



CHICAGO BULL

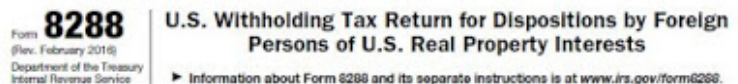
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Are Foreign Seller(s) involved in your closing? FIRPTA CHANGES TAKE EFFECT February 16, 2016, beginning with closings on or after February 17, 2016!!

The Foreign Investment in Real Property Tax Act (FIRPTA) requires foreign persons to pay U.S. income tax on the gains they make from selling U.S. real estate. FIPTA imposes a duty on a U.S. national buyer **to deduct and withhold a portion of the sales price and to report the sale to the IRS**. But typically the closing attorney would handle this withholding and remittance to the IRS on behalf of their client, the buyer.

The rules for the amount of FIRPTA withholding change for dispositions *after* February 16, 2016. The following summarizes the withholding amounts required by FIRPTA beginning for closings effective on February 17, 2016, and after:

- If the property will not be used as the buyer's primary residence, the withholding rate is 15% of the amount realized (generally the sales price), and reporting is required.
- If the amount realized is **\$300,000 or less**, AND the property will be used as the buyer's **primary residence**, the withholding rate is 0%, and no reporting is required.
- If the amount realized **exceeds \$300,000 but does not exceed \$1,000,000**, AND the property will be used as the buyer's **primary residence**, the withholding rate is 10% of the amount realized, and reporting is required.
- If the amount realized **exceeds \$1,000,000**, then the withholding rate is 15% of the amount realized, regardless of use by the buyer, and reporting is required.



The IRS has released new versions of Form [8288](#) and [8288-B](#) to reflect the increase in the FIRPTA withholding rate and effective date, February 17. The traditional FIRPTA affidavits that closing attorneys have been using are still important to obtain the confirmations necessary to comply with the above requirements, -- especially the buyer's intention to use as their primary residence.

The FIRPTA change is part of a lengthy bill, The Protecting American Taxpayers from Tax Hikes (or "PATH") Act, H.R. 2029, that became law on December 18, 2015 as Public Law 114-113. See Section 324 of the bill, which amends 26 U.S. Code §1445.

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