

# Gain or loss from sale of uspri essay sample

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Gains and losses from the sale or other disposition of a U. S. real property interest (USRPI) by a nonresident alien are taxed as income effectively connected with a U. S. trade or business, even if the foreign citizen has never been in the United States. Generally, a domestic corporation will be considered a U. S. real property holding corporation if the fair market value of its USRPIs equals or exceeds 50 percent of the sum of its worldwide real property assets and any other assets used in its trade or business.

The following corporations, however, are not USRPIs:

- A domestic corporation that is no longer a USRPI because the corporation has disposed of all of its USRPIs in fully taxable transactions;
- A domestic corporation the shares of which are regularly traded on an established securities market, except for shareholders who own more than 5 percent of a class of regularly traded shares;
- A domestically-controlled real estate investment trust (REIT);
- A foreign corporation, unless it has elected to be taxed as a domestic corporation for purposes of taxation of gains on the sale or other disposition of USRPIs.

Dispositions which are taxable events are defined and include the following:

- Sales, exchanges, distributions, tax-free exchanges, and certain gifts of USRPIs;
- Sales of interests in partnerships, trusts, and estates that have USRPIs;
- Contributions to capital of a foreign corporation.

In general, the buyer (or other transferee of the property) is required to withhold 10 percent of the amount realized (net proceeds) on the disposition. For distributions by foreign corporations, withholding is need at a higher rate on the amount of the gain instead of the amount realized. Similarly, higher

withholding is required on dispositions of USRPIs by domestic partnerships, estates, and trusts to the extent that gain is allocable to a foreign partner or beneficiary. No withholding, however, is required under the following circumstances:

- The transferor (for example, seller) furnishes an affidavit that he or she is not a foreign person;
- The disposition is of shares of a corporation that are regularly traded on an established securities market;
- The disposition is of shares of a domestic corporation which furnishes an affidavit that it has not been a U. S. real property holding corporation during the period of testing;
- The disposition of a personal residence acquired by an individual for use as his or her residence and the amount realized does not exceed USD 300, 000.

Reference:

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