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**A General Guide for Canadians**  
*Purchasing property in the United States*

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# A General Guide for Canadians

## Purchasing property in the United States

### *#1 No special permit is required*

You may occupy or you may rent your purchase out, however once you rent it out...it is important to consult a cross border Accountant or Tax Specialist as doing so constitutes operating a business in the U.S. on certain levels. For example you cannot personally repair, paint or maintain your U.S. income property without potentially...violating immigration or work visa laws.

Be certain that you understand the rules and regulations regarding how much time you may enjoy your 2nd U.S. Residence without jeopardizing immigration rules or the privileges you enjoy back home such as health care coverage. As a general rule you do not want to plan on exceeding 50% of the calendar year outside Canada.

## Mortgages for Canadian Purchasers

Overall the [loan process](#) is very similar to that for Americans. First of all the borrower will need to complete a [mortgage application](#). The two most important components in the application are the proper disclosure of employment, liquid assets and immigration status. The borrower will be required to furnish a letter of employment, relevant bank statements and a copy of the passport with an acceptable visa stamp. Once all the information has been verified the lender can then determine the most suitable program.

There are two distinct program options available. The first option works if the borrower has perfect Canadian credit. In this case the lender can go through a large credit depository and pull Canadian credit into their system. The lender can then use this in making a credit decision. There is little tolerance for bad credit in this option. Even one late payment on a small credit card account twelve months ago can kick the application out.

Armed with solid Canadian credit the borrower now has access to a broader choice of loan programs. They can qualify for fixed rate loan programs with limited pre-payment penalties and other features common to prime loans. Loans fixed for as long as 30 years or the full amortization period.

In the second program option the lender does not pull Canadian credit and only verifies employment, the liquid assets and the visa status of the applicant. In this case the loan programs are rather limited. These programs usually involve high down payment, 30% or more, variable interest rates, balloon payments and pre-payment penalties. Not all of these features may apply to the loan but will most certainly include a combination depending on the lender.

These two program options are only available for the purchase of a second home. Purchasing a primary residence is still available but will require a long-term US visa such as an H-1B. It also requires proof of continued employment in the US for up to three years. The process is then exactly the same as that for Americans.

Remember you cannot get a Canadian Mortgage to purchase a property in the U.S. Many Canadian purchasers use the option of securing a Canadian Bank Loan to make their U.S. purchase often tapping the equity in their Canadian home to secure the loan. That way in the event of default the Canadian Bank has access to foreclose on the Canadian property.

## **Property Taxes**

Property taxes in some states are higher for a non-resident. Florida is a good example of a state where foreign nationals pay more than permanent residents. In the state of Washington there is no surcharge and you will pay the same property tax amount as a U.S. purchaser. A Foreign National however would not be eligible for any Sales tax rebate programs or federal tax incentives. For a very general idea of how much you will pay in property taxes multiply the price of the home by .75% to get an annual rate. IE: a \$300,000 home x .75% = \$2250 per year ( this is only an approximation)

## **Cost to Purchase**

In Washington the purchasers pay no Tax unlike Canada which levies the buyer PST or the newly introduced HST on new construction.

The Buyer will typically only be responsible for ½ the Escrow Fee (Split evenly between Buyer and Seller) On a \$300,000 home, ½ the fee would be \$520 as an example.

## **Cost to Sell**

When selling you will typically be responsible for ½ the Escrow, a small Recording Fee, Title Insurance (On a \$300,000 sale approx. \$975.00, State Excise tax (approx 1.78-1.83% depending on location and brokerage fees) if you use a real estate firm to market and sell. In Washington commissions are fully negotiable. A common residential commission rate is 6% divided equally between Buyers Agent and Sellers Agent. Split commissions whereby a fixed percentage is paid for the first \$100,000 and a different percentage thereafter, is common in Canada but rare in Washington State.

A good Rule of Thumb is to budget a total of 8.5% of gross sales price to cover Brokerage, taxes and service fees. Chances are the total will come in slightly under, but it's best to calculate a little high as opposed to being disappointed in your net result.

# **FIRPTA**

## **FIRPTA Withholding**

### **Withholding of Tax on Dispositions of United States Real Property Interests**

The disposition of a U.S. real property interest by a foreign person (the transferor) is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) income tax withholding. FIRPTA authorized the United States to tax foreign persons on dispositions of U.S. real property interests. A disposition means “disposition” for any purpose of the Internal Revenue Code. This includes but is not limited to a sale or exchange, liquidation, redemption, gift, transfers, etc. A U.S. real property interest includes sales of interests in parcels of real property as well as sales of shares in certain U.S. corporations that are considered U.S. real property holding corporations. Persons purchasing U.S. real property interests (transferee) from foreign persons, certain purchasers' agents, and settlement officers are required to withhold 10 percent of the amount realized (special rules for foreign corporations). Withholding is intended to ensure U.S. taxation of gains realized on disposition of such interests. The transferee/buyer is the withholding agent. If you are the transferee/buyer you must find out if the transferor is a foreign person. If the transferor is a foreign person and you fail to withhold, you may be held liable for the tax. For cases in which a U.S. business entity such as a corporation or partnership disposes of a U.S. real property interest, the business entity itself is the withholding agent.

The amount that must be withheld from the disposition of a U.S. real property interest can be adjusted pursuant to a withholding certificate issued by the IRS.

- A disposition includes the sale of any U.S. real property interests in the United States or U.S. Virgin Islands.
- Generally speaking, in reference to the disposition of a U.S. real property interest, the foreign person disposing of the US real property interest is referred to as the transferor.
- The purchaser of the U.S. real property interest is referred to as the transferee.
- Generally, the amount realized is the purchase/sales price of the U.S. real property interest but can also include any property received by the transferor and any liability relieved of by the transferor.
- Generally, the buyer/transferee must determine if the seller is a foreign person. If so, the buyer/transferee is responsible for the withholding taxes.  
The buyer/transfer may be held liable for the tax that should have been withheld on the purchase.

One of the most common exceptions to FIRPTA withholding is that the buyer/transferee is not required to withhold tax in a situation in which the buyer/transferee purchases real estate for use as his personal residence and the purchase price is not more than \$300,000.

## Useful Links

### **FIRPTA Government site**

<http://www.irs.gov/businesses/small/international/article/0,,id=105000,00.html>

### **U.S. Citizenship and Immigration Services**

<http://www.uscis.gov/portal/site/uscis>

### **Canada's Nexus Site**

<http://www.cbsa-asfc.gc.ca/prog/nexus/>

### **U.S. Nexus site**

[http://www.cbp.gov/xp/cgov/travel/trusted\\_traveler/nexus\\_prog/nexus.xml](http://www.cbp.gov/xp/cgov/travel/trusted_traveler/nexus_prog/nexus.xml)

### **International tax Expert David Ingram**

<http://www.centa.com/>

## Cross Border Contacts

### **Cross Border Accountant:**

#### **Larson Gross**

8105 Birch Bay Square St # 205

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### **Immigration Attorney:**

#### **Immigration Law Firm**

435 Martin Street

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