STATE OF HAWAII
DEPARTMENT OF TAXATION

General Information and Key From Image Specifications for Form N-288 (Rev. 2015)

Contact Information

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Note: Reproduced forms must meet the requirements as established in this document and our current Forms Reproduction Policy.

FORM N-288 (Rev. 2015)

General Information and Key From Image Specifications

This document provides software vendors with the requirements for reproducing Form N-288. Form N-288 requires manually keying data from the image or KFI. A 1D barcode must be present on each page of the form.

The form must be an exact replica of the official version of the form with respect to layout, data dots, shading and content.

Substitute KFI forms MUST meet the requirements as established in this document and our current Forms Reproduction Policy, and be approved prior to release or distribution.

GENERAL INFORMATION

1. **Substitute Form**
   - Photocopies of the form must not be submitted to the Department for processing. This will distort the 1D barcode.
2. **Paper and Ink**
   - The paper size is 8.5 inches by 11 inches, the same size as the Department's original form. The paper weight must be at least 20 pound white bond and the page orientation is portrait.
   - Black ink should be used in printing the text on the form and the variable data.
3. **Variable Data**
   - All variable data fields must utilize 12 pt Courier font, and all variable text data must be in uppercase letters. Text labels must not touch variable data.
4. **Testing and Approval of the KFI Form**
   - A review of the form will be done based on processing specifications. It is assumed that there are no spelling errors, incorrect or missing words, missing lines, etc.
   - 1 test sample is required to be submitted for testing of the barcodes and must be an original. Photocopies, fax submissions, etc. will not be accepted.
   - It will require 1 to 2 weeks, upon receipt by the Department, to verify the accuracy of the submitted sample.
   - Approval of the facsimile must be obtained from the Department **prior** to filing.
   - Form N-288 (Rev. 2015) cannot be filed until 2016.

KEY FROM IMAGE (KFI) SPECIFICATIONS

1. **Layout**
   - The form must be an exact replica of the official Form N-288 with respect to layout, data dots, shading, and content.
2. **Hawaii Vendor I.D. Number**
   - Print your 2-digit Hawaii Vendor I.D. Number preceded with "ID NO" label at the top right of the form under "2016". Exact placement is not required. For suggested positions, see the attached exhibit.
   - See our software vendor website for the Hawaii Vendor I.D. Number Listing. If your company is not listed, please contact the Forms Coordinator.
3. **Barcode**
   - A 1D barcode is specific to the form. The property of the 1D symbology barcode uses 3 of 9 (Code 39).
   - Placement of the barcode is:

     1-1/16 inches from top edge of form and 1/2 inch from left edge of form
   - Height of the barcode is .5 inch.
   - Length of the barcode is approximately 2 inches.
   - Density of narrow bar width is set to 20 mils with resolution set to 300 dpi.
   - Narrow to Wide Ratio is set to 2.
   - Open space surrounding the barcode should be adhered to as much as possible.
   - DO NOT stretch the barcode image.
   - The required barcode is NDT151:

     NDT151
   - The barcode includes the form number code (ND), type of form (T), form year (15), and page number (1). There are no hyphens.
   - Use of the Department of Taxation's JPEG file of the barcode is preferable. The JPEG files can be found at our software vendor website.
   - DO NOT use Windows Metafile Format (wmf). This format causes a very low read rate by the Department's IBML scanners.

FORM
N-288
(REV. 2015)

1-1/16 inches from top edge of the form

STATE OF HAWAII—DEPARTMENT OF TAXATION

HAWAII WITHHOLDING TAX RETURN FOR DISPOSITIONS BY NONRESIDENT PERSONS OF HAWAII REAL PROPERTY INTERESTS

2016

Placement for Hawaii Vendor ID Number

ID NO 12

NDT151

1/2 inch from the left edge of the form

Complete Lines 1 - 6.

(References to "married", "unmarried", and "spouse" also means "in a civil union", "not in a civil union", and "civil union partner", respectively.)

(Copy A of Form(s) N-288A and your check or money order MUST be attached.)

To Be Completed by the Transferee/Buyer Required to Withhold

1 Name of transferee/buyer	Identification number (SSN or FEIN)
Address (number and street)	
City, State, and Postal/ZIP Code (province, postal code, and country)	
2 Description and location of property acquired (Include tax map key number)	

3 Date of transfer	**4** Number of Forms N-288A attached	**5** Amount realized on the transfer	**6** Amount withheld

Please Sign Here

I hereby declare under penalties provided by section 231-36, HRS, that I have examined this return and accompanying attachments, and, to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than individual, partner or member, fiduciary, or corporate officer) is based on all information of which preparer has any knowledge.

➤ Signature of transferee/buyer (individual, partner or member, fiduciary, or corporate officer) | Title (if applicable) | Date

Paid Preparer's Use Only

Preparer's signature Print preparer's name ➤	Date	Check if self-employed ➤ ☐	Preparer's identification number
Firm's name (or yours if self-employed), address, and Postal/ZIP Code ➤		Federal E.I. No. ➤ Phone No. ➤	

General Instructions

Purpose of Form

A 5% withholding obligation is generally imposed on the transferee/buyer when a Hawaii real property interest is acquired from a nonresident person. This withholding serves to collect Hawaii income tax that may be owed by the nonresident person. Use this form to report and transmit the amount withheld.

Note: *You are not required to withhold if any of the Exceptions listed on page 2 apply.*

See Tax Facts 2010-1, *Understanding HARP-TA*, and Tax Information Release No. 2002-02 (Revised 1/2014), *Withholding of State Income Taxes on the Disposition of Hawaii Real Property*, for more information.

Amount to Withhold

Generally, you must withhold 5% of the amount realized on the disposition by the transferor. See *Amount realized* under *Definitions*, later.

Joint Transferors/Sellers.—If one or more nonresident persons and one or more resident persons jointly transfer a Hawaii real property interest, first, determine the amount subject to withholding by allocating the amount realized from the transfer among the transferors/sellers based on their capital contribution to the property. For this purpose, a taxpayer and spouse are treated as having contributed 50% each. Second, withhold on the total amount allocated to nonresident transferors/sellers. Third, credit the amount withheld among the nonresident transferors/sellers as they mutually agree. The transferors/sellers must request that the withholding be credited as agreed upon by the 10th day after the date of transfer. If no agreement is reached, credit the withholding by evenly dividing it among the nonresident transferors/sellers.

Who Must File

A transferee/buyer of a Hawaii real property interest, and a corporation, partnership, or fiduciary that is required to withhold tax must file Form N-288 to report and transmit the amount withheld. If two or more persons are joint transferees/buyers, each of them is obligated to withhold. However, the obligation of each will be met if one of the joint transferees/buyers withholds and transmits the required amount to the State of Hawaii, Department of Taxation (Department).

When to File

A transferee/buyer must report and transmit to the Department the tax withheld by the 20th day after the date of transfer. Timely mailing of Forms N-288 and N-288A by U.S. mail will be treated as timely filing.

Hawaii has adopted the Internal Revenue Code (IRC) provision to allow documents and payments delivered by a designated private delivery service to qualify for the "timely mailing treated as timely filing/paying rule." The Department will conform to the Internal Revenue Service (IRS) listing of designated private delivery service and type of delivery services qualifying under this provision. Timely filing of mail which does not bear the U.S. Post Office cancellation mark or the date recorded or marked by the designated delivery service will be determined by reference to other competent evidence. The private delivery service can tell you how to get written proof of the mailing date.

Where to File

Mail Form N-288, Copy A of Form(s) N-288A, and your check or money order to:

Hawaii Department of Taxation
P.O. Box 1530
Honolulu, Hawaii 96806-1530

Form(s) N-288A and Your Check or Money Order Must Be Attached

Anyone who completes Form N-288 must also complete a Form N-288A, Statement of Withholding on Dispositions by Nonresident Persons of Hawaii Real Property Interests, for each nonresident transferor/seller subject to withholding.

If two or more nonresident transferors/sellers jointly transfer a Hawaii real property interest, prepare a separate Form N-288A for each nonresident transferor/seller. One Form N-288A should be filed for a taxpayer and spouse if they will be filing a joint return for the year in which they transferred their Hawaii real property interest. Copy A and your check or money order must be attached to Form N-288. Copy B must be sent to the transferor/seller. Copy C is for your records. To receive credit for the amount withheld, the transferor/seller must file a Hawaii income tax return.

Penalties

In addition to the penalties provided under sections 231-34, 231-35, 231-36, and 231-39, Hawaii Revised Statutes (HRS), if a person is required but fails to withhold tax under section 235-68, HRS, that person is made liable for the tax.

Definitions

Nonresident person means every person other than a resident person.

Property or **real property** has the meaning as the same term is defined in section 231-1, HRS.

Resident person means any: (1) Individual included in the definition of "resident" in section 235-1, HRS; (2) Corporation incorporated or granted a certificate of authority under chapter 414, 414D, or 415A, HRS; (3) Partnership formed or registered under chapter 425 or 425E*, HRS; (4) Foreign partnership qualified to transact business pursuant to chapter 425 or 425E*, HRS; (5) Limited liability company formed under chapter 428, HRS, or any foreign limited liability company registered under chapter 428, HRS; provided that if a single member limited liability company has not elected to be taxed as a corporation, the single member limited liability company shall be disregarded for purposes of section 235-68, HRS, and section 235-68, HRS, shall be applied as if the sole member is the transferor; (6) Limited liability partnership formed under chapter 425, HRS; (7) Foreign limited liability partnership qualified to transact business under chapter 425, HRS; (8) Trust included in the definition of "resident trust" in section 235-1, HRS; or (9) Estate included in the definition of "resident estate" in section 235-1, HRS.

***Note:** Chapter 425E, HRS, replaced chapter 425D, HRS, effective July 1, 2004.

Transferee/Buyer means any person, the State and the counties and their respective subdivisions, agencies, authorities, and boards, acquiring real property which is located in Hawaii.

Transferor/Seller means any person disposing real property which is located in Hawaii.

Amount realized means the sum of the cash paid, or to be paid (not including interest or original issue discount), the fair market value of other property transferred or to be transferred, and the amount of any liability assumed by the transferee/buyer or to which the Hawaii real property interest is subject to immediately before and after the transfer. Generally, the amount realized, for purposes of this withholding, is the sales or contract price.

Date of transfer means the first date on which consideration is paid or a liability is assumed by the transferee/buyer. Payment of consideration does not include the payment, before the passage of legal or equitable title (other than pursuant to an initial purchase contract), of earnest money, a good-faith deposit, or any similar sum primarily intended to bind the parties to the contract and subject to forfeiture. However, a payment that is not forfeitable may nevertheless be found to constitute earnest money, a good-faith deposit, or a similar sum.

An individual's **Identification number** is the social security number. The IRS issues Individual Taxpayer Identification Numbers (ITINs) to certain aliens who are required to have a U. S. taxpayer identification number but who do not have, and are not eligible to obtain, a social security number. The ITIN issued by the IRS must be used as the individual's identification number. If the individual has applied for an ITIN but the IRS has not yet issued the ITIN, write "Applied For". For any other person, the identification number is the federal employer identification number (FEIN). For a single member LLC that has not elected to be taxed as a corporation, where the only member is an individual, the identification number would be the social security number of the individual. For a revocable living trust, or any other trust in which an individual is treated as the owner of the trust, the identification number would be the social security number of the individual. For all other trusts, the identification number would be the FEIN of the trust.

Exceptions

You are not required to withhold if the transferor/seller furnishes to you Form N-289, Certification for Exemption from the Withholding of Tax on the Disposition of Hawaii Real Property, stating that:

1) The transferor/seller is a resident person, or
2) That by reason of a nonrecognition provision of the IRC as operative under chapter 235, HRS, or the provisions of any United States treaty, the transferor/seller is not required to recognize any gain or loss with respect to the transfer, or
3) For the year preceding the date of the transfer the property has been used by the transferor/seller as a principal residence, and that the amount realized for the property does not exceed $300,000.

If you receive a certification, the withholding tax cannot be collected from you, unless you knew that the certification was false. The certification must be signed by the individual, a responsible officer of a corporation, a member or general partner of a partnership, or the trustee, executor, or equivalent fiduciary of a trust or estate.

Belated notice or false certification.—If after the date of transfer you receive notice that the certification you received is false, you can rely on the certification and not withhold on consideration paid before you received the notice. However, you must withhold the full 5% of the amount realized from any consideration that remains to be paid, if possible. You must do so by withholding and paying over the entire amount of each successive payment of consideration until the full 5% has been withheld and paid to the Department. These amounts must be reported and transmitted to the Department by the 20th day following the date of each payment.

Withholding Certificate Issued by the Department of Taxation

A withholding certificate may be issued by the Department to reduce or eliminate withholding on dispositions of Hawaii real property interests by nonresident persons. The certificate may be issued if 1) the transferor/seller will not realize any gain with respect to the transfer, or 2) there will be insufficient proceeds to pay the withholding required after payment of all costs.

Attach a copy of the approved Form N-288B, Application for Withholding Certificate for Dispositions by Nonresident Persons of Hawaii Real Property Interests.

Specific Instructions

Lines 1.—Enter the name and identification number (social security number (SSN) or federal employer identification number (FEIN)) of the transferee/buyer. Enter the home address of the individual or the office address of the entity.

Lines 2.—Enter a description of the property including its location and the nature of any substantial improvements, such as an apartment building or warehouse. Include the tax map key number.

Line 5.—Enter the amount realized. If the transferor/seller is reporting the gain under the installment method, (i.e., agreement of sales or purchase money mortgages) enter the principal portion of the total payments for the year.

Line 6.—Enter the amount withheld. If the amount required to be withheld has been reduced or waived by the Department, attach a copy of the approved Form N-288B. Also, if one or more of the transferors/sellers are exempt from the withholding and you are issuing the exempt transferor/seller a Form N-288A, attach a copy of the exempt transferor/seller's Form N-289.