

GENERAL INSTRUCTIONS

ATTENTION:

IN 1997, CONGRESS ENACTED LEGISLATION WHICH MADE NUMEROUS CHANGES TO THE FEDERAL INCOME TAX LAW RELATING TO THE CLASSIFICATION AND TAXATION OF CAPITAL GAINS. **HAWAII HAS NOT ADOPTED ANY OF THESE CHANGES.**

Act 220, Session Laws of Hawaii 2012, extended the exemption from taxation of capital gains realized from the sale of leased fee interest in condominium units to association of apartment owners or residential cooperative corporations to taxable years ending prior to January 1, 2018.

Purpose of Form

Schedule D should be used by a taxpayer who files Form N-30 or Form N-70NP, to report sales or exchanges of capital assets and gains on distributions to shareholders of appreciated capital assets. Sales or exchanges of property other than capital assets, including property used in a trade or business, involuntary conversions (other than casualties or thefts), and gain from the disposition of interest in oil, gas, or geothermal property, should be reported on Schedule D-1, Sales of Business Property. See instructions for Schedule D-1 for more information.

If property is involuntarily converted because of a casualty or theft, use federal Form 4684, Casualties and Thefts.

Parts I and II

Generally, a corporation should report the sales and exchanges, including "like-kind" exchanges, even though there is no gain or loss. No loss is allowed for a wash sale of stock or securities or from a transaction between related persons (Internal Revenue Code (IRC) sections 1091 and 267).

In Part I, report the sale or exchange of capital assets held one year or less. In Part II, report the sale or exchange of capital assets held more than one year.

Capital Assets. — Each item of property a corporation held (whether or not connected with its trade or business) is a capital asset except:

1. Stock in trade or other property included in inventory or held mainly for sale to customers.
2. Accounts or notes receivable acquired in the ordinary course of the trade or business for services rendered or from the sale of stock in trade or other property included in inventory or held mainly for sale to customers.
3. Depreciable or real property used in the trade or business, even if it is fully depreciated.
4. Certain copyrights; literary, musical or artistic compositions; letters or memoranda; or similar property.
5. U.S. Government publications, including the Congressional Record, received from the Government, other than by purchase at the normal sales price, or that the corporation got from another taxpayer who had received it in a similar way, if the corporation's basis is determined by reference to the previous owner's basis.
6. Certain commodities derivative financial instruments held by a dealer not in connection with its dealer activities.

7. Certain identified hedging transactions entered into in the normal course of the trade or business.

8. Supplies regularly used in the trade or business.

Exchange of like-kind property. — A like-kind exchange occurs when the corporation exchanges business or investment property for property of a like kind. Complete and attach to the tax return federal Form 8824, Like-Kind Exchanges, for each exchange.

For exchanges of capital assets, enter the gain or loss from federal Form 8824, if any, on line 3 or line 11 in column (f).

Lines 5 and 13. — Section 235-7(a)(14), HRS, Short-Term and Long-Term Capital Gain Exemption. For tax years beginning after 2007 and ending before 2018, the gain realized by a fee simple owner from the sale of a leased fee interest in units within a condominium project, cooperative project, or planned unit development to the association of owners under chapter 514A or 514B, HRS, or the residential cooperative corporation of the leasehold units is exempt from Hawaii income taxation.

Use lines 5 and 13 to reduce the corporation's capital gain for these amounts reported on other lines of Schedule D.

For purposes of this exemption, "fee simple owner" means the person who owns the fee simple title to the land which is leased, including a life tenant with a remainder over, vested or contingent, and a holder of a defeasible estate, and the holder's heirs, successors, legal representatives, and assigns. "Leased fee interest" means all of the interests of the fee owner, lessor, and all legal and equitable owners of the land which is leased, other than the lessee's interest as defined by chapter 516, HRS. "Legal and equitable owners" means the fee simple owner and all persons having legal or equitable interests in the fee or in the lessor's leasehold estate, including mortgagees, developers, lienors, and sublessors, and their respective heirs, successors, legal representatives, and assigns. "Condominium project" means a real estate condominium project; a plan or project whereby a condominium of two or more units located within the condominium property regime have been sold or leased or are offered or proposed to be offered for sale or lease. "Cooperative project" means a real estate cooperative housing corporation project; a plan or project whereby two or more apartments located in a building owned by a cooperative housing corporation have been leased or are offered or proposed to be offered to be leased.

Line 14. — Enter the total capital gain distributions paid by a regulated investment company (RIC) or a real estate investment trust (REIT) during the year, regardless of how long the corporation owned stock in the RIC or REIT. Also enter any amount received from a RIC or REIT that qualifies as a distribution in complete liquidation under IRC section 332(b) and is designated by the RIC or REIT as a capital gain distribution. See IRC section 332(c).

Special Rules for the Treatment of Certain Gains and Losses

Note: For more information, get IRS Publication 544, Sales and Other Dispositions of Assets.

• **Gains and losses on stock options or warrants from a qualified high technology business.** — For Hawaii income tax purposes, all income earned and proceeds derived from stock options or stock, including stock issued through the exercise of stock options or warrants, from a qualified high technology business or from a holding company of a qualified high technology business by an employee, officer, or director of the qualified high technology business, or investor who qualified for the high technology business investment tax credit is excluded from income. Use lines 4 and 12 to reduce the corporation's capital gain for these amounts reported on other lines of Schedule D. Losses on sales or dispositions of stock obtained through options or warrants from a qualified high technology business may be deducted. These losses are not added back to income.

• **Gain on certain sales of leased fee interests.** — For tax years beginning after 2007 and ending before 2018, the gain realized by a fee simple owner from the sale of a leased fee interest in units within a condominium project, cooperative project, or planned unit development to the association of owners under chapter 514A or 514B, HRS, or the residential cooperative corporation of the leasehold units is exempt from Hawaii income taxation.

• **For other items for special treatment, see the federal Instructions for Schedule D (Form 1120).**

How to Determine the Cost or Other Basis of the Property

In determining gain or loss, the basis of property will generally be its cost (IRC section 1012). The exceptions to the general rule are provided in sections contained in subchapters C, K, O, and P of the IRC. For example, if the corporation acquired the property by dividend, liquidation of a corporation, transfer from a shareholder, bankruptcy or reorganization, bequest, contribution or gift, tax-free exchange, involuntary conversion, or wash sale of stock, see IRC sections 301 (or 1059), 334, 362 (or 358), 1014, 1015, 1031, 1033, 1060, and 1091, respectively. Attach an explanation if the corporation uses a basis other than actual cash cost of the property.

If the corporation is allowed a charitable contribution deduction because the corporation sold property to a charitable organization, figure the adjusted basis for determining gain from the sale by dividing the amount realized by the fair market value and multiplying that result by the adjusted basis.

Capital Losses. — The amount of capital losses allowed may not be more than capital gains. A net capital loss may be carried forward 5 years as a short-term capital loss unless the corporation is a qualified high technology business, in which case the loss may be carried forward 15 years. No carryback of the net capital loss is allowed.

At-Risk Limitations (IRC section 465). — If the corporation sold or exchanged an asset used in an activity to which the at-risk rules apply, combine the gain or loss on the sale or exchange with the profit or loss from the activity. If the corporation has a net loss from the activity, it may be subject to the at-risk rules.