

(NOTE: References to “married”, “unmarried”, and “spouse” also means “in a civil union”, “not in a civil union”, and “civil union partner”, respectively.)

General Instructions

Who Must File.—Use Form N-103 to report the sale of your main home, whether or not you had a gain from the sale. A loss is not deductible. Attach Form N-103 to Form N-11 or N-15 for the year of sale.

If you are not required to file an income tax return for the year of sale, file Form N-103 by itself. Send Form N-103 to:

Hawaii Department of Taxation
P. O. Box 3559
Honolulu, Hawaii 96811-3559

If Form N-103 is being filed by itself, enter your name and address and sign and date the form.

How To Obtain Tax Forms.—To request tax forms by mail, you may call 808-587-4242 or toll-free at 1-800-222-3229.

Tax forms are also available on the Internet. The Department of Taxation’s site on the Internet is: tax.hawaii.gov

Gain or (Loss), Exclusion, and Taxable Gain (Part II)

Does Your Home Sale Qualify for Maximum Exclusion

How your sale qualifies. Your sale qualifies for exclusion of \$250,000 gain (\$500,000 if married filing jointly) if the following are true:

- You owned the home and used it as your main home during at least 2 of the last 5 years before the date of sale.
- You did not acquire the home through a like-kind exchange (also known as a 1031 exchange), during the past 5 years.
- You did not claim any exclusion for the sale of a home that occurred during a 2-year period ending on the date of the sale of the home, the gain from which you now want to exclude.

If all of these are true, skip to the Line-by-Line Instructions.

If one or more of these are not true, you might still be eligible.

Note: You can choose not to take the exclusion by including the gain from the sale in your gross income on your tax return for the year of the sale. To do so, complete all the lines in Part I, and lines 8 through 12 in Part II. Form N-15 filers should enter the gain on the Capital Gain/Loss Worksheet in the Instructions for Form N-15. Form N-11 filers should include the gain on Form N-11, line 10 (if not already included on Form N-11, line 7).

Transfer of your home. If you transferred your home (or share of a jointly owned home) to a spouse or ex-spouse as part of a divorce settlement, you are considered to have no gain or loss.

Main Home

A single-family home, condominium, cooperative apartment, mobile home, or houseboat can all count as a main home.

If you own or live in more than one home, the test for determining which one is your main home is a “facts and circumstances” test.

The most important factor is where you spend the most time. However, other factors can enter the picture as well. The more of these that are true of a home, the more likely it is your main home:

- The address listed on your:
 1. U.S. Postal Service address,
 2. Voter Registration Card,
 3. Federal and state tax returns, and
 4. Driver’s license or car registration.
- The home is near:
 1. Where you work,
 2. Where you bank,
 3. The residence of one or more family members, and
 4. Recreational clubs or religious organizations of which you are a member.

Eligibility Test

You can exclude up to \$250,000 of gain (\$500,000 if married filing jointly) on the sale of your home if you meet the Eligibility test.

Eligibility Step 1—Automatic Disqualification

Determine whether the automatic disqualification applies. Your home sale is not eligible for the exclusion if you acquired the property through a like-kind exchange (1031 exchange), during the past 5 years. See Publication 544, Sales and Other Dispositions of Assets. If this is true, skip to the Line-by-Line Instructions.

Eligibility Step 2—Ownership

Determine whether you meet the ownership requirement. If you owned the home for at least 24 months (2 years) during the last 5 years leading up to the date of sale (date of the closing), you meet the ownership requirement.

Eligibility Step 3—Residence

Determine whether you meet the residence requirement. If your home was your residence for at least 24 of the months you owned the home during the 5 years leading up to the date of sale, you meet the residence requirement. The 24 months of residence can fall anywhere within the 5-year period. It doesn’t even have to be a single block of time. All you need is a total of 24 months (730 days) of residence during the 5-year period.

If you were ever away from home, you need to determine whether that counts as time living at home or not. A vacation or other short absence counts as time you lived at home (even if you rented out your home while you were gone).

If you have a disability, and are physically or mentally unable to care for yourself, you only need to show that your home was your residence for at least 12 months out of the 5 years leading up to the date of sale. In addition, any time you spend living in a care facility (such as a nursing home) counts toward your residence requirement, so

long as the facility has a license from a state or other political entity to care for people with your condition.

If you have more than one home, see *Main Home*, earlier.

If your home was destroyed or condemned, see *Home Destroyed or Condemned—Considerations for Benefits*, later.

If you work for the government as uniformed or intelligence personnel, or are with the Peace Corps, see *Service, Intelligence, and Peace Corps Personnel*, later.

Eligibility Step 4—Look-Back

Determine whether you meet the look-back requirement. If you did not exclude gain for selling a home on your tax returns for the previous two years (and you do not intend to do so on any returns or amended returns for the past two years that are not yet filed), you meet the look-back requirement.

Eligibility Step 5—Exceptions

Check to see if there is anything about your situation that could affect your answer to Eligibility Step 2—Ownership through Eligibility Step 4—Look-Back. You’ll need to review *Does Your Home Qualify—Details and Exceptions*, later, if any of the following are true:

- A marriage, separation, divorce, or the death of a spouse occurred during the ownership of the home.
- The sale involved vacant land.
- What you sold was a “remainder interest” (such as ownership of a home in which another person has the right to live for the rest of their life).
- Your previous home was destroyed or condemned.

Eligibility Step 6—Review

Review your eligibility. If you meet the ownership, residence, and look-back requirements, your home sale qualifies for exclusion. Skip to the Line-by-Line Instructions.

If you did not meet all the tests in Eligibility Step 1 through Eligibility Step 5, earlier, your home is not eligible for the full maximum exclusion. However, you may still be eligible for partial exclusion if you can show the main reason you sold your home was because of a change in workplace location, for health reasons, or because of an unforeseeable event. See *Does Your Home Qualify—Details and Exceptions*, later.

Does Your Home Qualify—Details and Exceptions

Partial Exclusion May Be Available

If you don’t meet the eligibility test, you may still qualify for partial exclusion if you moved because of work, health, or an unforeseeable event.

You can qualify either by meeting a set of standard requirements (the “safe harbor” provisions) or by showing enough facts and circumstances to validate your claim.

Work-related move. You meet the standard requirements if any of the following happened during the time you owned and lived in the home you sold:

- You took or were transferred to a new job in a work location at least 50 miles farther from home than your old work location.
- You had no previous work location and you began a new job at least 50 miles from home.
- Either of the above is true of your spouse, a co-owner of the home, or anyone else for whom the home was their residence.

Health-related move. You meet the standard requirements if any of the following happened during the time you owned and lived in the home you sold:

- You moved to obtain, provide, or facilitate diagnosis, cure, mitigation, or treatment of disease, illness, or injury for yourself or a family member.
- You moved to obtain or provide medical or personal care for a family member suffering from a disease, illness, or injury.
- Family includes:
 1. Parent, grandparent, stepmother, stepfather;
 2. Child, grandchild, stepchild, adopted child, eligible foster child;
 3. Brother, sister, stepbrother, stepsister, half-brother, half-sister;
 4. Mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law;
 5. Uncle, aunt, nephew, niece, or cousin.
- A doctor recommended a change in residence for you because you were experiencing a health problem.
- The above is true of your spouse, a co-owner of the home, or anyone else for whom the home was their residence.

Unforeseeable events. You meet the standard requirements if any of the following happened during the time you owned and lived in the home you sold:

- Your home was destroyed or condemned.
- Your home suffered a casualty loss because of a natural or man-made disaster or an act of terrorism. (It does not matter whether the loss is deductible on your tax return.)
- You, your spouse, a co-owner of the home, or anyone else for whom the home was their residence:
 1. Died;
 2. Became divorced or legally separated;
 3. Gave birth to two or more children from the same pregnancy;
 4. Became eligible for unemployment compensation;
 5. Became unable, because of a change in employment status, to pay basic living expenses for the household (including expenses for food, clothing, housing, medication, transportation, taxes, court-ordered payments, and expenses reasonably necessary for making an income).
 6. An event is determined to be an unforeseeable event in IRS published guidance.

Showing facts and circumstances. If your circumstances do not match any of the standard requirements described above but based on facts and circumstances the primary reason for sale is work-related, health-related, or unforeseeable. Important factors are:

- The situation causing the sale arose during the time you owned and used your property as your residence.
- You sold your home not long after the situation arose.
- You could not have reasonably anticipated the situation when you bought the home.
- You began to experience significant financial difficulty maintaining the home.
- The home became significantly less suitable as a main home for you and your family for a specific reason.

Married, Divorced, Widowed

Marriage. Married individuals may exclude up to \$500,000 of gain if they file a joint return and neither spouse excluded gain on the sale of another home within a previous 2-year period. If one spouse meets the ownership requirement, both are considered to have met the requirement. See *Eligibility Step 2—Ownership*, earlier. However, each spouse must individually meet the residence requirement. See *Eligibility Step 3—Residence*, earlier.

Separation or divorce. You can count a home as your residence during any period when ALL of the following are true:

- You are a sole or joint owner.
- Your spouse or former spouse is allowed to live in it under a divorce or separation agreement.
- Your spouse or former spouse uses it as his or her residence (not just as a second home).

Home acquired through transfer from spouse.

If your home was transferred to you by a spouse or ex-spouse (whether in connection with a divorce or not), you can count any time when your spouse owned the home as time when you owned it. However, you must meet the residence requirement on your own.

Death of spouse. If you sell your home after your spouse dies (within 2 years after your spouse dies), and you have not remarried as of the sale date, you can count any time when your spouse owned the home as time you owned it, and any time when the home was your spouse's residence as time when it was your residence.

Vacant Land Next to Home

If you have vacant land adjacent to the land on which your home sits, you can only claim the sale of that land as part of a sale of your home if ALL of the following are true:

- You owned and used the vacant land as part of your home.
- The sale of the vacant land and the sale of your home happened within 2 years of each other.
- Both sales either meet the eligibility test or qualify for partial tax benefits as described earlier.

If your sale of vacant land meets all these requirements, you must treat that sale and the sale of your home as a single transaction for tax purposes.

Home Moved to New Location

If you move your home from the land it was on, that land no longer counts as part of your home. For example, if you move a mobile home to a new lot and sell the old lot, you cannot treat the sale of the old lot as the sale of your home.

Home Destroyed or Condemned— Considerations for Benefits

If an earlier home of yours was destroyed or condemned, you may be able to count your time there towards the ownership and residence test.

If your home was destroyed, see federal Publication 547, *Casualties, Disasters, or Thefts*. If your home was condemned, see federal Publication 544.

Remainder Interest

If you sell a remainder interest in your home, the sale is eligible for tax benefits as long as the buyer is not a "related person" (which can mean not only a relative but also a corporation, trust, or other organization that is closely connected to you).

If you take advantage of tax benefits when you sell a remainder interest, you cannot receive tax benefits if you later sell any other type of interest in the same home.

Like-Kind/1031 Exchange

Sale of home acquired in a like-kind exchange. You cannot claim the exclusion if:

- You acquired your home in a like-kind exchange (also known as a section 1031 exchange), or your basis in your home is determined by reference to the basis of the home in the hands of the person who acquired the property in a like-kind exchange (for example, you received the home from that person as a gift), and
- You sold the home during the 5-year period beginning with the date your home was acquired in the like-kind exchange.

Gain from a like-kind exchange is not taxable at the time of the exchange. This means that gain will not be taxed until you sell or otherwise dispose of the property you receive. To defer gain from a like-kind exchange, you must have exchanged business or investment property for business or investment property of a like kind. For more information about like-kind exchanges, see federal Publication 544.

Home relinquished in a like-kind exchange.

The same tests that apply to determine if you qualify to exclude gain from the sale of your main home (discussed earlier) also apply to determine if you qualify to exclude gain from the exchange of your main home for another property. Under certain circumstances, you may meet the requirements for both the exclusion of gain from the exchange of a main home and the nonrecognition of gain from a like-kind exchange (discussed above under *Sale of home acquired in a like-kind exchange*). This

can occur if you used your property as your main home for a period before the exchange that meets the use test, but at the time of the exchange, you used your home for business or investment (e.g., rental) purposes. This can also occur if you used your main home partly for business or investment (e.g., rental) purposes and then exchanged the home. In these situations, you would first exclude the gain from the sale of your main home to the extent allowable, and then apply the nonrecognition of gain provisions of section 1031 for like-kind exchanges to defer any remaining gain. For more information, see Revenue Procedure 2005-14, 2005-7 I.R.B. 528.

Service, Intelligence, and Peace Corps Personnel

If you are a member of Uniformed Services, Foreign Service, or an employee of the intelligence community in the United States, you may choose to suspend the 5-year test period for ownership and use if you are on qualified official extended duty. This means you may be able to meet the 2-year residence test even if, because of your service, you did not actually live in your home for at least the 2 years during the 5-year period ending on the date of sale.

Example. John bought and moved into a home in 2007. He lived in it as his main home for 2-1/2 years. For the next 6 years, he did not live in it because he was on qualified official extended duty with the Army. He then sold the home at a gain in 2015. To meet the use test, John chooses to suspend the 5-year test period for the 6 years he was on qualified official extended duty. This means he can disregard those 6 years. Therefore, John's 5-year test period consists of the 5 years before he went on qualified official extended duty. He meets the ownership and use tests because he owned and lived in the home for 2-1/2 years during this test period.

Qualified extended duty. You are on qualified extended duty if:

- You are called or ordered to active duty for an indefinite period, or for a definite period of more than 90 days.
- You are serving at a duty station at least 50 miles from your main home, or you are living in Government quarters under Government orders.
- You are one of the following:
 1. A member of the armed forces (Army, Navy, Air Force, Marine Corps, Coast Guard),
 2. A member of the commissioned corps of National Oceanic and Atmospheric Administration (NOAA) or the Public Health Service,
 3. A Foreign Service chief of mission, ambassador-at-large, or officer,
 4. A member of the Senior Foreign Service or the Foreign Service personnel,
 5. An employee, enrolled volunteer, or enrolled volunteer leader of the Peace Corps serving outside the United States.

Intelligence personnel. The extension also applies to the intelligence community. You are an em-

ployee of the intelligence community if you are an employee of the following:

- The Office of the Director of National Intelligence,
- The CIA or NSA,
- The Defense Intelligence Agency,
- The National Geospatial-Intelligence Agency,
- The National Reconnaissance Office and any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance,
- Any intelligence element of the Army, Navy, Air Force, Marine Corps, FBI, the Department of Treasury, the Department of Energy, or the Coast Guard,
- The Bureau of Intelligence and Research of the Department of State, or
- Any element of the Department of Homeland Security that analyzes foreign intelligence information.

Period of suspension. The period of suspension cannot last more than 10 years. Together, the 10-year suspension period and the 5-year test period can be as long as, but no more than, 15 years. You cannot suspend the 5-year period for more than one property at a time. You can revoke your choice to suspend the 5-year period at any time.

Example. Mary bought a home on April 1, 1999. She used it as her main home until August 27, 2002. On August 28, 2002, she went on qualified official extended duty with the Navy. She did not live in the house again before selling it on July 31, 2015. Mary chooses to use the entire 10-year suspension period. Therefore, the suspension period would extend back from July 31, 2015, to August 1, 2005, and the 5-year test period would extend back to August 1, 2000. During that period, Mary owned the house all 5 years and lived in it as her main home from August 1, 2000, until August 28, 2002, a period of more than 24 months. She meets the ownership and use tests because she owned and lived in the home for at least 2 years during this test period.

Line-by-Line Instructions

Line 1—Enter the date of sale. If you received a federal Form 1099-S, Proceeds From Real Estate Transactions, the date should be shown in box 1. If you did not receive a federal Form 1099-S, the date of sale is the earlier of (a) the date the title transferred, or (b) the date the economic burdens and benefits of ownership shifted to the buyer.

Line 2—If part of your main home was rented out or used for business and in the year of sale you were not entitled to deduct expenses for the part that was rented or used for business, report the entire sale on Form N-103.

If you were entitled to deduct expenses in the year of sale for the part that was rented or used for business, treat the sale as two separate sales. Report on Hawaii Schedule D-1 the part of the sale that applies to the rental or business use. Report on Form N-103 only the part of the sale that represents your main home. You must allocate between

Form N-103 and Hawaii Schedule D-1 the sales price, expenses of sale, and the adjusted basis of the property sold. Attach a statement showing the total selling price of the property and the method used to allocate the amounts between the two forms.

Line 5—Section 235-5.5(f), HRS, requires that the amount received as a distribution from an IHA which was used to purchase a residential property in Hawaii be included in the gross income of the individual.

Individuals who purchased residential property **before January 1, 1990**, with a distribution from an IHA must include in gross income in the year the property is sold, conveyed, or transferred an amount equal to the amount of the distribution, unless an election was made to include one-tenth of the distribution in gross income each year for ten years.

Individuals who purchase residential property **after December 31, 1989** shall include in gross income one-tenth of the distribution each year for ten years. If such individual sells the property purchased with an IHA distribution before the end of the ten-year period, the remaining amount of the distribution not previously reported shall be included in gross income in the year of sale.

Individuals who purchase residential property **after December 31, 1996**, with a distribution from an IHA established prior to January 1, 1990, and who have made the election to do so, shall include in gross income in the year the property is sold, conveyed, or transferred an amount equal to the amount of the distribution.

Enter on line 5 the total amount of the IHA distribution.

Line 6—Enter on this line the amount of the IHA distribution not previously reported. Also include this amount on Form N-11, line 10, or Form N-15, line 19. Identify this amount as "IHA distribution reported on sale of property."

Line 7—Section 235-5.5(f), HRS, also requires that 10% (.10) of the IHA distribution used to purchase residential property be added to the individual's gross income or tax liability upon the sale, conveyance, or transfer of the property if the total IHA distribution was not previously reported. On line 7, enter 10% (.10) of line 5.

The following individuals shall add 10% of the IHA distribution to their **gross income**:

1. Individuals who purchased residential property before January 1, 1990, and who have not made the election to report the distribution as gross income over a ten-year period, and
2. Individuals who purchased residential property after December 31, 1996, with a distribution from an IHA established prior to January 1, 1990, and who made the election to report the distribution as gross income at the time the property is sold.

Include this amount on Form N-11, line 10, or Form N-15, line 19. Identify this amount as "10% penalty on IHA distribution."

The following individuals shall add 10% of the IHA distribution to their **tax liability**:

1. Individuals who purchased residential property after December 31, 1989, except for individuals who purchased residential property after December 31, 1996, with a distribution from an IHA established prior to January 1, 1990, and who made the election to report the distribution as gross income at the time the property is sold.

Include this amount on Form N-11, line 27, or Form N-15, line 44 and fill in the oval indicating that you are including the separate tax from Form N-103.

Line 8—Selling Price of Home.—Enter the selling price of your home. This includes money and the fair market value of any other property or any other services you receive and all notes, mortgages or other debts assumed by the buyer as part of the sale.

If you received federal Form 1099-S, box 2 (gross proceeds) should show the total amount you received for your home. However, box 2 will not include the fair market value of any services

or property other than cash or notes you received or will receive. Instead, box 4 will be checked to indicate your receipt or expected receipt of these items.

Do not include amounts you received for personal property sold with your home. Personal property is property that is not a permanent part of the home. Examples are furniture, draperies, rugs, a washer and dryer, and lawn equipment.

Line 9—Selling Expenses.—Enter the total expenses you paid to sell your home. These expenses include commissions, advertising, attorney and legal fees, appraisal fees, title insurance, transfer and stamp taxes, and recording fees. Loan charges, such as points charged to the seller, are also selling expenses. Do not include fixing-up expenses on this line.

Line 11—Adjusted Basis of Home Sold.—See federal Publication 523 to figure the adjusted basis of the home you sold.

If you were a nonresident of Hawaii when you purchased your old Hawaii home, do not reduce the basis of the old home by any gain on the sale of a prior home which was located outside of Hawaii.

Line 20—Maximum Exclusion.—Enter \$250,000 (\$500,000 if married filing a joint return) if during the 5-year period ending on the date of the sale, you have met the ownership and use tests.

If you qualify to claim a reduced maximum exclusion, use the How to Figure Your Taxable Gain or Loss Worksheet in federal Publication 523 to figure the amount to enter on line 20.

Line 22—Taxable Gain.—If you are reporting the sale on the installment method, see federal Publication 523. Form N-15 filers should enter this amount on the Capital Gain/Loss Worksheet in the Instructions for Form N-15. Form N-11 filers should include the gain on Form N-11, line 10 (if not already included on Form N-11, line 7).