

(NOTE: References to “married” and “spouse” are also references to “in a civil union” and “civil union partner,” respectively.)

GENERAL INFORMATION

NOTE: Effective December 2, 2013, same-sex marriages are recognized in Hawaii (Act 1, Second Special Session Laws of Hawaii 2013). Hawaii’s law recognizes marriages between individuals of the same sex, and extends to such same-sex couples the same rights, benefits, protections, and responsibilities of marriage that opposite-sex couples receive.

What Is the Conveyance Tax

The conveyance tax is imposed on all transfers of ownership or interest in real property through deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreements of sale, instruments, writings, or other documents, unless the transfer is specifically exempted. The conveyance tax is imposed regardless of whether a document is recorded or not.

For Conveyance Tax Purposes, What Is a Transfer of Ownership or Interest in Real Property

Transfers of ownership or interest in real property through deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreements of sale, instruments, writings, or other documents include, but are not limited to a: (a) sale of real property interest, (b) contribution of a real property interest by a shareholder, member, partner, or grantor to a corporation, limited liability company/limited liability partnership, partnership, or trust, (c) distribution of a real property interest from a corporation, limited liability company/limited liability partnership, partnership, or trust to its shareholder, member, partner, or beneficiary/trustee/grantor, (d) gift of real property interest, (e) payment for goods and/or services or payment of debt in the form of a real property interest, and (f) lease, sublease, or timeshare interest whose full unexpired term is for a period of five or more years.

Who Is Subject to the Conveyance Tax

The person subject to the conveyance tax is generally the grantor, lessor, sublessor, assignor, transferor, seller, conveyor, or any other person conveying the real property interest.

How Is the Conveyance Tax Determined

The conveyance tax is payable on the actual and full consideration actually paid or ultimately required to be paid; it is immaterial for purposes of the conveyance tax that the transfer or conveyance resulted in a gain or loss. The tax is calculated by multiplying the actual and full consideration by the following rates:

(1) Except as provided in paragraph (2):

- Ten cents (\$.10) per \$100 of the actual and full consideration for properties with a value of less than \$600,000
- Twenty cents (\$.20) per \$100 of the actual and full consideration for properties with a value of at least \$600,000, but less than \$1,000,000
- Thirty cents (\$.30) per \$100 of the actual and full consideration for properties with a value of at least \$1,000,000, but less than \$2,000,000
- Fifty cents (\$.50) per \$100 of the actual and full consideration for properties with a value of at least \$2,000,000, but less than \$4,000,000
- Seventy cents (\$.70) per \$100 of the actual and full consideration for properties with a value of at least \$4,000,000, but less than \$6,000,000
- Ninety cents (\$.90) per \$100 of the actual and full consideration for properties with a value of at least \$6,000,000 but less than \$10,000,000
- One dollar (\$1.00) per \$100 of the actual and full consideration for properties with a value of \$10,000,000 or greater

(2) For the sale of a condominium or single family residence for which the purchaser is ineligible for a county homeowner’s exemption on property tax:

- Fifteen cents (\$.15) per \$100 of the actual and full consideration for properties with a value of less than \$600,000
- Twenty-five cents (\$.25) per \$100 of the actual and full consideration for properties with a value of at least \$600,000, but less than \$1,000,000
- Forty cents (\$.40) per \$100 of the actual and full consideration for properties with a value of at least \$1,000,000, but less than \$2,000,000
- Sixty cents (\$.60) per \$100 of the actual and full consideration for properties with a value of at least \$2,000,000, but less than \$4,000,000
- Eighty-five cents (\$.85) per \$100 of the actual and full consideration for properties with a value of at least \$4,000,000, but less than \$6,000,000
- One dollar and ten cents (\$1.10) per \$100 of the actual and full consideration for properties with a value of at least \$6,000,000 but less than \$10,000,000
- One dollar and twenty-five cents (\$1.25) per \$100 of the actual and full consideration for properties with a value of \$10,000,000 or greater

The conveyance tax imposed for each transaction shall be not less than one dollar (\$1.00).

Actual and full consideration is the price or amount (whether cash or otherwise) actually paid or required to be paid for real property including the value of any liens or encumbrances thereon at the time of sale, lease, sublease, assignment of lease, agreement of sale, assignment of agreement of sale, transfer, or conveyance. Consideration is not limited to cash and includes any promise, act, forbearance, property, interest, value, gain, advantage, benefit, or profit offered by one party to another in return for the other party’s act or promise. Consideration other than cash includes (a) tangible personal property, e.g., furniture and equipment, (b) an increase in the value of stock or interest in a partnership, limited liability partnership, or limited liability company, (c) a release from or assumption of indebtedness, e.g., mortgages, loans, and liens, (d) the fair market value of any properties exchanged, (e) the value of any increase in lease rent, or (f) any other economic benefit.

General Filing Requirements

Form P-64B, Exemption from Conveyance Tax, must be completed to request certain exemptions from the conveyance tax. Depending on the type of transaction, Form P-64B must either be (1) submitted to the Department of Taxation, Technical Section for approval of the exemption, or (2) filed directly with the BOC.

When Is a Conveyance Tax Certificate Not Required

A Form P-64B is not required for the following transactions; the documents may be recorded or filed directly with the BOC:

- 1) Leases or subleases with full unexpired terms of less than 5 years.
- 2) Documents executed prior to January 1, 1967.
- 3) Documents given to secure a debt or obligation.
- 4) Documents in which the federal, State, or county governments are the only parties (e.g., both as transferor and transferee).
- 5) Documents involving eminent domain proceedings.
- 6) Documents which only convey or grant easements.
- 7) Documents involving a merger or consolidation.
- 8) Documents involving a dissolving limited partnership to its corporate general partner that owns at least 90% constructive ownership interest in the partnership.

AND

9) Documents that conform to the transfer on death deed as authorized under chapter 527, HRS.

For further information, please refer to the following, which can be obtained from the Department's website at tax.hawaii.gov or by contacting the customer service representative at (808) 587-4242:

- Chapter 247, HRS, Conveyance Tax Law
- Chapter 18-247, Hawaii Administrative Rules, Conveyance Tax Law
- Tax Information Release No. 89-1, RE: Conveyance Tax on Certain Time Share Conveyances

- Tax Information Release No. 89-11, RE: The Administration and Application of the Conveyance Tax Law
- Tax Information Release No. 89-12, RE: The Administration and Application of the Conveyance Tax
- Tax Information Release No. 90-11, RE: The Administration and Application of the Conveyance Tax Law
- Tax Information Release No. 92-2, RE: The Administration and Application of the Conveyance Tax Law

SPECIFIC INSTRUCTIONS

When completing Form P-64B, please type or print. If Form P-64B is not completed properly, it will not be accepted/approved.

Tax Map Key Information

Enter the tax map key (TMK) of the parcel(s) conveyed. For condominiums, list the condominium property regime (CPR) number next to the TMK. If there are several TMKs which exceed the space provided, attach a separate continuation sheet to the Form P-64B to report the additional TMKs (entering only "See Attached" in the TMK section is not acceptable). To obtain the TMK, please call the real property tax office in the county (City and County of Honolulu, County of Maui, County of Hawaii, or the County of Kauai) where the property is located (visit the Department's website at tax.hawaii.gov for links to the counties' websites). The TMK can also be obtained from your Real Property Tax Assessment Notice, from your Real Property Tax Bill, and for timeshare owners, from your timeshare management company.

County - Enter the county where the real property interest is located. Counties are: Oahu; Maui (includes Molokai and Lanai); Hawaii and Kauai. For example: TMK (1) 2-3-045-067-0000 should be entered as (Z) 2; (S) 3; (PLAT) 045; (PARCEL) 067; (CPR or HPR) 0000.

Apartment Number - Enter the apartment number, if applicable.

Names of Parties to the Document

List the names of all parties to the document as they appear on the document. For example, if the grantor or grantee is a trust, include the name and title (e.g., John Smith, Trustee) of the trustee and the full name and date of the trust. If the names of the sellers/transferees/grantees and purchasers/transferees/grantees exceed the space provided, attach a separate continuation list to the Form P-64B to report the additional names (entering only "See Attached" in the names sections is not acceptable).

Date of Transaction

Enter the appropriate date. The Date of Transaction is the later of (1) the date the document is executed or (2) the date of the last acknowledgment.

"Document" means deeds, leases, subleases, assignments of lease, agreements of sale, assignments of agreements of sale, instruments, writings, and the like.

"Executed" means, with regard to a document, completed (e.g., all blank spaces are filled in) and signed by the parties to the document.

"Date of last acknowledgment" means the date that the last formal declaration is noted on a document. The acknowledgment or formal declaration is made by a party to an executed document stating that signing the document is the party's free act and deed. The signing is usually made before and certified by a notary.

Signatures

In all transfers one of the following must sign Form P-64B:

- the seller(s)/transferor(s)/grantor(s), **or**
- the purchaser(s)/transferee(s)/grantee(s)

A duly authorized representative of any party to the transfer may sign the Form P-64B and must retain a power of attorney (Form N-848). When signing the Form P-64B, the duly authorized representative must print or type his/her name below his/her signature. Provide an email address (if available) and a day time phone number.

If the real property interest is transferred by the federal, State, or county governments, the purchaser(s)/transferee(s)/grantee(s) must sign Form P-64B.

The penalty for false declaration upon conviction of a class C felony is a fine not more than \$100,000 or imprisonment not more than 3 years or both; corporations shall not be fined more than \$500,000.

Form P-64B (To Request an Exemption From the Conveyance Tax)

Form P-64B is used to request an exemption from the conveyance tax. Depending on the type of transaction, Form P-64B must either be (1) submitted to the Department of Taxation, Technical Section for approval of the exemption, or (2) filed directly with the BOC.

Use Form P-64B to exempt the following documents from the conveyance tax:

- 1) Documents that confirm or correct a document previously recorded or filed.
- 2) Documents between a taxpayer and spouse, reciprocal beneficiaries, or parent and child, in which only a nominal consideration is paid.
- 3) Documents in which a nominal consideration of \$100 or less is paid or to be paid.
- 4) Documents in fulfillment of an agreement of sale and, where applicable, an assignment of agreement of sale, if the conveyance tax on the agreement of sale was previously paid when the agreement of sale was recorded.
- 5) Documents involving a tax sale for delinquent taxes or assessments.

- 6) Documents involving partition deeds among co-owners, provided each exemption claimed declares each owner's undivided interest in the real property and the value of that interest before partition, and each owner's proportionate interest and the value of that interest after partition.
- 7) Documents between marital partners or reciprocal beneficiaries who are parties to a divorce action or termination of reciprocal beneficiary relationship which are executed pursuant to an order of the court in the divorce action or termination of reciprocal beneficiary relationship.
- 8) Documents involving conveyance from a testamentary trust to a trust beneficiary.
- 9) Documents involving conveyance from the grantor to a grantor's revocable living trust **or** from a grantor's revocable living trust to the grantor.

Part I

Line 1 – Tax Map Key Information. See the *Specific Instructions* on page 2.

Line 2 – Date of Transaction. See the *Specific Instructions* on page 2.

Line 3 – Names of Parties to the Document. See the *Specific Instructions* on page 2.

Part II

This part must be completed.

Lines 1 through 7 – Amounts Paid or Required to be Paid

Enter all amounts (consideration) paid or required to be paid for the real property interest conveyed. Enter zero (-0-) for those items that are not applicable. See *How Is the Conveyance Tax Determined* in the General Information section of these instructions for a discussion of what is consideration.

Line 8 – Total Amount of Actual and Full Consideration

Add lines 1 through 7, and enter the total on line 8.

If the total is more than \$100, the exemption for a conveyance that involves an actual and full consideration of \$100 or less is not applicable. If the transfer does not qualify for another exemption from the conveyance tax, you will need to file Form P-64A, instead of Form P-64B, and pay the conveyance tax.

Part III and Part IV

Complete the Part (Part III or Part IV, but not both), that best describes the exemption claimed. (If both Part III and Part IV are completed, Form P-64B **will not be accepted/approved**).

If Part III is used, check only one best applicable box and complete the “Describe Transfer” section. When completing the “Describe Transfer” section, enter a concise explanation. If the transfer is to a trust, describe the trust beneficiaries. Note in particular whether all of the beneficiaries are individuals or if the beneficiaries include an entity, such as a LLC; if more space is needed, continue the explanation on a separate sheet of paper and attach it to the Form P-64B (entering only “See Attached” in the “Describe Transfer” section is not acceptable).

Signatures – See the *Specific Instructions* on page 2.

Where to File Form P-64B

If the exemption claimed falls under Part III, submit Form P-64B, and the document to be recorded (a copy of the document is acceptable) to the Department of Taxation, Technical Section, at P.O. Box 259, Honolulu, HI 96809-0259, or at 830 Punchbowl Street, Room 124, Honolulu, HI 96813, for review and approval before filing with the BOC. Upon receipt of the Form P-64B by the Technical Section, the Form P-64B will be reviewed within three (3) to ten (10) business days. After reviewing Form P-64B, we will return it to you by (1) calling you to pick it up at the Department of Taxation or (2) mailing it back. Approved Form P-64B will be forwarded to the BOC for recording if we have all of the following: (1) written instructions to do so by the party who submitted the Form P-64B for review, (2) the original document to be recorded, and (3) all the necessary recording fees (if any item is missing, the Form P-64B will be returned to the party who submitted the Form P-64B for review).

If the exemption appears in Part IV, file the Form P-64B directly with the BOC. (See mailing address below.)