



HARPTA - The Hawaii Real Property Tax Act (1990) which says that a sale of Hawaii Real Estate by a Non-Hawaii resident is subject to a Hawaii State Tax. The tax liability belongs to the seller, and 7.25% of the total sales price will be withheld and submitted to the State of Hawaii Department of Taxation.

There are some exemptions from this withholding:

- Hawaii Resident (Must fill out form N-289, which is provided to seller in opening instructions)
- Foreign corporations and partnerships which are registered to do business in the state of Hawaii (Must fill out form N-289, which is provided to seller in opening instructions)
- Property used as principal residence for year prior to the sale and sales price does not exceed \$300,000

For more information on these taxes, please call the appropriate departments or visit their website.

HARPTA - State of Hawaii Department of Taxation:

Oahu 808.587.4242
Maui 808.984.8500
Kauai 808.274.3456
Big Island-Hilo 808.974.6321
or visit www.hawaii.gov/tax

FIRPTA - Internal Revenue Service www.irs.gov and search for FIRPTA



Ryan Sherwood
Account Executive
rsherwood@ortc.com
Phone: 623.451.5587
Cell: 623.451.5587
33 Lono Avenue, Suite 195
Kahului, HI 96732
<https://www.ortconline.com/QuickLinks/rsherwood>

FIRPTA - Under current federal law, if a foreign person sells US real property, the buyer is obligated to withhold 10% of the gross sales price and remit this to the IRS. However, pursuant to the Protecting Americans from Tax Hikes Act of 2015, which became law on December 18, 2015 (the "PATH Act") **the required 10% withholding will increase to 15% for all closings occurring on or after February 17, 2016**, except those wherein the sales price is greater than \$300,000 and does not exceed \$1,000,000 and the buyer acquires the property for use as a personal residence. Under the circumstance, a reduced withholding of 10% will apply.

Sales Price \$300,000 or less and the buyer acquires as personal residence	No Withholding
Sales Price more than \$300,000 but not more than \$1,000,000 and the buyer acquires as personal residence	10% Withholding
All transactions - Any Sales Price and the buyer NOT acquiring as personal residence	15% Withholding

In short, **if a foreign person is selling a US real property interest, the following parameters apply** UNLESS THERE IS AN EXCEPTION FROM WITHHOLDING:

No withholding is required under the following circumstances:

- Buyer acquires for use as a personal residence and sales price not more than \$300,000.
- Seller provides Non-Foreign Affidavit
- Seller provides a Withholding Certificate from the IRS which excuses the withholding
- The amount realized by the seller is zero
- The property is acquired by the United States or a political subdivision thereof

07/2021 | © 2021 Old Republic Title | OR1993-DI-HI |

Old Republic Title is providing this information as a free client service and makes no warranties or representations as to its accuracy.

Old Republic Title strongly recommends consumers confer with their title insurer as underwriting requirements vary among companies and further, obtain guidance and advice from qualified professionals, including attorneys specializing in Real Property, Trusts and/or Title Insurance to get more detailed, and current, information as to any particular situation affecting them.

