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International Forum

Mexico/Central America

DISCLAIMER:

- The information presented today is not intended to be legal advice. It is provided to help you better understand the issues that may affect real estate transactions involving foreign nationals. You should be aware that foreign nationals may be subject to certain legal or tax requirements that will vary from case to case. For this reason, you are advised to direct your clients to seek advice from a tax attorney or CPA with regard to each client's particular situation.

Quick Facts

- 325.5 million U.S. Residents
- 278.1 million are natives
- 43.3 million are foreign-born
 - Includes illegal immigrants, guest workers and legal immigrants
 - 20.7 million are naturalized
 - 22.6 million are non-citizens

Demand Side-Rental Prices

- Supply and demand
- Expected 1% increase in city's population produces 1% increase in rent prices
- Unexpected 1% increase produces 3.75% increase in rent prices.
 - Ex: Miami, FL- "Mariel boatlift," 9% increase in renter population in one year (1980), produced 8% to 11% increase compared to other cities.

Demand Side- House Price

- Each immigrant adds 11.6 cents to the housing value in the county where they reside.
- In 2012, 40 million immigrants added roughly \$3.7 trillion to U.S. housing wealth
- Immigration effects real-estate market far more than it affects the labor market

Immigrants putting down roots

- In the 1960's two-thirds of U.S. states had populations where less than 5% of the people were foreign-born.
- From 2000-2014, the foreign-born population in the South increased by 60% (overall there was a 47% change to the U.S. population).
- The Northeast, Midwest, and West had increases of between 25% and 35% during this time period.

Foreign-born Homeowners

- Prior to 1981, foreign persons were primarily exempt from US tax on the sale of real estate in the US.
- Congress passed laws to tax gain.
- By 2015, 50.7% of immigrant heads of households owned their own homes, while 65.2% of U.S.-born heads of households owned their own homes.

Visas – Immigrants and Non-Immigrants

- Visa – gives a foreign national the right to be in the US for a certain period of time.
- Illegal – no status, out of status, doesn't have any right to be here.
- Immigrant – this is a permanent resident who has the famous "Green Card." Their status is completely legal. Must be aware that remaining outside the US for too long may result in loss of permanent resident status.
- Non-Immigrant – someone in the US for a limited period of time:
 - Tourist or Business Visa – usually less than 6 months
 - Employee Visa – usually 3 years with a renewal of 3 more years (6 total)

BUYING Real Estate in the U.S.

- Foreign nationals (those who are not green card holders) are able to purchase real estate in the U.S., either in their own names or the name of a corporation or LLC.

SELLING Real Estate in the U.S.

- Foreign nationals or entities must adhere to certain rules under the Foreign Investment in Real Property Act (“FIRPTA”) when selling (and buying) U.S. real estate.

WITHHOLDING exceptions under FIRPTA:

- Seller is a resident alien and has a tax identification number;
 - The sales price is less than \$300,000 and the buyer will use the property as a personal residence at least 50% of the time for the next two years after closing;
- OR
- The Seller has obtained a withholding certificate from the IRS.

OPTIONS if FIRPTA doesn't provide an exception:

- Foreign investors are entitled to defer capital gains taxes in the U.S. by purchasing another investment property under Section 1031 of the IRS Code.*
- If none of the exemptions apply, the buyer (or buyer's closing agent) must withhold 10% (15% if over \$1 million) of the sales price and remit the withheld amount to the IRS (35% for an entity).

* Actual tax treatment of foreign real estate may depend on existing tax treaties between the US and the foreign national's home country.

FIRPTA Penalties

- Failure of buyer to withhold could leave the buyer liable for payment of the amount that should have been withheld.

Questions?
Contact me!

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