STATEMENT OF INTENT TO RESIDE

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Before me, the undersigned authority, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, "Affiant,” who being by me first duly sworn, on oath deposes and say:

1. I am/we are the transferee(s) (Buyer(s)) of real property located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. The sales price does not exceed $300,000.
3. I am/we are purchasing the real property to use as a residence. I have definite plans that I and/or a member of my family will reside in the property for at least 50% of the number of days that the property is used by any person during the two 12 month periods following the date the property is transferred to me.
4. I am/we are making this affidavit in order to establish an exemption from withholding a portion of the sales price of the property under Internal Revenue Code Section 1445.
5. I/we understand that if the information in this affidavit is incorrect or unforeseen circumstances within the 24-month period disqualify me, I may be liable to the Internal Revenue Service for up to 10% of the sales price of the property, plus interest and penalties.
6. The Undersigned has read and understands the attached “Exceptions from FIRPTA Withholding” provided by the Internal Revenue Service, memorandum “ and declare that my (our) decision to rely on this exception to the 10% FIRPTA withholding rule is solely my (our) own decision, and agree to hold harmless (Title Agency name) and any real estate brokers or agents involved in this transaction from any and all taxes, penalties and interest for my (our) failure to meet the requirements of this exception.

FURTHER AFFIANT SAYETH NOT:

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
 Affiant

The foregoing instrument was duly sworn before me on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, who did take an oath.

[Seal] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Notary Public

Typed or Printed Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[ ]Personally known or [ ] produced identification.

Type of Identification produced:

NOTICE: THIS FORM IS INTENDED FOR USE ONLY BY INDIVIDUAL BUYERS (AND CANNOT BE USED BY CORPORATIONS, PARTNERSHIPS, TRUSTS, ETC.). THIS FORM DOES NOT NEED TO BE SUBMITTED TO THE INTERNAL REVENUE SERVICE, BUT SHOULD BE RETAINED BY THE PARTIES FOR THEIR RECORDS. THE $300,000 EXCEPTION ALSO CANNOT BE USED FOR A PURCHASE OF RAW LAND OR COMMERCIAL PROPERTY

[MODIFY JURAT FOR STATE SPECIFIC REQUIREMENTS]

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**Exceptions from FIRPTA Withholding**

*Generally you do not have to withhold in the following situations; however, notification requirements must be met:*

1. You (the transferee) acquire the property for use as a home and the amount realized (generally sales price) is not more than $300,000. You or a member of your 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.
2. The property disposed of (other than certain dispositions of nonpublicly traded interests) is an interest in a domestic corporation if any class of stock of the corporation is regularly traded on an established securities market. However, if the class of stock had been held by a foreign person who beneficially owned more than 5% of the fair market value of that class at any time during the previous 5-year period, then that interest is a U.S. real property interest if the corporation qualifies as a United States Real Property Holding Corporation (USRPHC), and you must withhold on any disposition.
3. The disposition is of an interest in a domestic corporation and that corporation furnishes you a certification stating, under penalties of perjury, that the interest is not a U.S. real property interest. Generally, the corporation can make this certification only if the corporation was not a USRPHC during the previous 5 years (or, if shorter, the period the interest was held by its present owner), or as of the date of disposition, the interest in the corporation is not a U.S. real property interest by reason of section 897(c)(1)(B) of the Internal Revenue Code. The certification must be dated not more than 30 days before the date of transfer.
4. The transferor gives you a certification stating, under penalties of perjury, that the transferor is not a foreign person and containing the transferor's name, U.S. taxpayer identification number, and home address (or office address, in the case of an entity).
5. You receive a withholding certificate from the Internal Revenue Service that excuses withholding. Refer to Withholding Certificates.
6. The transferor gives you written notice that no recognition of any gain or loss on the transfer is required because of a nonrecognition provision in the Internal Revenue Code or a provision in a U.S. tax treaty. You must file a copy of the notice by the 20th day after the date of transfer with the:
7. Internal Revenue Service Center
P.O. Box 409101
Ogden, UT 84409.
8. The amount the transferor realizes on the transfer of a U.S. real property interest is zero.
9. The property is acquired by the United States, a U.S. state or possession, a political subdivision thereof, or the District of Columbia.
10. The grantor realizes an amount on the grant or lapse of an option to acquire a U.S. real property interest. However, you must withhold on the sale, exchange, or exercise of that option.
11. The disposition (other than certain dispositions of nonpublicly traded interests) is of publicly traded partnerships or trusts. However, if an interest in a publicly traded partnership or trust was owned by a foreign person with a greater than 5% interest at any time during the previous 5-year period, then that interest is a U.S. real property interest if the partnership or trust would otherwise qualify as a USRPHC if it were a corporation, and you must withhold on it.

**Certifications**

The certifications in items (3) and (4) are not effective if you have actual knowledge, or receive a notice from an agent, that they are false. If you are required by regulations to furnish a copy of the certification to the IRS and you fail to do so in the time and manner prescribed, the certifications are not effective.

**Liability of Agents**

If you receive either of the certifications discussed in item (3) or (4) and the transferor's agent or your agent (the transferee's agent) has actual knowledge that the certification is false, or in the case of (3), that the corporation is a foreign corporation, the agent must notify you, or the agent will be held liable for the tax. The agent's liability is limited to the amount of pay the agent gets from the transaction.

An agent is any person who represents the transferor or transferee in any negotiation with another person (or another person's agent) relating to the transaction, or in settling the transaction. A person is not treated as an agent if the person only performs one or more of the following acts related to the transaction:

* Receipt and disbursement of any part of the consideration,
* Recording of any document,
* Typing, copying, and other clerical tasks,
* Obtaining title Insurance reports and reports concerning the condition of the property, or
* Transmitting documents between the parties.

A Withholding Agent is personally liable for the full amount of FIRPTA withholding tax required to be withheld, plus penalties and interest.  A Withholding Agent is any person having the control, receipt, custody, disposal or payment of income that is subject to withholding.  Generally, the person who pays an amount to the foreign person subject to withholding must do FIRPTA withholding.

**References/Related Topics**

* [FIRPTA Withholding](http://www.irs.gov/Individuals/International-Taxpayers/FIRPTA-Withholding)
* [Reporting and Paying Tax on U.S. Real Property Interests](http://www.irs.gov/Individuals/International-Taxpayers/Reporting-and-Paying-Tax-on-U.S.-Real-Property-Interests)
* [Withholding Certificates](http://www.irs.gov/Individuals/International-Taxpayers/Withholding-Certificates)
* [Format for Applications](http://www.irs.gov/Individuals/International-Taxpayers/Format-for-Applications)
* [Road Map to Regulations](http://www.irs.gov/Individuals/International-Taxpayers/Road-Map-to-Regulations)
* [Definitions of terms and procedures unique to FIRPTA](http://www.irs.gov/Individuals/International-Taxpayers/Definitions-of-Terms-and-Procedures-Unique-to-FIRPTA)

***Note:****This page contains one or more references to the Internal Revenue Code (IRC), Treasury Regulations, court cases, or other official tax guidance. References to these legal authorities are included for the convenience of those who would like to read the technical reference material. To access the applicable IRC sections, Treasury Regulations, or other official tax guidance, visit the*[*Tax Code, Regulations, and Official Guidance*](http://www.irs.gov/Tax-Professionals/Tax-Code%2C-Regulations-and-Official-Guidance) page. To access any Tax Court case opinions issued after September 24, 1995, visit the [Opinions Search](http://apps.irs.gov/app/scripts/exit.jsp?dest=http://www.ustaxcourt.gov/UstcInOp/asp/HistoricOptions.asp) page of the United States Tax Court.

*Page Last Reviewed or Updated: 13-Jan-2015*