

**FEDERAL RESIDENCY DECLARATIONS**

Foreign Investment in Real Property Tax Act (FIRPTA) - International Revenue Code §1445

**NOTE:** This form is used by the seller's agent and escrow when the sale of real estate requires the seller's status for income tax purposes as a citizen, resident alien or neither, to provide information for determining whether the seller is a nonresident alien and escrow withholds 10% of the sale price.

**DATE:** \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, California.  
*Items left blank or unchecked are not applicable.*

**FACTS:**

- 1. This declaration complies with Section 1445 of the United States Internal Revenue Code regarding Seller's status as a citizen or resident of the United States or otherwise, and is for reliance by Broker and any buyer.
  - 1.1 Seller \_\_\_\_\_  
U.S. Tax Identification Number (or Social Security Number) \_\_\_\_\_
  - 1.2 Seller \_\_\_\_\_  
U.S. Tax Identification Number (or Social Security Number) \_\_\_\_\_
- 2. Regarding the proposed sale of real estate referred to as \_\_\_\_\_

**SELLER'S DECLARATIONS:**

- 3. Seller hereby declares:
  - 3.1  I am a citizen of the United States of America;
  - 3.2  I am a resident alien of the United States of America; my resident status is established by the following:

- a.  I have been declared a permanent legal resident of the United States by the U.S. Immigration and Naturalization Service. Resident Alien registration number \_\_\_\_\_, or;
- b.  I have resided at least 31 days in the United States during the current calendar year, and my days of residence in the United States over the last three years are as follows:  
 Current calendar year..... X <sub>1</sub> = \_\_\_\_\_  
 Last calendar year..... X <sub>0.334</sub> = \_\_\_\_\_  
 Second preceding year..... X <sub>0.167</sub> = \_\_\_\_\_  
**TOTAL DAYS = \_\_\_\_\_**

**Exclusions:**

Residency does not include days during which Seller:

- remained in the U.S. due to a medical condition which arose while they were visiting;
- was in transit between two points outside the U.S.;
- worked for an agency of a foreign government;
- was a teacher, trainee, or student; or
- participated as a professional athlete.

Since the total days equals or exceeds 183 days, I meet the substantial presence test of Internal Revenue Code §7701(b)(3).

- 4.  I am neither a United States citizen nor a resident alien as defined in Item 3, above; and
  - 4.1 Unless I obtain a "qualifying statement" [IRC §1445(b)(4)], or other special permission from the Internal Revenue Service, I authorize Buyer of the above-referenced real estate to deduct and withhold 10% of the sales price for the federal government. I further authorize Escrow-holder to deduct these amounts from funds due to me at the close of escrow, and to deposit it as a tax deposit in an authorized commercial bank.
- 5. I consent to the reliance on this declaration of the Brokers, Agents, Escrow-holder, and Buyer in any transaction regarding this real estate.
- 6. **Note:** This transaction is exempt from IRC §1445 withholding if the sales price is \$300,000 or less and Buyer will use the real estate as his residence.

**BUYER'S ACKNOWLEDGMENT:**

- 7. I have read and received a copy of this Seller's Residency Declaration.
- 8.  I hereby declare I will use the real estate as my residence. If the final sales price is \$300,000 or less, I consent to reliance on this declaration by Brokers, Agents, Escrow-holder and the nonresident alien Seller.

**I declare under penalty of perjury that the foregoing is true and correct.**

Date: \_\_\_\_\_, 20\_\_\_\_

Seller: \_\_\_\_\_

Seller: \_\_\_\_\_

**I declare under penalty of perjury that the foregoing is true and correct.**

Date: \_\_\_\_\_, 20\_\_\_\_

Buyer: \_\_\_\_\_

Buyer: \_\_\_\_\_