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# Foreign Investment in Real Property Tax Act (FIRPTA)

In 1980, Congress passed the Foreign Investment in Real Property Tax Act (FIRPTA) to tax foreigners' gains on the income they earn from, and then the sale of, U.S. real estate and other real property. FIRPTA imposes significant costs on foreign investors in U.S. real estate, thereby serving as a significant barrier to such investment. Reforming FIRPTA could unlock billions in foreign capital that could help to refinance real estate loans and drive new investment.

## NMHC/NAA Viewpoint

Congress should reform FIRPTA to promote foreign investment in the U.S. multifamily industry and help the multifamily industry meet the growing demand for rental housing.

By treating foreign real estate investments differently than other U.S. investments foreigners can make, they discourage such investments. For example, foreign investors do not have to pay capital gains taxes when they sell stocks and bonds in non-real estate U.S. companies.

Not only does FIRPTA levy a tax not required of non-real estate investments, it also creates costly administrative burdens. Under FIRPTA, among other things, a buyer who purchases a property from a foreign seller must withhold 10 percent of the sales price in escrow to ensure taxes are collected. This is particularly costly if the foreign seller is selling the property at a loss or if the tax liability will be less than the 10 percent withholding. Foreign sellers are also then required to file tax returns with the IRS.

In addition, because the tax is only triggered by the sale of a U.S. property, FIRPTA may encourage foreign investors to hold onto real estate based only on tax considerations.

**REORMING FIRPTA COULD UNLOCK BILLIONS IN FOREIGN CAPITAL THAT COULD HELP TO REFINANCE REAL ESTATE LOANS AND DRIVE NEW INVESTMENT.**

Foreign investors can avoid U.S. taxes and reduce their worldwide tax burden simply by investing in U.S. equities instead or in real estate outside the U.S. The discriminatory and punitive tax regime created by FIRPTA precludes U.S. real estate companies from tapping into an important source of capital for developing, upgrading and refinancing properties. Ultimately, it does so to the detriment of job creation and the overall economy.