

## Quick FIRPTA checklist

**EVERY SINGLE U.S. real estate transaction is a FIRPTA transaction** until you have either A or B;

- A. Obtain a certificate of non-foreign status based upon any of the following:
  - i. U.S. Passport
  - ii. U.S. Birth certificate
  - iii. U.S. Naturalization certificate
  - iv. U.S. Permanent Resident Card aka "Green Card" if the seller(s) is in the U.S.
  - v. Meet the Substantial Presence Test
    - i. Have a valid Tax ID
    - ii. Be current with U.S. tax filing obligations.
- B. Proceed with FIRPTA withholding compliance.

## Common questions about FIRPTA withholding.

- **Seller has a U.S. Social Security number; FIRPTA does NOT apply.**
  - **False**, having a U.S. SSN does NOT automatically exempt a seller from FIRPTA withholding, a Tax ID, State Driver's License or U.S. Entry Visa do not determine U.S. tax residency, contact us for further verification.
- **Seller has an ITIN – FIRPTA DOES applies;**
  - **False**, if seller has an ITIN the seller **MAY** qualify for a FIRPTA exemption, contact us for further verification.
- **Seller meets SPT, FIRPTA does NOT apply.**
  - U.S. tax residency rules are complex and often misunderstood only take advice from an experienced tax professional, please contact us for further verification.
- **The foreign spouse of a married couple can allocate his/her share to the U.S. spouse to avoid FIRPTA.**
  - **False**, the foreign spouse will be subject to FIRPTA withholding on their share of the value of the sale, please contact us for further verification.
- **The seller is a "Domestic LLC." FIRPTA does not apply.**
  - **False** If the owner of a State LLC is a foreign individual and the LLC is a single member or a "sole proprietor" disregarded entity, **IRS ignores the LLC** and looks through to ultimate owner and **FIRPTA rules apply to the foreign owner or the Limited Liability Company.**
- **If seller is a U.S. corporation, partnership, etc. The entity must still provide a certificate of non-foreign status.**
- **If the sales price of a RESIDENTIAL property is \$300,000 or less AND the property will be buyer's main residence AND buyer is willing to sign a document stating he will occupy the property for at least 50% of the time for the next 2 years **FIRPTA does NOT** apply.**

**Remember, we do not charge to answer your questions, let us be a resource and make FIRPTA easy for you!**