

Lori B. Miller, P.C. ATTORNEY AT LAW

Withholding Exception

There is no required FIRPTA withholding if one or more individual transferees acquire a US real property interest for use as a residence and the amount realized on the transaction is \$300,000 or less. The buyer must 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 the sale (calculated without including the number of days the property will be vacant). If the buyer does not use the property as a residence, the withholding tax may be collected from the buyer. The exception does not apply to the sale of vacant land, or to sales to a non-individual buyer (e.g. a trust or corporation).

A form to document the buyer's intended use of the property is available at:

<http://www.lorimillerlaw.com/site/wp-content/uploads/2017/04/Statement-re-Use-as-a-Residence-.pdf>

The forms provided on our website are of general applicability. Use of a particular form may be limited by individual circumstances, and Lori B. Miller, P.C. makes no representations that the forms are applicable to any particular withholding matter. For more information, or to obtain a legal opinion regarding the applicability of the forms in the context of a specific withholding matter, contact Lori B. Miller at (406) 730-2752.