



A Guide to Tax Withholding Requirements
for
Foreign Citizen / Residents Who Sell US Property
(A Guide for Foreign Sellers, Realtors and Escrow)

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DIRECTS

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Foreign Person IRS Withholding

The IRS requires the escrow co. must withhold 15% of the sales price on the sale of United States real property interests by foreign persons (on sales above \$1,000,000), and either 15% or 10% on sales between \$300,001 and \$1,000,000, and either 15% or \$0 for sales of \$300,000 and under. The lower withholding amount at both levels requires the buyer to purchase the property with the intent to use it as a residence.

| GROSS SALES PRICE | Buyer Intends To Use Property as a Residence? | YES | No |
|-------------------------|--|-----|-----|
| | \$300,000 and Under | \$0 | 15% |
| | \$300,001- \$1,000,000 | 10% | 15% |
| | Over \$1,000,000 | 15% | 15% |

- A. **Who counts as a foreign person?** A nonresident alien individual; a foreign corporation; a foreign partnership; a foreign trust; a foreign estate.
- B. **Who counts as a nonresident alien?** These are individuals who meet two conditions: (1) they are not US citizens, and (2) not (full-time) legal US residents.
- C. **Example (1).** A US citizen living in Paris sells his Los Angeles vacation home—*no withholding required on US citizens (no matter where they live at the time of sale).*

Example (2). A Danish citizen has a US work visa, lives and works in San Diego and sells her San Diego home—*no withholding on full-time legal US residents.*

Example (3). A Canadian vacationing 5 months a year in the US on a Canadian tourist visa sells her Palm Springs house—*15% or 10% withholding required, the Canadian citizen is on a vacation visa in the US and is not a legal US resident.*

Example (4). A Canadian vacationing 5 months a year in the US on a Canadian tourist visa sells her Palm Springs house, also happens to have a social security number from when she worked in the US 5 years ago—*15% or 10% withholding required, the Canadian citizen is on a vacation visa in the US and is not a full-time legal US resident, the fact that she has a social security number does not change the fundamental facts that she is not a US citizen nor a US resident at the time of sale.*

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A Foreign Seller Generally Waits up to A Year and A Half for A Refund of the Withholding Tax, But, A Good Realtor[®] Can Guide A Foreign Seller to Obtain A Tax Release In Around 3-4 Months

The Normal Process Requires A Foreign Seller to Wait up to A Year and A Half for a Refund of the Excess Foreign Seller Withholding Tax

Normal Process Example: In 2014, Chinese citizen/residents Cindy & Jimmy purchase a Los Angeles house for \$1,000,000. In January 2017, they sell the house for \$1,200,000. The withholding tax on the sale is \$180,000 (\$1.2M x 15 percent = \$180,000). The real income tax owed on this sale is approximately \$30,000, because in the US property sales are generally taxed at a rate of 15 percent X appreciation (\$200,000 x 15% = \$30,000). In this case Cindy and Jimmy are owed a refund of approximately \$150,000 (\$180,000 - \$30,000 = \$150,000). In the normal process, Escrow sends the \$180,000 Withholding Tax Into the IRS at the Close (January 2017). After waiting to complete a tax return in January 2018 (they can't do a tax return until the year after the sale-2018). Cindy & Jimmy will receive a refund of \$150,000 (\$180,000 withholding tax - \$30,000 real tax = \$150,000) around July 2018. **(18 months after the close. Yikes!!). Plus, they will receive no interest on the \$150,000 the IRS held for 18 months.**

A Good Realtor[®] Can Guide The Foreign Seller to the IRS Form 8288-B Option, Which Allows the Foreign Seller to Receive A Release of the Excess Foreign Seller Withholding Tax In Around 3-4 Months

What is the 8288-B option? The Foreign Seller may file an IRS Form 8288-B application, and the escrow company may (at its discretion) hold the withholding tax in a Client Trust Account while the 8288-B is being reviewed by the IRS. **THE 8288-B ALLOWS THE FOREIGN SELLER THE ABILITY TO OBTAIN A RELEASE OF THE EXCESS WITHHOLDING TAX UP TO OVER A YEAR EARLIER THAN IF THE WITHHOLDING TAX IS SENT INTO THE IRS AT CLOSING.**

8288-B Example: Same example as above, except Cindy and Jimmy's Tax Professional (Such as DIRECTS) now prepares an 8288-B Application prior to the date of close and Escrow agrees to hold the \$180,000 in a Client Trust Account. If done properly, the IRS approves the release of \$150,000 (held in escrow trust account) in May 2017 (and Escrow sends into the IRS the required \$30,000 tax). **The day the withholding certificate is received, Escrow can release the \$150,000 to the Sellers, over a full year earlier than Cindy & Jimmy would have otherwise received this amount via the normal process. This is the 8288-B withholding certificate request process—a tremendous potential benefit to the foreign seller and a "Gold Star" to the Realtor[®].**

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To Obtain A Refund at Any Point, A Foreign Seller Must Procure A US Taxpayer ID Number (ITIN) As Quickly As Possible

When Can A Foreign Seller First Apply for A US Taxpayer ID Number (An "ITIN")?

Answer: The Foreign Seller can only first apply once they have entered into a signed agreement to sell their US Real Estate.

What Must A Foreign Seller Submit to the IRS to Procure an ITIN?

Answer: The Foreign Seller must submit: (a) a copy of the signed Sales Agreement; (b) a certified copy of the Foreign Seller's Passport; and (c) other assorted IRS Forms.

How Does A Foreign Seller Obtain A Certified Copy of His or Her Passport?

Answer: By having the passport certified by:

- a. The US Embassy or Consulate in the non-US person's home country.
- b. A consulate office of the non-US citizen / resident's home country located in the US (such as the Canadian Consulate in Los Angeles). Note: many countries do not offer this consulate service to their citizens.
- c. A government office in the foreign citizen's home country which issues passports (such as a Canadian governmental passport office in Vancouver). Note: many countries do not offer this service in their passport offices.
- d. Some IRS Offices will certify foreign passports.
- e. Private tax professional in the US (or in foreign countries), specifically permitted by the IRS to certify foreign passports (an "IRS approved certifying acceptance agent"), such as DIRECTS.

Note: Previously issued ITIN's not used on a US tax return within the prior 3 years will be invalidated. To determine if ITIN is still valid, phone the IRS at 1.800.908.9982 for ITIN verification (if you are in the US) and at 1.267.941.1000 (from outside the US).

AT DIRECTS WE...

- **Obtain ITIN's required of Foreign Sellers of US real estate (and, certify foreign passports for submission to the IRS).**
- **Prepare 8288-B Withholding Certificate Applications (to obtain an expedited release of the excess foreign withholding tax), and forms for escrow such as Forms 8288 and 8288-A.**
- **Prepare Tax Returns required by the IRS of the Foreign Seller in the year after sale.**

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EXHIBIT ONE

中华人民共和国外交部请各国军政机关对持照人予以通行的便利和必要的协助。

The Ministry of Foreign Affairs of the People's Republic of China requests all civil and military authorities of foreign countries to allow the bearer of this passport to pass freely and afford assistance in case of need.

The original document of which, this is a photocopy, appears to be genuine and unaltered and to have been made at the time purported. This photocopy consists of 2 page(s).

SIGNATURE [Signature]
DATE 15 AUG 2017 TITLE Keith Devereaux
Vice Consul



| | | | |
|----------------|------------------------------------|--|----------------------------------|
| 护照 PASSPORT | 类型 / Type P | 国家码 / Country Code CHN | 护照号 / Passport No. [REDACTED] |
| | 姓 / Surname [REDACTED] | 出生地点 / Place of birth [REDACTED] | |
| | 名 / Given names [REDACTED] | 签发地点 / Place of issue 河南 / HENAN | |
| | 性别 / Sex 男 / M | 有效期限 / Date of expiry 1 [REDACTED] | |
| | 出生日期 / Date of birth [REDACTED] | 签发日期 / Date of issue [REDACTED] | |
| | 签发机关 / Authority 公安部出入境管理局 | Exit & Entry Administration Ministry of Public Security | |

43978923

For U.S. IRS use only

EXHIBIT TWO

Internal Revenue Service
P.O. Box 409101
Ogden, UT 84409

Department of the Treasury

Date of the Withholding Certificate: 04/19/2021
Taxpayer Identification Number: [REDACTED]
File Number: 202104753

[REDACTED]
% DIRECTS
41945 BOARDWALK STE A
PALM DESERT, CA 92211

Contact Person: CUSTOMER SERVICE
Contact Telephone Number: 267-941-1000
(Not a toll-free number)
Contact Hours: 06:00 am - 9:00 pm

Dear [REDACTED] EDWARD W. HARRIS:

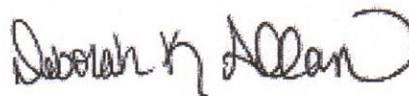
We received Form 8288-B, Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests. This Form 8288-B is for the disposition of the U.S. real property interest described as 24091 MEADOWBROOK LN, SANTA CLARITA, CA. The transferor of the described property is [REDACTED] EDWARD W. HARRIS and the transferee is [REDACTED] STEFAN G. MAUR.

This letter is your approved withholding certificate and your legal notification that the required withholding amount for \$485,000.00 tax liability for the disposition of the U.S. real property interest described above would exceed their maximum tax liability. Therefore, we reduced the required withholding to \$0.00.

As a reminder, this withholding certificate doesn't eliminate the requirement to file a U.S. income tax return to report this transaction.

If you have any questions, please call customer service. The telephone number and hours appear above. If the number is outside your local calling area, there will be a long-distance charge to you. Or, you may write to us at the address shown at the top of this letter.

Sincerely,



Deborah K Allan
Operations Manager, Accounts Management 1

EXHIBIT THREE

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| | | | | |
|---|--|---|---|--|
| Withholding agent's name, street address, city, state, and ZIP code GENERAL INVESTMENTS 1420 CALIFORNIA ST GREENSBORO, GA 31201 | | 1 Date of transfer 02/09/2018 <i>h&v/h&v/</i> | Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests OMB No. 1545-0002 | |
| | | 2 Federal income tax withheld 30 075 | | |
| Withholding agent's Federal identification number [REDACTED] | Identification number of foreign person subject to withholding (see instructions) [REDACTED] | 3 Amount realized 1,585,000 | 4 Gain recognized by foreign corporation | Copy B Send to Internal Revenue Service Center (For Use by Person Subject to Withholding) This information is being furnished to the Internal Revenue Service. |
| Name of person subject to withholding [REDACTED] | | 5 Description of property transferred [REDACTED] | | |
| Foreign address (number, street, and apt. or suite no.) ROOM 2-4, LONDON STREET [REDACTED] | | 6 Person subject to withholding is: An individual <input checked="" type="checkbox"/> A corporation <input type="checkbox"/> Other (specify) > | | |
| City, province or state, postal code, and country (not U.S.) [REDACTED] | | 7 Country code CH | | |
| | | Mailing address of person subject to withholding (if different) [REDACTED] | | |

Form 8288-A (Rev. 2-2016) Department of the Treasury - Internal Revenue Service

COPY B

JUN 28 2018

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