



**Allure Accounting Inc.**  
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**By appointment only**  
 415 Cape Coral Parkway  
 W Cape Coral, FL 33904

# DON'T OVERPAY THE IRS!

**Your relief**  
 from having to  
 deal with US  
 tax authorities.

**Your partner**  
 to handle the tax  
 side of your US  
 real estate sale.

**Your solution**  
 to hassle-free  
 tax filing  
 experience.

We will file the appropriate documents to either **reduce** or **eliminate** the requirements to have money submitted to the IRS from the sale of your US real estate.

## Fee Schedule \*

<b>Application for Tax ID Number IRS Form W-7</b>	\$300
<b>Application for Withholding Certificate for Dispositions by Foreign Persons of US Real Property Interests - IRS Form 8288-B</b>	
Sales Price of Property up to \$750,000	\$1,250
Sales Price of Property \$750,001 - \$1,500,000	\$1,750
Sales Price of Property \$1,500,001 - \$3,000,000	\$2,250
Sales Price of Property over \$3,000,001	\$2,750
<b>Withholding Tax Return for Dispositions by Foreign Persons of US Real Property Interests - IRS Form 8288</b>	\$300
<b>IRS Forms 8288-A</b>	\$75 per seller
<b>Income Tax Return for Foreign Persons selling US Real Estate</b>	
<p>You are required to file a US income tax return to report the sales transaction. We will be happy to take care of that for you and we will send you a separate fee offer for signature at the end of the year.</p>	

\* Valid through 12/31/2022

Please contact Allure International Tax Consulting for more details and your free 30-minute consultation! (new clients only)



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## **FIRPTA**

### **FOREIGN INVESTMENT REAL PROPERTY TAX ACT**

#### **History**

Prior to 1980, a foreign seller was not taxed on the gains realized from the sale of real property which had situs in the United States. On June 18, 1980, foreign sellers became subject to the capital gains tax on appreciated real property. The FIRPTA withholding requirements became effective after December 31, 1984 as a tool to ensure payment to the Treasury Department when a foreign seller conveys United States real property.

#### **The Withholding Requirement**

Section 1445 of the Internal Revenue Code (the "Code") generally requires a buyer to withhold 15% of the amount realized when the seller of the real property is a foreign person. A foreign person is a nonresident alien individual, foreign corporation (which has not made the 897(i) election), foreign partnership, foreign trust, or foreign estate. It generally does not include a resident alien if that resident alien is subject to United States income tax as a United States person (if they pay United States Income Tax on their worldwide income). The amount realized includes the sum of cash paid, fair market value of any real property transferred, and the assumption of any debt incurred as consideration in the transaction.

The 15% of the amount realized has no correlation to the possible tax associated with the sale of the real property. It has been established to ensure that the Treasury will receive the proper tax due upon the sale of the property.

#### **The Exceptions**

If a seller is not considered a foreign person, there is no FIRPTA withholding. The seller must simply sign an affidavit stating, under penalties of perjury, that the seller is not a foreign person. Please note that a green card alone may not be sufficient evidence to disregard FIRPTA. It must be determined that at the time of closing the foreign person reports and pays United States Income Tax on their worldwide income.

There is a second exception for a foreign person who is selling real property for \$300,000.00 or less. In addition to the sales price being equal to or less than \$300,000.00, the buyer must sign an affidavit that the buyer intends to use the property as their residence as defined in the next sentence. To qualify, the buyer (or family members) must have definite plans to reside at the property for at least fifty percent of the days that the property is used by any person during the first two twelve-month periods following the sale.

The final exception, or alternative, is a withholding certificate. Based on a technical reading of the Code, the total amount of withholding under FIRPTA cannot exceed the maximum tax liability realized on the sale of the real property. If the tax on the gain realized on the sale of the real property is less than the 15% withholding or if there is a loss on the sale of the property, a seller can obtain a withholding certificate (using form 8288-B) from the IRS.

The IRS generally reviews and responds within 120 days after the application form is submitted and can authorize a withholding less than the 15%. If the IRS has not authorized the lower amount prior to closing, the closing agent should withhold the 15% of the amount realized and then submit the lesser amount within 20 days of receiving the withholding certificate from the IRS. The difference from the 15% and the amount shown on the withholding certificate can be released directly to the seller.

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## FIRPTA FOREIGN INVESTMENT REAL PROPERTY TAX ACT

### The Procedure and Penalties

A foreign seller must first provide proof of FIRPTA compliance when they originally purchased the property. This is usually evidenced by a non-foreign certificate when the property was purchased. In addition to the requirements under FIRPTA, a foreign person must file a United States tax return – IRS Form 1040 or IRS Form 1040NR. If the 15% withholding is required under FIRPTA, IRS forms 8288 and 8288-A must be submitted to the IRS within 20 days after closing. As discussed above, the closing agent can submit the lesser amount to the Treasury if a withholding certificate is used and approved by the IRS. This lesser amount must be submitted within 20 days of receipt of the withholding certificate.

Although this is a withholding imposed on the seller and the seller is required to report the sale and pay the proper taxes, the buyer is also responsible for any non-withholding, when withholding is required. Therefore, the buyer must ensure that if the seller is a foreign person, the 15% is withheld or a withholding certificate is approved. If this is not done, there can be civil and criminal penalties imposed on the buyer under Federal law.

### Receipts for IMPROVEMENTS to include:

New Roof	YES
New Air Conditioner	YES
Flooring	YES
New Pool Equipment: New Pool Pump, Pool Heater etc.	YES
Kitchen/Bath Remodel	YES
New Cabinets	YES
Screen Enclosure	YES
Furniture	YES
Bedsheets, Towels etc. (if sold with Property)	YES
Kitchen Appliances	YES
Dishes (if sold with Property)	YES
Lawn/Garden: New Trees, Pavers for Walkway etc.	YES
Repairs or Maintenance	NO
Lawn/Garden: Fertilizer, Mulch and Annual Maintenance	NO
Property Taxes and Insurance	NO

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