



## HARPTA - Hawaii Real Property Tax Act

The purpose of the **Hawaii Real Property Tax Act (HARPTA)** is to ensure that non-residents of Hawaii pay state capital gains tax when they sell Hawaii real property.

As a general rule, every buyer/transferee of real property must withhold (5) percent of the “amount realized” (generally the sales price) and transmit that amount to the State Tax Department within 20 days after closing unless an exemption applies to the seller, and the buyer/transferee receives proof of that exemption before closing.

The standard Hawaii Association of Realtors purchase contract provides that escrow is to withhold the HARPTA amount unless the seller provides the buyer with a certificate of exemption or waiver from HARPTA.

It is the seller’s burden to prove that an exemption applies and to provide that proof to the buyer.

## FIRPTA - Foreign Investment Real Property Tax Act

The **Foreign Investment in Real Property Tax Act (FIRPTA)** ensures that foreign persons - individuals and entities - report and pay applicable capital gains tax when they sell United States real property. As a general rule, every buyer/transferee of real property must withhold ten (10) percent of the “amount realized” (generally the sales price) in a transaction and transmit that amount to the IRS within 20 days after closing unless an exemption applies and the buyer/transferee receives proof of that exemption prior to closing. If the buyer/transferee does not withhold an amount that should be withheld, the buyer/transferee may be liable for the entire amount that should be withheld, and the buyer/transferee may be liable for the entire amount plus late fees and penalties.

The standard Hawaii Association of Realtors purchase contract provides that escrow is to withhold the FIRPTA amount unless the seller provides the buyer with a certificate of exemption or waiver from FIRPTA.

It is the seller’s burden to prove that an exemption applies and to provide that proof to the buyer prior to closing in order to avoid withholding.

This information is presented for informational purposes only and is deemed reliable but is not guaranteed. It is not our intention to provide any legal financial or business advice. For specific information, please consult a qualified advisor.

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