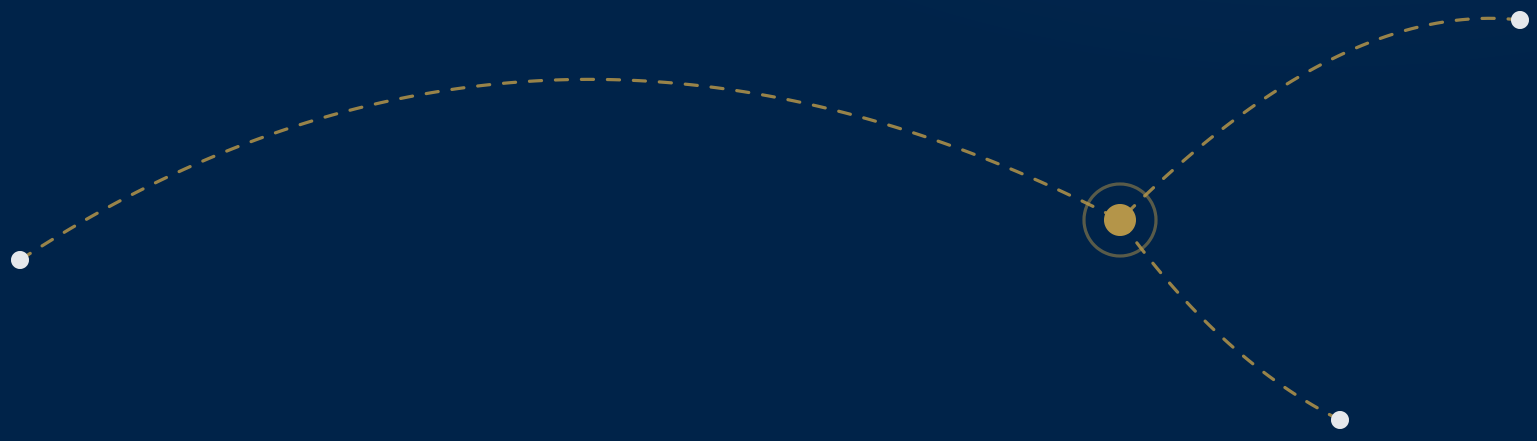
BORDERLESS
SAN DIEGO REAL ESTATE

FREE GUIDE · 2026 EDITION

The Foreign Seller's FIRPTA Guide

How much is withheld when you sell California property, and how to get it back.





Brandon White
Team Anderson White · CA DRE #01864163
+1 619-905-3313 (WhatsApp) · brandon.white@pacificsir.com

Pacific | Sotheby's INTERNATIONAL REALTY

THE SHORT ANSWER

When a foreign person sells U.S. real estate, the buyer generally must withhold 15% of the sale price and send it to the IRS under FIRPTA. In California, another 3⅓% of the price usually goes to the state. It's a prepayment, not the final tax: you file returns to get back anything over what you actually owe, or apply in advance to reduce it.

What FIRPTA is

FIRPTA, the Foreign Investment in Real Property Tax Act, makes sure foreign owners pay U.S. tax on the sale of U.S. real estate. Because the IRS may not be able to collect from a seller who lives abroad, the law requires the **buyer** to withhold part of the price at closing. In practice, the escrow company handles it.

FIRPTA applies when the seller is a **foreign person** for tax purposes: generally anyone who isn't a U.S. citizen or green card holder and doesn't meet the substantial presence test, plus foreign companies.

How much is withheld

SITUATION	FIRPTA WITHHOLDING
Standard rate	**15%** of the amount realized (the sale price, including any debt the buyer takes over)
Price over $300,000 up to $1,000,000, and the buyer will live in the home	**10%**
Price $300,000 or less, and the buyer will live in the home	**0%**

The reduced rates only apply when the buyer signs a statement that they (or their family) will use the home as a residence for at least half the days it's used in each of the first two years. Many buyers won't sign this, so plan on 15% unless you know otherwise.

California's extra 3⅓% withholding

California has its own withholding on sales of California property. By default it's **3⅓% of the total sale price**, reported on **Form 593**. As the seller you can instead elect an optional calculation based on your estimated gain, which can be lower if your profit is small.

- No California withholding is required if the sale price is **$100,000 or less**.
- A seller who owned and lived in the home as their principal residence for two of the last five years may be exempt.
- The escrow company sends the withholding to the Franchise Tax Board by the 20th day of the month after closing.

An example: selling a $1.5 million home

ITEM	AMOUNT
Sale price	$1,500,000
FIRPTA withholding (15%)	$225,000
California withholding (3⅓%)	$50,000
Held back at closing	**$275,000**

That's money you don't receive at closing, even if your actual tax bill is much smaller. Try your own numbers in the seller withholding calculator.

The forms and deadlines

- **Form 8288 and Form 8288-A:** the buyer (through escrow) files these and sends the withholding to the IRS within 20 days of closing. You receive a stamped copy of 8288-A to use when you file.
- **Form 8288-B (withholding certificate):** you or the buyer can apply to the IRS to reduce or eliminate withholding when your actual tax will be lower than 15%. The IRS aims to respond within about 90 days, so a CPA will usually file it well before closing.
- **Form 1040-NR:** your U.S. tax return for the year of sale. This is where you report the sale and claim a refund of any excess withholding. You'll need an ITIN.

How to reduce it or get it back

1. **Bring in a cross-border CPA when you list,** not when you close. They can estimate your real tax and decide whether a withholding certificate is worth filing.
2. **Gather your records:** purchase price, closing statements, and receipts for improvements. These reduce your taxable gain.
3. **Get your ITIN** in place if you don't have one.

4. **File your returns** after the year ends to recover any excess federal and California withholding.

If you're a U.S. citizen or green card holder living abroad, you're not a foreign person for FIRPTA. Sign the non-foreign certification in escrow so no withholding is taken.

Your checklist

Work through these in order. Tick them off as you go.

- [ ] Confirm whether you're a foreign person for FIRPTA
- [ ] Estimate federal (15%) and California (3⅓%) withholding on your price
- [ ] Bring in a cross-border CPA when you list, not at closing
- [ ] Gather purchase records and receipts for improvements
- [ ] Decide whether to apply for a withholding certificate (Form 8288-B)
- [ ] Get an ITIN if you don't have one
- [ ] Keep the stamped Form 8288-A from escrow
- [ ] File your U.S. and California returns to recover excess withholding

Questions buyers ask

What is the FIRPTA withholding rate?

The standard FIRPTA withholding is 15% of the sale price. It drops to 10% for homes over $300,000 up to $1,000,000, and 0% for homes $300,000 or less, when the buyer will live in the home and signs a statement saying so.

Is FIRPTA withholding the same as the tax I owe?

No. FIRPTA withholding is a prepayment. Your actual tax is based on your gain. You file a U.S. tax return after the sale to report it and get back any excess withholding.

How do I get my FIRPTA withholding back?

File a U.S. nonresident tax return (Form 1040-NR) for the year of the sale, using the stamped Form 8288-A from escrow. You'll need an ITIN. To reduce withholding before closing instead, apply for a withholding certificate with Form 8288-B.

Does California have its own withholding?

Yes. California generally withholds 3⅓% of the sale price on Form 593, or an amount based on your estimated gain if you elect it. Sales of $100,000 or less are exempt, as are some principal

residences.

Does FIRPTA apply to U.S. citizens living abroad?

No. U.S. citizens and green card holders aren't foreign persons under FIRPTA, wherever they live. They sign a non-foreign certification in escrow and no FIRPTA withholding is taken.

Who pays the FIRPTA withholding?

It comes out of the seller's proceeds. The buyer is legally responsible for withholding it, and the escrow company handles the paperwork and payment to the IRS.

Want a plan for your exact situation?

Tell me your country, budget and timeline. I'll send a step-by-step plan and introduce the lenders, attorneys and tax advisors who work with buyers like you.

WHATSAPP
+1 619-905-3313

EMAIL
brandon.white@pacificsir.com

WEB
borderlesssandiego.com

General information only, not legal, tax, immigration or financial advice. Rules change; confirm your situation with a licensed professional. Last reviewed November 2026. Pacific Sotheby's International Realty. Sotheby's International Realty® and the Sotheby's International Realty logo are service marks licensed to Sotheby's International Realty Affiliates LLC and used with permission. Each office is independently owned and operated. Equal Housing Opportunity.