



SELLSTATE

Prepackaged Sales Meeting
International Tax Identification Number (ITIN)



Introduction to Prepackaged Sales Meeting

Module: International Tax Identification Number (ITIN)

Dear Broker/Firm Trainer:

NAR research indicates that 1 in 5 REALTORS® has been involved in an international real estate transaction. If this surprises you, you might ask yourself if business opportunities are being lost because your agents do not understand the elements of an international real estate transaction. The bulk of “international” business takes place in local markets and sales agents need a base level of knowledge to help them attract (and keep) this business, which often comes about from a former client whose needs have expanded beyond the domestic level.

NAR has created a series of modules to help you provide an introduction to global market transaction elements. These modules are designed to be incorporated into your regular sales meetings; many of which can be expanded, based on the firm’s needs. They include resources for additional information for agents seeking a more in-depth understanding of the topic.

Keep in mind that these modules *will not* make your agents “international experts.” (NAR offers advanced training and certification for REALTORS® who work in markets where they will benefit from this.) Rather this information is designed to provide agents with enough basic information on a range of topics so that when the potential client walks through the door who:

- *is looking to buy a vacation home in Mexico,*
- *has recently immigrated to the U.S. and is unfamiliar with U.S. industry practices,*
- *has recently inherited a property in Europe,*
- *wants to invest in an London flat to house a child studying abroad for a year or, a U.S. flat for a student coming to the U.S.,*
- *is a U.S. military spouse from Iraq, Germany, Korea, or any number of countries where U.S. military personnel is based and may marry local citizens,*
- *received in inquiry from overseas about a new development, or*
- *a dozen other possible scenarios...*

...Your agents will be able to assure this potential client or customer that they can help with this transaction!

The module on ITINs (Individual Tax Identification Numbers) is critically important for anyone working with foreign nonresidents who buy, sell or rent real property in the United States. Every real property transaction in the U.S. is now affected by FIRPTA, the Foreign Investment in Real Property Tax Act. Passed in 1980, this act operates under the presumption that every seller is a foreign person subject to the withholding unless proof to the contrary is provided to the buyer. The purchaser has ultimate liability for these taxes and penalties for same if the taxes are not paid. This liability can pass to the real estate professional if they did not do their due diligence and provide the purchaser with this information.

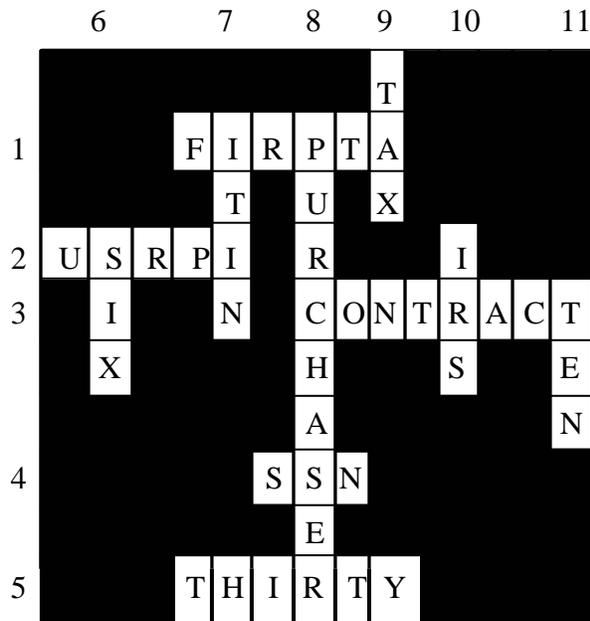
We hope you'll find this module useful in your sales agent training program, and we welcome your feedback. Questions or comments can be sent to NARglobe@realtors.org. For information on other international training resources from NAR, visit our web site at www.REALTOR.org/international, or contact Heidi Henning, Manager, International Education and Membership at hhenning@realtors.org (800.874.6500; x8376).



Broker/Trainer Instructions

1. Time required: approximately 20 minutes
2. Broker/Trainer will guide agents through the crossword puzzle process as a means to educate participants about tax issues for foreign, non-resident buyers. Begin by reading the first clue for which the answer is supplied for them (USRPI). Most agents have not heard of US Real Property Interest (USRPI) however, by the time this module is complete they will be very familiar with it. Emphasize this term applies to any United States Real Property Interest regardless of whether the owners are U.S. citizens or not. It refers to the property itself being located in the United States and the ownership interest held.
3. Continue reading the remaining clues. The clues are given in a logical order to tell the story of the terms incorporated in the puzzle. The broker page includes additional information which is to be provided after determining the correct word for the spaces provided. Because some of these words will be totally new, feel free to provide the word for them if they don't get it right away. The important part is making them aware of the information. You also may provide your own clues if they are unable to get the correct answer from the clues provided. For instance, the answer to 10 down is "IRS." If they do not get that answer from the clue "agency issuing ITINs," you might say "who do we write to on April 15th?" Feel free to use your imagination and have fun with it.
4. This information is vitally important to the reduction of risk for the broker and agent in the real estate marketplace we know today. We hope you have fun as well as learn some valuable information by using the exercise in your training. Encourage participants to read the articles referenced on the Resources page.

Crossword Puzzle



2 Across U.S. government acronym for United States Real Property Interest.

Answer: **USRPI**

USRPI pertains to all real estate closings dealing with the purchase or sale of property within the United States.

1 Across Purchase of a USRPI from a foreign person means a withholding of monies for U.S. taxes as required under _____.

Answer: **FIRPTA**

This is the Foreign Investment in Real Property Tax Act, which effectively closed the U.S. tax loopholes for foreign investors. FIRPTA imposes U.S. tax on income and gains from the operation of U.S. Real Property Interests (USRPIs) by nonresident aliens and foreign corporations. This withholding requirement also includes the foreclosure on mortgages of property owned by nonresident aliens and foreign corporations. The purchaser or other withholding agent must report and transmit to the IRS the tax withheld by the 10th day after the closing date. There is a penalty of up to \$10,000 over the tax for the willful failure to collect and pay.

11 Down

What percentage is required to be withheld under FIRPTA?

Answer: **TEN**

This is withheld at closing and is subject to 3 possible exemptions:

1. Property used as personal residence with purchase price not to exceed \$300,000.

2. The seller provides a qualifying statement from IRS saying he is entitled to a reduced withholding, has provided security for payment of the tax, or has made other arrangements with IRS to pay the tax.

3. The seller has furnished a “nonforeign affidavit.”

7 Down

A foreign person who sells or purchases a USRPI from another foreign person must have an _____.

Answer: **ITIN**

ITIN stands for the Individual Tax Identification Number. It is issued for **tax purposes only** and is not meant for identification purposes. A foreign person who sells or purchases a USRPI from another foreign person must have an ITIN.

4 Across

Most common tax identification number (abbreviation).

Answer: **SSN**

The Social Security Number is our most common tax identification number and some foreign purchasers and sellers also have SSNs.

However, if they do not qualify for a SSN they must apply for an ITIN when selling or purchasing United States real property.

10 Down

Agency issuing ITINs (abbreviation).

Answer: **IRS**

The IRS (Internal Revenue Service) is the issuing agency. The necessary forms are available on the IRS web site--www.IRS.gov.

9 Down

An ITIN application must demonstrate a _____ need.

Answer: **TAX**

The IRS will only issue ITINs based on applications that are complete and demonstrate a U.S. federal tax need for the number.

3 Across Standard of proof that the ITIN will be used for tax purposes.

Answer: **CONTRACT**

A copy of the USRPI sales contract or an original completed federal tax return are the two major standards of proof needed by the IRS to successfully complete the application for an ITIN.

6 Down Allow _____ weeks for ITIN written approval.

Answer: **SIX**

The IRS says to allow six weeks for an ITIN written approval. This means the application must be completed and submitted at least that six weeks prior to closing but it would be advisable to submit it 8-10 weeks before the closing date if possible.

5 Across Percentage withheld of gross rental receipts when managing real property for a foreign client.

Answer: **THIRTY**

Thirty percent is a significant amount of money to be withheld each month from the gross rental income of a foreign property owner. You must do this withholding to avoid personal liability. There are possible exemptions from this withholding known as “effectively connected income.” This can be applied for, by the property owner, through the IRS. Unless the foreign investor provides a duplicate copy to the property manager of the “effectively connected income” forms from the IRS, the manager should withhold the 30%.

8 Down Person directly responsible for withholding FIRPTA tax.

Answer: **PURCHASER**

The purchaser is directly responsible for withholding the tax, although an attorney or real property professional involved in the transaction, as agents of either the purchaser or seller, can be held liable for an amount equal to their compensation from the transaction if they know the purchaser has been given a false certification or statement claiming an exemption from withholding. The government places the liability on the purchaser because they will be here long after the seller is gone.

Resources

1. IRS information and forms www.irs.gov;
<http://www.irs.gov/individuals/article/0,,id=96287,00.html> (direct link)
2. “Representing Foreign Investors in U.S. Real Property” by Steven L. Cantor, CIPS, FIPC. Global Perspectives in Real Estate, First Quarter 2004. <http://www.realtor.org/intupdt.nsf/pages/representinginvestorsii>
3. “Individual Taxpayer Identification Number Requirements Affect Property Purchases and Sales by Foreign Investors” by Steven L. Cantor, CIPS, FIPC. Global Perspectives in Real Estate, Second Quarter 2004. <http://www.realtor.org/intupdt.nsf/pages/itin>
4. Web site of the National Association of REALTORS®. Search on “ITIN” for a variety of references/links. www.Realtor.org
5. Online FAQs regarding immigrants and ITINs:
<http://www.immihelp.com/newcomer/itin.html> (Immigrant Help site)
<http://www.visalaw.com/03dec4/2dec403.html> (Immigration Law site)
6. Guest Article: United States Taxation of Resident and Non-resident Aliens. Part III: “Taxation of Investments,” by Steven Weiser.
<http://www.visalaw.com/03apr2/10apr203.html>
7. “Foreign Investment Involving U.S. Real Property” by Metzger, Moshe. The CPA Journal, December 1989.
<http://www.nysscpa.org/cpajournal/old/08054982.htm>
8. Local attorney knowledgeable about international real estate tax laws.

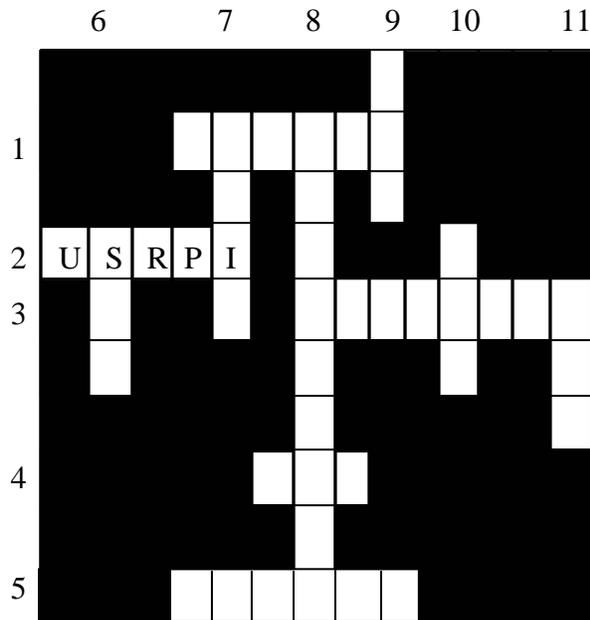


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Participant Handout

Crossword Puzzle



- 2 Across U.S. government acronym for United States Real Property Interest.
- 1 Across Purchase of a USRPI from a foreign person means a withholding of monies for U.S. taxes as required under _____.
- 11 Down What percentage is required to be withheld under FIRPTA?
- 7 Down A foreign person who sells or purchases a USRPI from another foreign Person must have an _____.
- 4 Across Most common tax identification number (abbreviation).
- 10 Down Agency issuing ITINs (abbreviation).
- 9 Down An ITIN application must demonstrate a _____ need.
- 3 Across Standard of proof that the ITIN will be used for tax purposes.
- 6 Down Allow _____ weeks for ITIN written approval.
- 5 Across Percentage withheld of gross rental receipts when managing real property for a foreign client.
- 8 Down Person directly responsible for withholding FIRPTA tax.

Resources

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4. Web site of the National Association of REALTORS®. Search on “ITIN” for a variety of references/links. www.Realtor.org
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<http://www.visalaw.com/03dec4/2dec403.html> (Immigration Law site)
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7. “Foreign Investment Involving U.S. Real Property” by Metzger, Moshe. The CPA Journal, December 1989.
<http://www.nysscpa.org/cpajournal/old/08054982.htm>
8. Local attorney knowledgeable about international real estate tax laws.