

February 17th 2016

Dear Homeowner,

Naples, Florida: inventory remains low, demand remains high, as of February 17th 2016 \$1.00 US = \$1.38 CAN. If you'd like to know how this will affect you, call Glenn Bradley today, 239-784-7844.

On December 18th 2015; President Obama signed into law the **Protecting Americans from Tax Hikes Act of 2015**. The "Act" contains important modifications to the **Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA")**. The modifications to FIRPTA are effective February 16th, 2016.

The following information is intended as being informative, Coldwell Banker Realtor Glenn Bradley, Naples FL recommends consulting your tax accountant on all transfers of property. February 16th 2016 is the date settlement /closing agents are required to withhold **15%** of the **gross proceeds** from the sale of real estate property by foreign persons.

I have summarized the significant changes to FIRPTA below.

1. Unless an exemption or reduced rate applies, the withholding amount has been increased from 10% to **15%**.
2. If the property is not being acquired as a residence or the transaction exceeds \$1 million for sales price, **15%** of the gross proceeds must be withheld.
3. For properties being acquired by the transferee for use as a residence and which are \$1 million in gross sales price or less and **for which a "Statement of Intent to Reside" is signed by the transferee (buyer)**, the follow rates apply:
 - a. If the sales price is \$300,000 or less withholding is not required (0%) (See: 26 U.S.C. 1445 (b) (5)).
 - b. If the sales price is greater than \$300,000, but not more than \$1 million 10% must be withheld (See: 26 U.S.C. 1445 (c) (4)). (note that the 10% withholding is on the full amount of the gross proceeds)

There are three general ways of dealing with the FIRPTA withholding:

- Having the 15% withheld and file a non resident income tax return for a refund in the year following the sale.
- File an application for reduced rate of withholding with the IRS, on or by the date of closing, (also referred to as a "Withholding Certificate").
 - The seller is mandatorily required to file a non resident income tax return the following year.
- The buyer chooses to sign a "Statement of Intent to Reside" on properties \$1 million or less which triggers one of the steps listed above in number three. Please note that under current law, the Transferee (buyer) is the statutory withholding agent and assumes risk with the taking on of this position.
 - The seller is mandatorily required to file a non-resident income tax return and pay any tax due, plus penalties for underpayment of estimated taxes.

The regulations have not been fully released yet, only the basic Code. It is anticipated the IRS will be updating the Form 8288/8288As.

For additional information on FIRTPA or recent sales in your neighborhood, please contact me at 239-784-7844.

Warmly,

Glenn