

# HARPTA

In 1990, the State of Hawaii passed HARPTA, which stands for the Hawaii Real Property Tax Act. This law allows the state to withhold some of the Seller's proceeds in anticipation of the tax that may need to be paid. The withholding for HARPTA is 7.25% of the gross sales price. According to HARPTA, the State of Hawaii made it the responsibility of the Buyer to withhold the tax.

## What Qualifies As An Exemption from HARPTA Withholding?

There are multiple ways to qualify for an exemption from the HARPTA withholding.

1. If the Seller is a Hawaii resident, no withholding is required.
2. If the Seller is an out-of-state or foreign entity registered to do business in Hawaii, then a withholding would not apply.
3. A Seller may be exempt if they used the property as a principle residence for the year prior to the sale and the sales price is less than \$300,000. The Seller is required to file the State of Hawaii income tax return reporting the sale.

## How Does A Seller Apply For an Exemption or Waiver?

If the Seller qualifies for an exemption, the Seller completes, and signs Form N-289 and submits to Escrow. Escrow will send the completed form to the buyer and will not collect the HARPTA withholding. If the Seller wants a waiver or reduction of withholding, they must file Form N-228B with the State of Hawaii.

Keep in mind that it could take several weeks for the State of Hawaii to respond to a request, so Sellers should apply as soon as escrow is opened. If approved, the withholding may not need to be applied.

## What is Escrow's Role in HARPTA?

Escrow is instructed, via the purchase contract, that if a Seller does not provide the buyer with a certificate of exemption or waiver within 14 days prior to closing, escrow is authorized and instructed to withhold and collect the amount required to forward to the State Department of Taxation. The amount must be sent to the state government and received within 20 days of the transfer date, which would be the date of recording.

## Summary

To sum it up, if an out-of-state or foreign Seller is involved in a transaction:

1. A HARPTA withholding may be required.
2. The HARPTA withholding is 7.25% of the gross sales price.
3. Escrow is instructed to withhold this amount if a certificate of exemption or waiver is not received within 14 days prior to closing.
4. A Seller may apply for an exemption through the State of Hawaii.

*If you have a question whether you qualify for an exemption or can apply for a waiver, please see a CPA or tax attorney familiar with HARPTA requirements.*

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