

# THE ESCROW PROCESS AT F.A.T.CO

**WHAT IS AN ESCROW?** An escrow is a process wherein the Buyer and Seller deposit written instructions, documents, and funds with a neutral third party until certain conditions are fulfilled. In a real estate transaction, the Buyer does not pay the Seller directly for the property. The Buyer gives the funds to an escrow company who, acting as an intermediary, verifies that title to the property is clear and all written instructions in the contract have been met. Then the company transfers the ownership of the property to the Buyer through recordation and pays the Seller. This process protects all parties involved.

The State of Arizona licenses and regulates all escrow companies. The Insurance Commissioner and the State Banking Department can inspect a company's records at any time, providing further oversight of the company's management and position as an impartial third party to the transaction.

In Arizona, escrow services are generally provided by a title insurance company instead of an attorney. The stability, reliability and performance of your title and escrow company are vital to protect the interests of all parties to the transaction.

**HOW IS AN ESCROW OPENED?** Once you have completed the contract (or Purchase Agreement), and the Seller has accepted the offer, your Realtor will open the escrow. The earnest money deposit and the contract are placed in escrow. As a neutral party to the transaction, First American can respond only to those written instructions agreed to mutually by all "interested" parties (Seller and Buyer); First American cannot otherwise alter the contract or create instructions, and that protects all interested parties.

**HOW TO HOLD TITLE.** You should inform your escrow officer and lender as soon as possible of how you wish to hold title to your home and **exactly** how your name(s) will appear on all documents. This allows your lender and title company to prepare all documents correctly. **(Changes later, such as adding or deleting an initial in your name, can delay your closing.)** A comparison of the ways to hold title in the state of Arizona appears on Page 13. You may wish to consult an attorney, accountant or other professional before deciding how to hold title.

**WHAT HAPPENS AT FIRST AMERICAN?** During the escrow period, our title department begins researching and examining all historical records pertaining to the subject property. Barring any unusual circumstances, a commitment for title insurance is issued, indicating a clear title or listing any items which must be cleared prior to closing. The commitment is sent to you for review. (See Explanation of Title Commitment on the next page.)

Your escrow officer follows instructions on your contract, coordinates deadlines, and gathers all necessary paperwork. For example, written requests for payoff information (called "demands") are sent to the Seller's mortgage company and any other lien holders.

## AS PART OF OUR SERVICE, FIRST AMERICAN WILL:

**OPEN** escrow and deposit your "good faith" funds in a separate escrow account.

**CONDUCT** a title search to determine ownership and status of the subject property.

**ISSUE** a title commitment and begin the process to delete or record items to provide clear title to the property.

Per contract, **CONFIRM** that the lender has determined you, the Buyer, are qualified for a new loan.

**ASK** you to complete a beneficiary's statement if you are assuming the Seller's loan.

**MEET** all deadlines as specified in the contract.

**REQUEST** payoff information for the Seller's loans, other liens, homeowners association fees, etc.

**PRORATE** fees, such as property taxes, per the contract, and prepare the settlement statement.

**SET** separate appointments: Seller will sign documents; you will sign documents and deposit funds.

**REVIEW** documents ensuring all conditions and legal requirements are fulfilled; request funds from lender.

When all funds are deposited, **RECORD** documents at the County Recorder to transfer the subject property to you.

After recordation is confirmed, **CLOSE** escrow and disburse funds, including Seller's proceeds, loan payoffs, Realtors' commissions, related fees for recording, etc.

**PREPARE** and send final documents to parties involved.

## WHAT HAPPENS NEXT FOR THE BUYER?

**IDENTITY STATEMENT.** You will be asked to fill out an Identity Statement that enables our title department to distinguish you from others with identical names during our search of County records. It also provides basic information that will be useful for your escrow officer.

**HOME LOAN.** Unless you are paying cash, assuming a loan, or the Seller is financing, you will need to apply for a home loan if you have not already done so. Your Realtor<sup>®</sup> should be able to recommend several reliable sources for your loan. Apply as soon as possible to comply with the purchase contract and to avoid delaying the closing.

**RESPONSE TO SELLER'S NOTICES.** If directed by the contract, you will receive the following items which require a response from you. Your Realtor<sup>®</sup> can help you with your responses.

- a. Seller's Property Disclosure Statement listing any existing problems known to the Seller.
- b. Information pertaining to the Home Owners Association (HOA) or Planned Unit Development (PUD), such as Covenants, Conditions and Restrictions (CC&Rs), if applicable.
- c. Flood Hazard Disclosure if the property is in a flood area.
- d. Independent inspections, such as termite and septic, and any repairs as required.

**TITLE COMMITMENT.** You will receive a copy of the title commitment when we complete the title search. See across for an explanation of the title package you will receive from First American. If you have questions about the title commitment, contact your Realtor<sup>®</sup> or your escrow officer.

**CONSIDER THIS.** One escrow transaction could involve over twenty individuals including Realtors<sup>®</sup>, Buyers, Sellers, attorneys, escrow officer, escrow technician, title officer, loan officer, loan processor, loan underwriter, home inspector, termite inspector, insurance agent, home warranty representative, contractor, roofer, plumber, pool service, and so on. And often one transaction depends on another.

When you consider the number of people involved, you can imagine the opportunities for delays and mishaps. So, much like an airline pilot can't prevent turbulence during a flight, your experienced Realtor<sup>®</sup> and escrow team can't prevent unforeseen problems from arising. However, they can help smooth out the bumps and, whenever possible, get you safely through to a successful closing.

## EXPLANATION OF TITLE COMMITMENT

This explanation may help you understand the contents of the Title Commitment you receive from First American Title.

### SCHEDULE A

This is the information submitted to our Title Department by the escrow officer. It contains the basic information given to us by the Buyer or Realtor<sup>®</sup>, such as the legal description of the property, sale price, loan amount, lender, name and marital status of Buyer and Seller.

### SCHEDULE B

The Schedule B "exceptions" are items which are tied to the subject property. These include Covenants, Conditions and Restrictions (CC&Rs), easements, homeowners association by-laws, leases and other items which will remain of record and transfer with the property. They are referred to as "exceptions" because the Buyer will receive a clear title "except" the Buyer's rights will be subject to conditions in the CC&Rs, recorded easements, etc. The Buyer is asked to sign a receipt for the Schedule B documents which states the Buyer has read and accepts the contents.

### REQUIREMENTS

These are items that First American needs to delete and/or record in order to provide a clear title to the property. Items that need to be addressed include:

- Current property-tax status,
- Any assessments that are owed such as those for a homeowners association,
- Any encumbrances (or liens) on the property.

Sometimes items show up against a property because another person has a name similar to an involved party. This is one reason we ask for an Identify Statement, to determine if items are inaccurate and can be deleted.

### NOTE

This is merely information given us by the County Recorder's office that specifies the proper size, margins and print type to be used on documents to be recorded.

*If you have any questions, please do not hesitate to call your escrow officer for information and help.*



# Ways to take title in Arizona

COMMUNITY PROPERTY	JOINT TENANCY WITH RIGHT OF SURVIVORSHIP	COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP	TENANCY IN COMMON
Requires a valid marriage between two persons.	Parties need not be married; may be more than two joint tenants.	Requires a valid marriage between two persons.	Parties need not be married; may be more than two tenants in common.
Each spouse holds an undivided one-half interest in the estate.	Each joint tenant holds an equal and undivided interest in the estate, unity of interest.	Each spouse holds an undivided one-half interest in the estate.	Each tenant in common holds an undivided fractional interest in the estate. Can be disproportionate, e.g., 20% and 80%; 60% and 40%; 20%, 20%, 20% and 40%; etc.
One spouse cannot partition the property by selling his or her interest.	One joint tenant can partition the property by selling his or her joint interest.	One spouse cannot partition the property by selling his or her interest.	Each tenant's share can be conveyed, mortgaged or devised to a third party.
Requires signatures of both spouses to convey or encumber.	Requires signatures of all joint tenants to convey or encumber the whole.	Requires signatures of both spouses to convey or encumber.	Requires signatures of all tenants to convey or encumber the whole.
Each spouse can devise (will) one-half of the community property.	Estate passes to surviving joint tenants outside of probate.	Estate passes to the surviving spouse outside of probate.	Upon death the tenant's proportionate share passes to his or her heirs by will or intestacy.
Upon death the estate of the decedent must be "cleared" through probate, affidavit or adjudication.	No court action required to "clear" title upon the death of joint tenant(s).	No court action required to "clear" title upon the first death.	Upon death the estate of the decedent must be "cleared" through probate, affidavit or adjudication.
Both halves of the community property are entitled to a "stepped up" tax basis as of the date of death.	Deceased tenant's share is entitled to a "stepped up" tax basis as of the date of death.	Both halves of the community property are entitled to a "stepped up" tax	Each share has its own tax basis.

**Note:** Arizona is a community property state. Property acquired by a husband and wife is presumed to be community property unless legally specified otherwise. Title may be held as "Sole and Separate." If a married person acquires title as sole and separate, his or her spouse must execute a disclaimer deed to avoid the presumption of community property. Parties may choose to hold title in the name of an entity, e.g., a corporation; a limited liability company; a partnership (general or limited), or a trust. Each method of taking title has certain significant legal and tax consequences; therefore, you are encouraged to obtain advice from an attorney or other qualified professional.



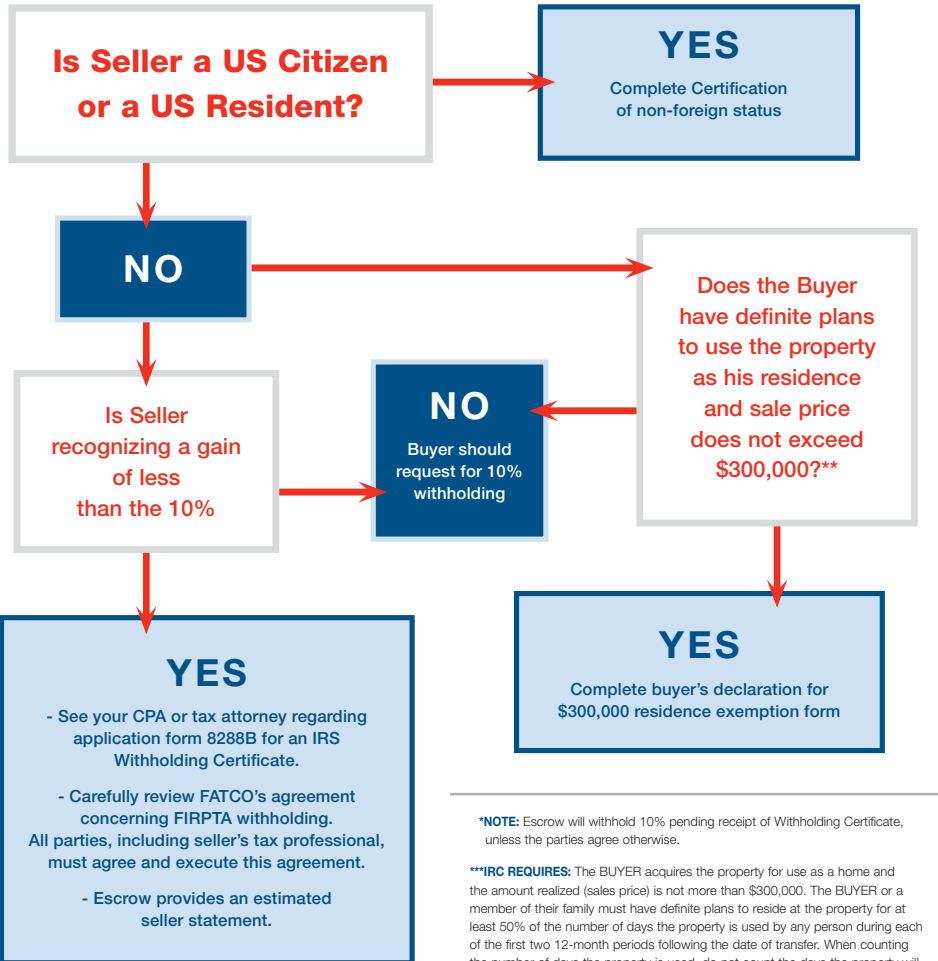
- ▼ All funds deposited for the escrow must be by wire transfer.
- ▼ Out of US Wire Transfers / Swift Fee: International transfers are executed through SWIFT, Society for Worldwide Interbank Financial Telecommunication, and there is an additional charge for this type of transfer.
  - ▶ The charge is deducted from the wired funds and varies from bank to bank. The charge is typically a flat rate and does not exceed \$50.00, so we recommend that our clients wire an additional \$50.00 when wiring from outside of the U.S.
- ▼ When a foreign owner gets ready to sell, they could be subject to a 10% (of the Sales Price) withholding unless the transaction is exempt from FIRPTA.
- ▼ Most common exemption: Sales Price is not more than \$300K. The Buyer or a member of their family must have plans to reside at the property for at least 50% of the number of days the property is used by any person during each of the first two twelve month periods after sale.
- ▼ Other Exemptions that may apply are:
  - ▶ Seller to provide a certificate showing they are not a foreign seller
  - ▶ Seller receives a withholding certificate from IRS excusing withholding

## If applicable see forms:

**W-7** (application for IRS Individual Taxpayer Identification Number)  
**8288-B** (Application for Withholding Certificate for Dispositions by Foreign Persons of U.S. Real Property Interests)



# FIRPTA



\*NOTE: Escrow will withhold 10% pending receipt of Withholding Certificate, unless the parties agree otherwise.

\*\*\*IRC REQUIRES: The BUYER acquires the property for use as a home and the amount realized (sales price) is not more than \$300,000. The BUYER or a member of their family must have definite plans to reside at the property for at least 50% of the number of days the property is used by any person during each of the first two 12-month periods following the date of transfer. When counting the number of days the property is used, do not count the days the property will be vacant

Form **W-7**  
(Rev. January 2010)  
Department of the Treasury  
Internal Revenue Service

## Application for IRS Individual Taxpayer Identification Number

OMB No. 1545-0074

▶ See instructions.  
▶ For use by individuals who are not U.S. citizens or permanent residents.

An IRS individual taxpayer identification number (ITIN) is for federal tax purposes only.

FOR IRS USE ONLY

**Before you begin:**

- Do not submit this form if you have, or are eligible to get, a U.S. social security number (SSN).
- Getting an ITIN does not change your immigration status or your right to work in the United States and does not make you eligible for the earned income credit.

**Reason you are submitting Form W-7.** Read the instructions for the box you check. **Caution:** If you check box b, c, d, e, f, or g, you must file a tax return with Form W-7 unless you meet one of the exceptions (see instructions).

- a  Nonresident alien required to get ITIN to claim tax treaty benefit
  - b  Nonresident alien filing a U.S. tax return
  - c  U.S. resident alien (based on days present in the United States) filing a U.S. tax return
  - d  Dependent of U.S. citizen/resident alien } Enter name and SSN/ITIN of U.S. citizen/resident alien (see instructions) ▶ .....
  - e  Spouse of U.S. citizen/resident alien } .....
  - f  Nonresident alien student, professor, or researcher filing a U.S. tax return or claiming an exception
  - g  Dependent/spouse of a nonresident alien holding a U.S. visa
  - h  Other (see instructions) ▶ .....
- Additional information for a and f: Enter treaty country ▶ ..... and treaty article number ▶ .....

<b>Name</b> (see instructions) Name at birth if different ▶	<b>1a</b> First name	Middle name	Last name
	<b>1b</b> First name	Middle name	Last name
<b>Applicant's mailing address</b>	<b>2</b> Street address, apartment number, or rural route number. If you have a P.O. box, see page 4. City or town, state or province, and country. Include ZIP code or postal code where appropriate.		
	<b>3</b> Street address, apartment number, or rural route number. Do not use a P.O. box number. City or town, state or province, and country. Include ZIP code or postal code where appropriate.		
<b>Foreign (non-U.S.) address</b> (if different from above) (see instructions)	<b>4</b> Date of birth (month / day / year)		
	Country of birth	City and state or province (optional)	<b>5</b> <input type="checkbox"/> Male <input type="checkbox"/> Female
<b>Other information</b>	<b>6a</b> Country(ies) of citizenship	<b>6b</b> Foreign tax I.D. number (if any)	<b>6c</b> Type of U.S. visa (if any), number, and expiration date
	<b>6d</b> Identification document(s) submitted (see instructions) <input type="checkbox"/> Passport <input type="checkbox"/> Driver's license/State I.D. <input type="checkbox"/> USCIS documentation <input type="checkbox"/> Other ..... Issued by: No.: ..... Exp. date: / / Entry date in United States / /		
	<b>6e</b> Have you previously received a U.S. temporary taxpayer identification number (TIN) or employer identification number (EIN)? <input type="checkbox"/> No/Do not know. Skip line 6f. <input type="checkbox"/> Yes. Complete line 6f. If more than one, list on a sheet and attach to this form (see instructions).		
	<b>6f</b> Enter: TIN or EIN ▶ ..... and Name under which it was issued ▶ .....		
<b>6g</b> Name of college/university or company (see instructions) ..... City and state ..... Length of stay .....			

**Sign Here**

Under penalties of perjury, I (applicant/delegate/acceptance agent) declare that I have examined this application, including accompanying documentation and statements, and to the best of my knowledge and belief, it is true, correct, and complete. I authorize the IRS to disclose to my acceptance agent returns or return information necessary to resolve matters regarding the assignment of my IRS individual taxpayer identification number (ITIN), including any previously assigned taxpayer identifying number.

Keep a copy for your records.	Signature of applicant (if delegate, see instructions)	Date (month / day / year)	Phone number ( ) ( )
	Name of delegate, if applicable (type or print)	Delegate's relationship to applicant <input type="checkbox"/> Parent <input type="checkbox"/> Court-appointed guardian <input type="checkbox"/> Power of Attorney	
<b>Acceptance Agent's Use Only</b>	Signature	Date (month / day / year)	Phone ( ) Fax ( )
	Name and title (type or print)	Name of company	EIN : Office Code

For Paperwork Reduction Act Notice, see page 5.

Cat. No. 10229L

Form **W-7** (Rev. 1-2010)

Department of the Treasury Internal Revenue Service **Please type or print.**

<b>1</b> Name of transferor (attach additional sheets if more than one transferor)	<b>Identification number</b>
Street address, apt. or suite no., or rural route. Do not use a P.O. box.	
City, state or province, and country (if not U.S.). Include ZIP code or postal code where appropriate.	

<b>2</b> Name of transferee (attach additional sheets if more than one transferee)	<b>Identification number</b>
Street address, apt. or suite no., or rural route. Do not use a P.O. box.	
City, state or province, and country (if not U.S.). Include ZIP code or postal code where appropriate.	

**3** Applicant is: Transferor  Transferee

<b>4a</b> Name of withholding agent (see instructions)	<b>b Identification number</b>
<b>c</b> Name of estate, trust, or entity (if applicable)	<b>d Identification number</b>
<b>5</b> Address where you want withholding certificate sent (street address, apt. or suite no., P.O. box, or rural route number)	Phone number (optional) ( )
City, state or province, and country (if not U.S.). Include ZIP code or postal code where appropriate.	

**6** Description of U.S. real property transaction:

**a** Date of transfer (month, day, year) (see inst.) ..... **b** Contract price \$ .....

**c** Type of interest transferred:  Real property  Associated personal property  
 Domestic U.S. real property holding corporation

**d** Use of property at time of sale:  Rental or commercial  Personal  Other (attach explanation)

**e** Adjusted basis \$ .....

**f** Location and general description of property (for a real property interest), description (for associated personal property), or the class or type and amount of the interest (for an interest in a U.S. real property holding corporation). See instructions.  
 .....

**g** For the 3 preceding tax years:

**(1)** Were U.S. income tax returns filed relating to the U.S. real property interest? . . . . .  Yes  No  
 If "Yes," when and where were those returns filed? ▶.....

**(2)** Were U.S. income taxes paid relating to the U.S. real property interest? . . . . .  Yes  No  
 If "Yes," enter the amount of tax paid for each year ▶.....

**7** Check the box to indicate the reason a withholding certificate should be issued. See the instructions for information that must be attached to Form 8288-B.

**a**  The transferor is exempt from U.S. tax or nonrecognition treatment applies.  
**b**  The transferor's maximum tax liability is less than the tax required to be withheld.  
**c**  The special installment sales rules described in section 7 of Rev. Proc. 2000-35 allow reduced withholding.

**8** Does the transferor have any unsatisfied withholding liability under section 1445? . . . . .  Yes  No  
 See the instructions for information required to be attached.

**9** Is this application for a withholding certificate made under section 1445(e)? . . . . .  Yes  No  
 If "Yes," check the applicable box in **a** and the applicable box in **b** below.

**a** Type of transaction:  1445(e)(1)  1445(e)(2)  1445(e)(3)  1445(e)(5)  1445(e)(6)  
**b** Applicant is:  Taxpayer  Other person required to withhold. Specify your title (e.g., trustee) ▶ \_\_\_\_\_

Under penalties of perjury, I declare that I have examined this application and accompanying attachments, and, to the best of my knowledge and belief, they are true, correct, and complete.

\_\_\_\_\_  
 Signature Title (if applicable) Date