

# NOTICE TO SELLER REGARDING FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA)

This is a form created by the San Diego Association of Realtors® and as such is not covered by the C.A.R. User Protection Agreement. This form is intended for use primarily in the San Diego County area.

Dear Real Estate Seller:

The United States in 1980 adopted FIRPTA. Under FIRPTA your real estate Buyer is legally obligated to withhold ten percent (10%) of the gross sales price otherwise payable to you as Seller. Your Buyer must pay the 10% amount to the Internal Revenue Service (IRS) unless you are an exempt Seller. To prove to your Buyer and the IRS that you are exempt, you must give your Buyer a FIRPTA Affidavit signed by you under penalty of perjury.

That Affidavit must state:

1. the Seller is not a nonresident alien;
2. the home address of the Seller;
3. the taxpayer identification number of the Seller

Seller furnishes the Seller's Affidavit with his or her social security number to escrow or other qualified substitute as defined, who in turn, furnishes a statement to the Buyer stating, under penalty of perjury, that it has the Seller's Affidavit in its possession. A "qualified substitute" is a person responsible for closing the transaction, such as an escrow company, Title Company or the Buyer's agent, but not the Seller's agent.

We have been informed that you do not want to disclose your taxpayer identification number to your Buyer. Failure to disclose violates the federal tax law and breaches Section 19 of your Residential Purchase Agreement.

If you as Seller fail to provide your Buyer with a fully filled out and complete FIRPTA Affidavit (including your taxpayer identification number), your Buyer has the right to do the following:

- A. Instruct the escrow company to withhold 10% of the gross sales price and pay that amount to the IRS for the tax account of you as Seller; or
- B. Instruct the escrow company to delay the closing of escrow for the sale of the real estate until you as Seller provide your Buyer with a fully filled out and complete FIRPTA Affidavit.
- C. Sue the Seller for specific performance and/or damages, including, but not limited to, compelling the Seller to comply with FIRPTA, loss of Buyer's interest rate lock or loan, legal fees and costs.

You are encouraged to contact your accountant and/or legal counsel with any questions regarding FIRPTA requirements.

In order to facilitate a timely closing for your property it is important that we resolve the FIRPTA requirement. Please notify us timely as to how you would like to proceed with this issue.

Sincerely, \_\_\_\_\_

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Date: _____	