



Exception #4 - Third Party Withholding: Disposition by a Foreign Person of United States Real Property Interest

Exception 4 applies to Information reporting and withholding requirements apply to third parties (frequently banks and other financial institutions) who will request an ITIN to enable them to file information reports that are required by law.

A withholding obligation is generally imposed on a buyer or other transferee (withholding agent) when a United States real property interest is acquired from a foreign person. In some instances, the foreign person may apply for a withholding certificate to reduce or eliminate withholding on the disposition of real property. This exception may also apply if the applicant has a notice of non-recognition¹ under Treasury Regulations section 1.1445-2(d)(2).

- Form 8288 - U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests,
- Form 8288-A - Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests.
- Form 8288-B - Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests.

NOTE: Federal Tax Withholding and/or IRS Information Reporting must take place within the current tax year.

To claim the exception, you need 2 documents:

1. A completed Form 8288, Form 8288-A, or Form 8288-B; and
- 2a. A copy of the real estate sales contract or Settlement Statement (HUD-1).

OR

- 2b. In the case of notice of non-recognition transaction, you need documents that evidence a transaction for which a notice of non-recognition is applicable. *



ITIN ABROAD

NOTE: For the seller of the property, copies of the sales contract or Settlement Statement (HUD-1), and copies of Forms 8288 and 8288-A submitted by the buyer need to be attached to Form W-7.

* For notices of non-recognition, the document must show the date of the transaction, the parties involved, and the type of transfer that took place. For example, for transfers involving real estate, valid documents include the deed, Direction to Convey form, or a document that identifies the replacement property in a like-kind exchange. For transfers involving stock, an example of a valid document is the document that facilitates the transaction.

Additional Information	<u>IRS information for International Taxpayers - Reporting and Paying Tax on U.S. Real Property Interests</u>
Form 8288	<u>Instructions for Form 8288 Form 8288</u>
Form 8288-A	<u>Instructions for Form 8288-A Form 8288-A</u>
Form 8288-B	<u>Instructions for Form 8288-B Form 8288-B</u>