



Sarasota Bay Sunrise

CPA Consultants PA

**1605 Main St #1115
Sarasota, Florida 34236
941.957.1040
Fax 941.957.4600**

**1101 9th Avenue West
Bradenton, Florida 34205
941.746.1040
Fax 941.748.1185**

**INFO@CPACONSULTANTS.COM
WWW.CPACONSULTANTS.COM**

**FIRM PHILOSOPHY
CPA CONSULTANTS PA**

“Arranging”

In the words of Judge Learned Hand ~

"Over & over again courts have said there is nothing sinister in so “arranging” one’s affairs to keep taxes as low as possible. Everybody does so, rich or poor, and all do right, for nobody owes more tax than the law demands; taxes are enforced exaction, not voluntary contributions."

Quote from the honorable Judge Learned Hand, Justice, Appellate Court of the United States.

This “arranging” is where tax returns get more complicated. We take the time to arrange your business structures to keep your taxes as low as legally and reasonably possible.

Limited liability companies, real estate, trusts, limited partnerships, C and S corporations, tax-free exchanges, pension and profit sharing plans, estates, international - a knowledge of all these entities and their place in your business plan is required to best structure your overall tax situation.

Simply
Communicating
Complex Tax Issues

CPA Consultants PA
SARASOTA & BRADENTON, FLORIDA, USA
Certified Public Accountants
and Consultants

**WITHHOLDING
TAX ON
FOREIGN OWNED
U.S. PROPERTY
TRANSACTIONS**



Anna Maria City Pier

CPA Consultants PA

FIRPTA -This brochure includes some commonly asked Tax Questions regarding the foreign tax withholding on U.S. property transactions. Specific questions will arise with the process of our involvement in real estate transactions. This brochure is not a complete interpretation of the tax law on this subject.

Q1. Who is responsible for the withholding?

When U.S. real property is sold by a “foreign person”, the buyer is required to deduct and withhold the 10% tax.

Q2. What is the definition of a “foreign person” with regards to FIRPTA?

A “foreign person” is defined as a nonresident alien individual, a foreign corporation, a foreign partnership, a foreign trust, or a foreign estate. A resident alien individual, including a nonresident alien electing to be treated as a U.S. resident, is not a foreign person.

Q3. How does a buyer determine the seller is not a foreign person? The buyer obtains from the seller a Non-Foreign Certificate (Seller’s FIRPTA Affidavit) and must retain this.

Q4. What amount is required to be withheld on a sale of a U.S. real property? A “foreign person” disposition of a U.S. real property interest must have 10% of the amount realized withheld.

Q5. What constitutes “amount realized”?

An amount realized means the sum of the cash paid, or to be paid (not including interest), the fair market value of other property transferred or to be transferred, and the amount of any liability assumed by the transferee or to which the U.S. real property interest is subject immediately before and after the transfer. Generally, the amount realized, for purposes of FIRPTA withholding, is the sale or contract price.

Q6. Is there an exception to 10% withholding under FIRPTA? There is no withholding required if the the sales price is \$300,000 or less and the buyer (including family members) intends to use the property for personal purposes for more than 50 % of the time the property is in use for the first two 12-month periods following the transfer. Withholding can be reduced if a withholding certificate is obtained from the IRS.

Q7. What is a withholding certificate and who may apply for one? The amount of tax required to be withheld under FIRPTA cannot exceed the maximum tax liability of the transferor. Many times, the liability is significantly less than 10% required withholding. Under these circumstances, the regulations provide a procedure by which the IRS can agree to an amount which is less than the required 10% withholding. The agreement for a reduced amount can be obtained by applying for a withholding certificate. Either the seller or buyer may apply for the withholding certificate.

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Biographies of Certified Public Accountants

C. Ray Burnett III CPA

Ray Burnett has twenty-eight years experience as a Certified Public Accountant. Ray specializes in: Corporate, Individual, Estate, LLC, and Partnership Taxation; Management Advisory Services; Entity Structure; Accounting



Systems. Graduate: University of Florida, 1977; Member: American and Florida Institute of CPAs; Life Director Home Builders Association of Manatee County

Lori Gyson CPA

Born in Frankfort, Michigan, Lori began her accounting career in 1984 in Muskegon, Michigan. Lori graduated with a Bachelor of Business Administration degree from Davenport



College in Grand Rapids, Michigan in 1995 and became a CPA in 1997. Member; American and Florida Institute of CPAs