



Dear Stewart Partners,

Welcome to this week's Midweek Update. This issue features two timely and important topics. First, an update on FIRPTA and the upcoming requirement that payments of the amount withheld now be made electronically, and no longer by paper check, as well as the impact this will have on buyers and settlement agents. Second, a discussion on property sales by receivers.

As a reminder, for our Massachusetts policy issuing agents, our August installment of Massachusetts Underwriters Talk Title webinar series will be on Insuring Occupied Properties. To register for this webinar, follow the link below. Also, we are providing information on the NELTA annual convention being held on September 7-9, 2025 in New Haven Connecticut.

Also, if you missed our live national agency webinars on the new FinCEN requirements which will go into effect on December 1, 2025, and will impact policy issuing agents in New England and across the country, these webinars are available in Stewart Academy, Stewart's agency education portal. If you need sign on credentials, please contact your account representative.



Requirements for FIRPTA Payments Changing on September 30, 2025 By: David Veleber, Esq. Connecticut Underwriting Counsel

Due to recent mandates from the IRS regarding FIRPTA and the use of EFTPS (Electronic Federal Tax Payment System), **starting September 30, 2025**, the IRS will require all payments under the Foreign Investment in Real Property Tax Act (FIRPTA) to be made electronically. Paper checks will no longer be accepted.

By way of background on FIRPTA, a two-part article on the basics of FIRPTA appeared in the October 16, 2024 and November 20, 2024 editions of New England Regional Midweek Update. Under FIRPTA, the sale of a U.S. real property interest by a foreign seller triggers a withholding obligation. Typically, the buyer, as the withholding agent, must withhold 15% of the total sale price, unless exemptions apply - such as personal residence exceptions that reduce the rate to 10% or 0%.

Within 20 calendar days of the property transfer, the buyer is required to file IRS Form 8288 and Form 8288-A and remit the withheld amount to the IRS (traditionally by paper check). But now, pursuant to an Executive Order issued March 25, 2025, all federal payments—

including FIRPTA withholding—must be sent electronically via EFTPS, eliminating the paper-check option effective September 30, 2025. After that date, paper checks will no longer be accepted for FIRPTA remittance, even for small transactions or buyers unaccustomed to EFTPS. Failure to comply with the electronic payment mandate can lead to penalties, interest charges, and delays in processing the transaction. Buyers will need to create an EFTPS account to make these electronic payments.

In order to use EFTPS for FIRPTA payments, there is a process. Individuals and businesses must first enroll to use the EFTPS online service. This involves validating information with the IRS and receiving a Personal Identification Number (PIN) via mail. Once enrolled, payments can be made online at EFTPS.gov or through their voice response system. Users will need their TIN (Employer Identification Number or Social Security Number), PIN, and bank account information to schedule payments. Payments must be scheduled by 8:00 p.m. ET the day before the payment due date to be considered timely. If you miss that deadline, there is a process to send a same day wire transfer, but you need to make arrangements with your banking institution and file a Same Day Taxpayer Worksheet. Upon successful payment submission, an EFT Acknowledgment Number will be provided as a receipt.

With these new changes, there are potential risks and challenges. How will this impact parties to a transaction involving a foreign seller?

For Buyers and Withholding Agents:

Buyers must be registered with EFTPS in advance of closing. The system requires enrollment, authentication (now potentially including ID.me or login.gov MFA), and an established bank linkage or PIN system. Buyers unfamiliar with the system risk being unable to remit within the 20-day window, triggering IRS penalties. To activate an EFTPS account, a U.S. mailing address is required to receive the PIN by mail. Note that this process can take time to set up and requires a Taxpayer Identification Number (TIN). The account activation cannot be completed without the PIN. Timing can be a challenge. It usually takes at least 7-10 business days to receive the PIN via the mail (and delays are always a possibility), making timing tight with the 20-day window to submit the funds. This is even more difficult to activate the account and meet the deadline if the PIN needs to be sent and received internationally. So, the sooner you can determine if the seller is a foreign person and start planning for the withholding, the better. Often, that determination was made at, or just before, closing. With the new timing concern about creating the EFTPS account, that may be too late or may add some delay to the closing.

For Title Companies and Closing Agents:

Many buyers rely on professional intermediaries to handle withholding (often relying on their closing attorney). With EFTPS becoming mandatory, title and settlement agents must adapt. They will need to either ensure their clients enroll or process the payment through their own accounts where permitted. There is a heightened liability risk in light of the new requirements and timing. Buyers remain responsible legally for the payment and any interest or penalties, even if they delegate the process. Any delay or failure to remit electronically is considered non-compliance.

For Foreign Sellers:

Foreign sellers still receive credit for the taxes which are withheld, but only if the buyer submits the payment properly and timely. Sellers applying for a reduced withholding certificate (Form 8288-B) must submit the application prior to or at closing and wait up to 90 days for approval (though real-world delays are common). The buyer must still withhold the full 15% at closing. Remittance can be deferred until 20 days after the IRS issues the withholding certificate or denial. Sellers without a proper ITIN or documentation may face further delays, increasing escrow hold periods and impacting closing liquidity.

In light of this new requirement, here are some **recommendations** to prepare for the impact. First, register for EFTPS as soon as possible if you anticipate involvement in a transaction involving a foreign seller where the payment will need to be made after September 30, 2025. Second, coordinate with all parties to the closing and tax professionals well in advance of closing to confirm who will deposit and how. Ensure login credentials, client consents, and MFA access are in place. Third, include FIRPTA compliance within your closing checklists, ensuring that foreign seller identification, ITINs, and ratified withholding protocols are all documented before closing. Finally, keep contingency plans in place if EFTPS access fails. Remember, delayed enrollment or lacking credentials could lead to additional delays and penalties.

The IRS's move to mandate electronic payment via EFTPS for FIRPTA withholding represents a significant procedural shift. While intended to streamline federal tax payments, it places new burdens on buyers, title professionals, and foreign sellers—notably around enrollment, credentialing, timing, and compliance risk. Successful navigation requires proactive planning, clear allocation of responsibilities, and early registration for EFTPS well before closing. Given the complexity of FIRPTA rules, it is recommended that buyers seek guidance from experienced real estate advisors, tax professionals, or attorneys to ensure compliance and avoid potential penalties.

Additional 1% Excise Tax

Although not effective until January 1, 2026, under the new “Big Beautiful Bill,” there is also now a 1% excise tax to be imposed on certain transfers of funds sent outside of the United States. Although it does not apply just to potential FIRPTA transactions, it is important to understand that this 1% would be in addition to any funds already being withheld under FIRPTA. So, potentially, the proceeds of a sale above that are already being withheld may be subject to the 1% excise tax if the proceeds are being sent to an account outside the United States. This excise tax applies to certain transfers to accounts outside the United States, even if the receiving party is a US citizen.

There is still more guidance to be expected on this new tax. It is currently unclear who bears the responsibility for calculating and remitting the tax and how any exemptions may apply. Although, for many agents, international wires are rare, make sure you are aware of this new law and its requirements if you do undertake to transmit funds outside the United States.

If you have questions on these topics, please contact your local Stewart underwriting counsel.



Occasionally we come across a file where the property being sold is subject to receivership. A receivership is a legal procedure in which a neutral, third party, called a receiver, is appointed by a court to take possession of another person's property and manage it or dispose of it, as well as manage and distribute any income produced by the property. Many receivers are appointed by state courts, but receivers can also be appointed by federal courts. Receiverships are often initiated by lenders and secured creditors (i) to preserve the property of a defaulting debtor during a pending foreclosure, and in some cases, sell the property pursuant to a court order, (ii) if the property is the subject of a lawsuit and its value must be preserved while the issue is litigated, or (iii) if the property includes an operating business, to sell its assets in an orderly manner and maximize the return for its owners and/or creditors. The length of a receiver's appointment depends on the individual circumstances of the subject property and can last months or years.

Generally, the standards for court appointment and the powers of the receiver vary widely from state to state. However, twelve (12) states (including Connecticut and Rhode Island) have adopted the Uniform Commercial Real Estate Receivership Act ("UCRERA") or a similar version thereof. The UCRERA was drafted by the National Conference of Commissioners on Uniform State Laws (also known as the "Uniform Law Commission" or the "ULC") and adopted in the summer of 2015. Since the standards for court appointment and the powers of the receiver vary widely, the UCRERA was drafted to provide a consistent set of rules for commercial property receiverships which address due process, appointment, powers and duties, and sale of receivership property, among other things. For example, in Connecticut prior to the enactment of the UCRERA, the court's decision to appoint a receiver was based on a subjective review of equitable factors which over the years resulted in inconsistent rulings statewide. For more information on the UCRERA, you can review [information on the ULC's website](#).

When evaluating a request to insure a sale of property by a receiver (whether or not the property is in a state that has enacted UCRERA, or if the receiver is appointed by a state or federal court), you should keep the existence or absence of the following factors, among others, in mind:

- The receiver was appointed, and the sale was authorized, by federal or state statutes and/or case law;
- Compliance with applicable law (e.g., for appointment of receiver; and the sales process);
- Proof of notice was delivered to all affected parties (i.e., owner/mortgagor, secured lenders, other lienors, etc.) regarding the appointment of the receiver and sale of the property;
- Proof that all interested parties have subjected themselves to the jurisdiction of the court (e.g., made an appearance);
- Regarding the court order ordering/confirming the sale by the receiver, consider the following:

1. What is the basis of the court's authority to order a sale of real property? Consider whether there is clear case law or statute empowering a court to order a sale of real property by a receiver;
 2. Is the sale purportedly "free and clear" of all liens; will liens be satisfied with the proceeds of the sale; will there be sufficient proceeds;
 3. Existence or absence of requirement in the court order requiring all lienors to deliver releases in recordable form; consider requiring releases to be prepared and held in escrow by the issuing office pending the closing;
 4. Federal taxes liens; consider the availability of a Certificate of Release or a Certificate of Discharge;
 5. Disposition of state and local taxes; and
 6. Payment of documentary and transfer taxes;
- What form of seller's affidavit and indemnity will be available from the receiver; who will sign affidavits and other closing documents;
 - Actual or potential objection to the sale by the owner/mortgagor or other lienholders;
 - Potential conflict between the foreclosure action and the sale by the receiver; will the sale by the receiver extinguish the mortgagor's right of redemption;
 - Evidence/documentation of consent or acknowledgement or waiver of objection to the sale by the owner/mortgagor; consider requiring joinder or acknowledgment of the deed by the owner/mortgagor; consider requiring the borrower to waive its right of redemption; and
 - Bankruptcy/insolvency of the borrower/mortgagor; generally, a receivership is stayed upon the commencement of a bankruptcy case.

It is worth mentioning that in Massachusetts, under the State's Sanitary Code (Massachusetts General Laws Chapter 111, Section 127I), the state or municipality can enforce the code through the appointment of a receiver. The code provides minimum standards for fitness of properties for human habitation. This enforcement mechanism is used to address properties which have significant and unresolved sanitary code violations. The powers of a receiver appointed under this statute are far more limited than a federal receivership or a general receivership discussed in this article.

Finally, if you are asked to insure a transaction involving a sale by a receiver, please contact your local Stewart Underwriter since a Stewart Senior Underwriter's approval is needed for such a transaction. For on-line viewing of Stewart's bulletin related to this article, please see [Bulletin: SLS2011014](#).



Upcoming Education Opportunities

Massachusetts Underwriters Talk Title – Upcoming August Installment

On August 6, 2025 at 11 AM, Tracie Kester, Esq. will be hosting our August webinar on Insuring Occupied Properties. The webinars in our Talk Title Series are concise 30-minute presentations, full of practical information geared toward attorneys and paralegals looking to learn or build knowledge in the topic area. We hope to see you, follow this link to [Register Here](#)

2025 NELTA Annual Convention – September 7-9, 2025, New Haven Connecticut

The New England Land Title Association (NELTA) Annual Convention is being held in New Haven, Connecticut from September 7 through September 9, 2025. The deadline to register for a discounted conference rate and reserve a discounted hotel room is August 17, 2025. Continuing education credits have been applied for in Connecticut, Maine, New Hampshire, Vermont, and Rhode Island.

You can find information on registering for the conference and hotel, along with the schedule of events, at NELTA's website here: <https://nelta.org/event/25ACAttReg>



Stewart Academy

If you missed Stewart's recent live webinars on the upcoming FinCEN rules, don't worry, you can access the recordings in Stewart Academy. Stewart Academy is our premier online educational platform for title agents. If you're looking to improve your skills in a variety of industry-specific and professional development classes, this is the perfect opportunity to step up your knowledge.

If you need log-in credentials or assistance accessing Stewart Academy, contact your Stewart account representative.



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