

ALERT: FIRPTA-New 15% Withholding

Under current federal law, if a foreign person sells US real property, the buyer is obligated to withhold 10% of the gross sales price and remit this to the IRS.

However, pursuant to the Protecting Americans from Tax Hikes Act of 2015, which became law on December 18, 2015 (the "PATH Act") the required 10% withholding will increase to 15% for **all closings occurring on or after February 17, 2016**, except those wherein the sales price is greater than \$300,000 and does not exceed \$1,000,000 and the buyer acquires the property for use as a personal residence. Under the circumstance, a reduced withholding of 10% will apply.

Sales Price \$300,000 or less and the buyer acquires as personal residence	No Withholding
Sales Price more than \$300,000 but not more than \$1,000,000 and the buyer acquires as personal residence	10% Withholding
All transactions - Any Sales Price and the buyer NOT acquiring as personal residence	15% Withholding

In short, **if a foreign person is selling a US real property interest, the following parameters apply UNLESS THERE IS AN EXCEPTION FROM WITHHOLDING:**

No withholding is required under the following circumstances:

- Buyer acquires for use as a personal residence and sales price not more than \$300,000.
- Seller provides Non-Foreign Affidavit
- Seller provides a Withholding Certificate from the IRS which excuses the withholding
- The amount realized by the seller is zero
- The property is acquired by the United States or a political subdivision thereof

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Old Republic strongly recommends that consumers obtain guidance and advice from attorneys specializing in Real Property Tax and/or qualified Real Property Tax professionals to get more detailed, and current, on real property taxation as to any matters directly affecting them