



**Sun City Grand
Canadian Seminar
Living/Investing in the USA**



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**Clint Gould, CPA and CAA
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If you are an individual in need of FIRPTA services now or in the future,
Clint would be happy to answer any questions you have!

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Selling Your U.S. Real Estate

THE FIRPTA WITHHOLDING PROCESS

CLINT GOULD, CPA AND CAA

A little about me.....

- Born and raised in a small town in the Upper Peninsula of Michigan...and grew up playing hockey in Sault Saint Marie, Ontario.
- Moved from Michigan to Alaska where I lived for twelve years, getting to travel through other parts of Canada on the way.
- First came to Phoenix late 90's to visit friends and go to Red Wing games and then moved to Arizona around 2001.
- In 2016 a Canadian friend asked me for help with their FIRPTA process and referrals went from there.
- Love working with Canadians, really appreciate the referrals, and FIRPTA services are now 95% or more of my tax practice.
- My first presentation! Thank you for having me!

What type of clients I work with.....

- Almost exclusively Canadians.
- My clients own the U.S. properties in their personal names which is most of you!
- My apologies, I do not serve ownership by Trusts, Estates, or Corporations.
- Types of properties owned are vacation homes, rental homes, combination of both.

FIRPTA – What is it? – Basic Framework

- FIRPTA Stands for: Foreign Investment in Real Property Tax Act.
- It is a *Withholding* (not a tax) to be applied towards your capital gains tax (if any) on the sale of your U.S. property.
- The IRS way of making sure you pay your capital gains tax owed (if any) on the sale of your U.S. property.
- Occurs at the time of your property closing & taken from your sales proceeds.
- The buyer is responsible for making sure the withholding takes place and remitting the withholding to the IRS within 20 days after close of escrow...but Title Company handles it.

FIRPTA Withholding Rates

- Withholding rate is based on the *sales price* of your property AND how the *buyer* is going to use the property.
- Default withholding rate is 15% of the sales price.
- Exceptions are.....
- No FIRPTA withholding for sales \$300,000 and under IF buyer is going to use the property as a residence (as defined by the IRS).
- For sales between \$300,001 and \$1 Million, withholding can be reduced to 10% if the buyer is an individual and will be using the property as a residence (as defined by the IRS).
- The Title Company sends the withheld funds to the IRS within 20 days of closing on behalf of the buyer.

How much of the withholding do you get back, and how, and when?

- When you do a U.S. tax return, it calculates the true tax liability and you get a tax refund of the difference from what was withheld from you.
- The true tax liability is calculated based off the Capital Gain on the sale (the withholding was based off the sales price).
- The tax return is completed during the tax season for the year you sold your property.
- For example, if you sold your U.S. property in 2023, your tax return is prepared during the 2023 tax season which is January through April 2024.

Can I get my withholding back sooner?

Withholding Certificates

- You can apply to the IRS for an early refund of your withheld funds through a 'Withholding Certificate' application to the IRS.
- This application asks the IRS if they will refund your money sooner than having to wait for tax season. It is not a guaranteed yes.
- The Title Company holds your withheld funds instead of sending it to the IRS while they wait for an answer from the IRS. (so you still don't have possession of these funds at this time).
- They normally are supposed to take the IRS 90 days to answer you.
- Ever since the pandemic this process is broken down taking a year in some cases, and I am not recommending for 2023.

Example:

Step #1 - Withholding

Sales Price: \$500,000

If buyer uses as a residence, withholding is 10% (\$50,000).

If buyer not using as a residence, then withholding is 15% (\$75,000).

For this example, let's use the 10%, \$50,000 withholding.

This amount gets withheld from your sales proceeds, and the Title Company sends it to the IRS. They hold until you do your tax return.

Step #2: What is your Capital Gain & Tax?

Sales Price	\$500,000
Minus Purchase Price	- \$300,000
Minus Capital Improvements (not repairs!**)	- \$80,000
Minus allowable deductible fees	- 40,000
Equals the Capital Gain:	\$80,000

Let's assume ownership over a year = long term gain rates.

Each owner gets the ~ first \$44,000 at 0% tax (assuming no other income).

If two owners, the capital gains tax would be \$0, so full refund of withheld funds.....\$50k refund.

If one owner, the capital gains tax would be ~ \$5,000.....\$45k refund.

Step #3: State Capital Gains Taxes

- Unlike the Federal Government, State Governments do not withhold from you at your closing.
- Therefore if your State tax return has an amount owed, you pay that liability when it is due (by April 15th the year after your sale).
- For Arizona, each owner gets approximately \$12,500 of the gain at 0%, then 2.5% on the remaining amount.
- So in previous example, if two owners, the tax owed would be approximately: $\$80,000 - \$12,500 - \$12,500 \times 2.5\% = \$1,375$

Rental Properties.....a few comments

If you have positive rental income, then that can effect the capital gains rates mentioned earlier.

Keep in mind that you will also have tax on depreciation recapture from prior year allowable depreciation (whether you claimed the depreciation in prior years or not!)

Prior year carryforward losses (if any) will be deducted upon sale.

ITIN Number: What is it and do I need one?

U.S. Individual Tax Identification Number (ITIN)

Each owner will need to obtain an ITIN number for preparing their tax returns.

How I serve my clients.....

- As a Certified Acceptance Agent (CAA) with the IRS....I certify my clients passports and apply for their ITIN.
- As a Certified Public Accountant.....

I advise my clients before, during and after their closing.

I gather all documents from the Title Company needed for the ITIN application and for the client's tax returns.

I collect all of the IRS correspondence that my clients receive after their closing and handle the stated requests.

How I serve my clients.....continued.....

I offer to fill out the withholding forms for the buyers so that your refund process goes as smooth as possible!

I stay in contact with my clients throughout the year and if things are not progressing as expected with the IRS, I contact them.

I prepare their State and Federal tax returns to help them obtain their Federal tax refund.