

GLOBAL Knowledge, Local Expertise, World Class Advice



FIABCI

INTERNATIONAL REAL ESTATE FEDERATION



FIABCI-MONGOLIA
INTERNATIONAL REAL ESTATE FEDERATION

Regulation & taxes for Foreign Real Estate buyers

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Advisory Board FIABCI Mongolia

NAR 2023 Global Ambassador, Cambodia , Indonesia , Vietnam,

NAR 2022 Chair CIPS Advisory Board

Monday April 24th , 2023

8am in NY Time

2pm in Paris Time

7pm Bangkok Time

This material has been prepared for informational purposes only, and is not intended to provide, and should not be relied on for, tax, legal or accounting advice. You should consult your own tax, legal and accounting advisors before engaging in any transaction.

- 1. Buying Tax
- 2. Annual Property Taxes
- 3. Sales Tax
- 4. Capital Gain Tax
- 5. Inheriting Tax
- 6. Special Tax if any

1. Buying TAX (No Buying Tax but Mansion Tax)

☐ Mortgage Recording Tax

Example :

- Purchase price of \$1,500,000.00
- 20% down
- Condominium

Estimated Buyers Closing Cost in NYC

- **Mansion Tax \$15,000** (1%)
- Title Insurance - Owner's Policy Premium \$6,000 (0.45%)
- Buyer's Attorney Fee \$3,000
- Move-In Deposit \$1,000 0.067%
- Title Search - Other Charges \$600 0.04%
- Board Application Fees \$500 0.033%
- Move-In Fee \$500 (0.033%)
- Title Search - Endorsements \$250 (0.017%)
- **Deed Recording Fees \$200** (0.013%)
- Credit Check \$100 0.007%

Financing Related Costs

- **Mortgage Recording Tax \$23,100** (1.54%)
- Title Insurance - Mortgage Policy Premium \$1,800 (0.12%)
- Bank's Attorney Fee \$1,000(0.067%)
- Loan Application Fee \$1,000(0.067%)
- Appraisal Fee \$750 (0.05%)
- Mortgage Recording Fee \$200 (0.013%)

Total \$55,750 (3.717%)

NYC Mansion Tax Rates:

- 1% for purchases of \$1,000,000 to \$1,999,999
- 1.25% for purchase of \$2,000,000 to \$2,999,999
- 1.5% for purchases of \$3,000,000 to \$4,999,999
- 2.25% for purchases of \$5,000,000 to \$9,999,999
- 3.25% for purchases of \$10,000,000 to \$14,999,999
- 3.5% for purchases of \$15,000,000 to \$19,999,999
- 3.75% for purchases of \$20,000,000 to \$24,999,999
- 3.90% for purchases of \$25,000,000 and above

The 2023 NYC Mortgage Recording Tax (MRT) is 1.8% for loans below \$500k and 1.925% for loans of \$500k or more. The MRT is the largest buyer closing cost in NYC.

If New Construction Related Closing Costs Please Add.

- NYC Transfer Tax \$21,375 (1.425%)
- NY State Transfer Tax \$6,000 (0.4%)
- Sponsor's Attorney Fee \$3,000 (0.2%)
- **Total \$86,125 (5.742%)**

2. Annual Property Tax

- The property tax rate in NYC is based on several factors, including the “class” of your building, its market value, its assessed value, the tax rate, and any exemptions or abatements you may qualified for.

Each County assessed Property Tax differently in the IN NY, and USA

Its Calculated and determined by Tax assessor of county in NYC

Determining the property tax rate

- Your property tax rate is also based on your tax class. The property tax rates for 2021 are as follows:
 - Class 1 - 21.045% (House)
 - Class 2 - 12.267% (4 Units or more)
 - Class 3 - 12.826%
 - Class 4 - 10.694%

Class 1 vs Class 2 buildings

- Most residential homes will fall under Class 1 properties. However, multi-family properties with more than 4 units, may be designated as Class 2.
- According to the NYC Department of Finance, Class 1 properties are assessed at 6% of their market value. The Assessed Value (AV) can't increase more than 6% each year or more than 20% in five years.
- Class 2 properties are assessed at 45% of the market value. For these, the Assessed Value can't increase more than 8% each year or more than 30% in five years.
- In both cases the increase cap does not apply to physical alterations to the property. Those are assessed differently as they might affect the market value.

An aerial view of a city skyline, likely New York City, featuring numerous skyscrapers and buildings. The image is slightly blurred and has a dark, muted color palette, serving as a background for the text.

Calculating Your Annual Property Tax

<https://www.nyc.gov/site/finance/taxes/property-calculating-your-annual-tax-bill.page>

3 ☐ Sales Tax

- No Sales Tax of (NYC 8.875%) But

3. Sales Tax (NO Sales Tax BUT Transfer Tax)

Calculate Seller Transfer Taxes in NYC:

• Purchase Price: \$1,500,000

NYC Transfer Tax (%): 1.425%

NYC Transfer Tax (\$): \$21,375

&

NYS Transfer Tax (%): 0.4%

NYS Transfer Tax (\$): \$6,000

=

• Total Transfer Tax (%): 1.825%

Total Transfer Tax (\$): \$27,375

No Sales Tax when you purchase real estate ,
But there is a **Transfer Tax when you sell**

4. Capital Gain Tax

- Personal Home exclusion
- Federal (Long Term and Short Term)
- State
- Local/City

Personal Residence (Section 121 Exclusion)

- \$250,000 if you file Tax as single
- \$500,000 if you file tax jointly

Vacation/2nd Home

You can only use 14 days for past 12 month, its qualified to be personal residence

Personal Residence Home exclusion

- Determine whether you meet the residence requirement. If you owned the home and used it as your residence for at least 24 months of the previous 5 years, you meet the residence requirement. The 24 months of residence can fall anywhere within the 5-year period, and it doesn't have to be a single block of time. All that is required is a total of 24 months (730 days) of residence during the 5-year period. Unlike the ownership requirement, each spouse must meet the residence requirement individually for a married couple filing jointly to get the full exclusion.

If Investment Property ;

Sales \$1,000,000

Original Price \$300,000 = \$700,000 Gain

- **Federal Capital Gains Tax Rate (%) 15%** or \$20 (20% if Income is More than \$400/450 per year in income)

Medicare Tax of 3.8% if Income is \$200K/250K

- Net Income Investment Tax Rate (%) 0%
- **State & City Capital Gains Tax Rate (%) 10.90%**

- **Depreciation Recapture Tax Rate (%) 25%**

Tax Deferred (Deferred Capital gain Tax) Section: **1031 Exchange** or Like Kind Exchange

- Must be an exchange
- Like kind Property/used for investment or business
- 45 days to identify replacement property and 180 days to close
- Equal or greater in values and equity
- Same taxpayer rule

Consult with QI (Qualified intermediary)

An aerial view of a city skyline, likely New York City, with a river in the foreground. The image is dark and serves as a background for the text.

5. Inheriting Tax

No Inheriting Tax

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6 □ Special Tax if any

FIRPTA

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FIRPTA stands for Foreign Investment in Real Property Tax Act

- Who Pays a FIRPTA Tax?
- Technically, the foreign seller owes a FIRPTA tax — but in practice, the buyer is held responsible for setting the money aside from the proceeds of the sale.
- Why does the buyer have to withhold tax for the seller? The thought is to keep a foreign resident from taking proceeds from the sale of the US property back to their home country. Before FIRPTA, the U.S. government was unlikely to collect this tax unless the foreign seller volunteered to file a U.S. tax return. So, there was no effective way to collect the tax

If seller is Foreign National

- The buyer will enter the amount subject to withholding.
- Typically, the closing agent responsible for disbursing the closing funds handles this on behalf of the buyer.

- **What Is a FIRPTA Affidavit?**

A FIRPTA affidavit, also known as Affidavit of Non-Foreign Status, is a form a seller purchasing a U.S. property uses to **certify under oath that they aren't a foreign citizen.**

Federal Withholding Tax

- **You won't pay a FIRPTA tax if:**

The purchase price is less than \$300,000

You (or a family member) plan to live in the property for at least 50% of the time for two years after closing

- **Your required withholding will be 10% if:**

The purchase price is between \$300,000 and \$1,000,000

You (or a family member) plan to live in the property for at least 50% of the time for two years after closing

Your required withholding will be 15% if:

The purchase price is over \$1,000,000

OR if you don't intend to use the property as your residence, regardless of the sale price

What Are FIRPTA Exemptions?

- A seller may be exempt from FIRPTA if one or more of these circumstances apply:
 - The sales price is less than \$300,000 and the buyer (or a family member) has definite plans to reside in the home for at least 50% of the first 24 months of ownership
 - The seller provides written certification that they are not a foreign person
 - The buyer receives a withholding certificate from the IRS that excuses the withholding
 - The seller doesn't earn any proceeds from the sale or transfer of property

NYC Buyer Closing Cost Calculator

<https://www.hauseit.com/closing-cost-calculator-for-buyer-nyc/>





**THANK
YOU !!**

- **Yoshi Takita, REALTOR®**
- **Advisory Board, FIABCI Mongolia**
- ABR, CBR, SRES, CIPS, SFR, GRI, HAFA, EPRO, NYARM
- NAR Global Ambassador to Cambodia, Indonesia, Vietnam