

FAQS ON U.S. LEGAL TOPICS OF INTEREST TO CANADIANS – SALE OF U.S. PROPERTY

Cross-Border Alert
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Practices & Industries

Canada-U.S. Cross-Border

Question: I am a Canadian citizen buying property in Florida. What documents will I need to retain in connection with the purchase?

Answer: It's wise to plan now for the property's eventual sale.

When a U.S. real property interest is acquired by a Canadian or other non-U.S. individual or entity, the following documents should be available at or after the closing. These documents should be retained in a safe, accessible location to facilitate compliance with the requirements of the Foreign Investment in Real Property Tax Act (FIRPTA):

- The original warranty deed
- A copy of the seller's closing affidavit which contains a non-foreign compliance paragraph and/or the seller's non-foreign affidavit
- An original or executed copy of either the settlement statement or the buyer's and seller's closing statements
- The original owner's title insurance policy
- An original or executed copy of the bill of sale for any personal property (e.g., furniture and other equipment) purchased, along with a written inventory of the items purchased

Most important, a complete file about the property should be maintained. It should contain originals or copies of any contracts, receipts for payment, bills of sale, and other documentation covering any and all improvements, fixtures, and other items incorporated into the real property, including personal property, such as furniture and other equipment. Each of the expenditures that qualify under the Internal Revenue Code as a capital improvement to the real property will increase the basis of the real property over and above the original purchase price, thereby reducing any U.S. capital gain (and the resulting capital gain tax payable) at the time of sale of the real property.