



**PAYAN & PAYAN**  
CERTIFIED PUBLIC ACCOUNTANTS

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# Memo

**To:** Foreign Seller  
**From:** Jason D. Payan, CPA  
**Re:** Selling Property & FIRPTA Withholding

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The following memo is a brief outline of the issues a foreign individual will need to consider when selling property in the U.S. For additional information related to this issue or any other specific matter we strongly suggest you contact our offices and speak with one of our Certified Public Accountants (CPAs). Our contact information is as follows:

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- Generally when a non-U.S. citizen sells property the buyer of the property is required to hold back (withhold) 15% of the gross sales price of the transaction and send it to the Internal Revenue Service (IRS) as a prepayment towards any possible U.S. taxes owed. This payment is often called **“FIRPTA Withholding”**.
- Buyer is responsible for withholding the cash & can be held liable for failure to withhold, if required.
- FIRPTA Reduction:
  - Sale/Purchase is \$1,000,000 or less
  - Buyer will reside in the property after the purchase
  - Both buyer & seller must sign a declaration statement attesting to the above two bullet points. Payan & Payan CPAs can assist you with preparing this declaration statement.
- FIRPTA Exception:
  - Sale/Purchase is \$300,000 or less

- Buyer or a member of buyer's family must have definite plans to reside at the property for at least 50% of the number of days the property is used by any person during each of the first two 12-month periods following the date of transfer. When counting the number of days the property is used, do not count the days the property will be vacant.
- Both buyer & seller must sign a declaration statement attesting to the above two bullet points. Payan & Payan CPAs can assist you with preparing this declaration statement.
- Seller will need to file a U.S. tax return in order to report the sale of the property. A tax return must be filed even if there are no taxes owed and a tax return must be filed even if FIRPTA withholding was not applicable.
- In order to get a refund of FIRPTA Withholding the seller must apply for a U.S. Tax ID number, often called an ITIN, when the tax return is filed. In order to apply for an ITIN the following is needed:
  - A **certified** copy of your passport. You must obtain this certified copy directly from:
    - The passport agency back in your home country or
    - The closest U.S. Embassy/Consulate or
    - Payan & Payan CPAs can certify your passport if you are in Las Vegas, Nevada or
    - There may be a certifying agent near you. This link from the IRS will let you know who can properly certify a passport.  
  
<https://www.irs.gov/Individuals/Acceptance-Agent-Program>
  - IRS Form W-7, Application for Individual Taxpayer Identification Number and
  - IRS Form 2848, Power of Attorney