Estate
- Seller is Foreign Partnership
- Seller is a Foreign corporation
- Buyer DOES NOT intend to occupy the property as a principal residence regardless of Sales Price
- Buyer DOES intend to occupy the property as a principal residence and the Sales Price is $300,001.00 or more

SELLER IS EXEMPT FROM WITHHOLDING IF:

- Seller is a naturalized U.S. individual or married citizen
- Seller is a resident alien with a U.S. Green Card
- Seller is a U.S. Corporation Seller is a Qualified Foreign Pension Plan
- Buyer intends to occupy the property as a principal residence and the Sale Price is $300,000 or less
- Seller provides Withholding Exemption Certificate issued by the IRS to Escrow prior to close

WHAT FORMS DOES THE BUYER NEED TO PROVIDE FOR NON-EXEMPT? [2]

IRS Forms 8288 and 8288A as applicable must be COMPLETED and signed by the Buyer and submitted along with the tax withholding to the IRS.

WHAT FORMS DOES THE SELLER NEED TO PROVIDE FOR EXEMPT? [2]

Seller is required to complete the Non-Foreign Seller Affidavit, or Form 8288B Application for a Withholding Certificate, as applicable. File must be properly documented for all exempt transactions.

CLOSING PREPARATION

How Much Do I Withhold:

- 15% of Sales Price for all non-occupied properties
- 10% of Sales Price for all owner-occupied properties that are $300,001 to $1,000,000
- 15% of Sales Price for all owner-occupied properties that are over $1,000,000

POST CLOSING

Check payable to the Department of Treasury and the above documents must be sent Certified Mail and mailed/postmarked no later than 20 days from the close of escrow.

DO NOT FEDEX TO THE POST OFFICE BOX. IRS WANTS PAYMENTS ONLY TO THE FOLLOWING ADDRESS:
Internal Revenue Service, PO BOX 409101, Ogden, UT 84409

[1] Failure to comply with IRS FIRPTA withholding may result in the buyer being responsible to pay the entire withholding requirement plus penalties to IRS which could include an IRS lien being placed against the subject property.

[2] Buyer and Seller are encouraged to consult with their attorney, tax professional, and/or the IRS website at www.irs.gov for assistance with any questions about tax forms and Publication 515 prior to close of escrow.