STATE OF HAWAII — DEPARTMENT OF TAXATION

INSTRUCTIONS FOR FORM N-103
Sale of Your Home

2003

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, N-12, 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 the taxation district office where you would normally file your income tax return. If Form N-103 is being filed by itself, enter your name and address and sign and date the form.

Main Home.—You file Form N-103 only for the sale of your main home. It can be a house, houseboat, mobile home, cooperative apartment, condominium, etc. If you have more than one home, your main home is ordinarily the one you live in most of the time.

In addition to your living in your home most of the time, other factors are relevant in determining if that home is your main home. Those factors include the following:

1. Your place of employment.
2. The location of your family members' main home.
3. Your mailing address for bills and correspondence.
4. The address listed on your:
   a. Federal and state tax returns,
   b. Driver's license,
   c. Car registration, and
   d. Voter registration card.
5. The location of the banks you use.
6. The location of recreational clubs and religious organizations you are a member of.

How To Obtain Tax Forms.—To request tax forms by fax or mail, you may call 808-587-7572 or toll-free 1-800-222-7572.

Tax forms are also available on the Internet. The Department of Taxation's site on the Internet is:
www.state.hi.us/tax

Sales After May 6, 1997

You may qualify to exclude from your income all or part of any gain from the sale of your main home. This means that, if you qualify, you will not have to pay tax on the gain up to the limit described under Maximum Amount of Exclusion. To qualify, you must meet the ownership and use tests described later.

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. Enter the gain on the Capital Gain/Loss Worksheet in the Instructions for Form N-12 or 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).

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

Maximum Amount of Exclusion

You can exclude up to $250,000 of the gain on the sale of your main home if all of the following are true.

1. You meet the ownership test.
2. You meet the use test.
3. During the 2-year period ending on the date of the sale, you did not exclude gain from the sale of another home.

This exclusion also applies to the gain attributable to your interest in your main home if you are a joint owner, file a separate return, and the 3 items above are true.

You can exclude up to $500,000 of the gain on the sale of your main home if all of the following are true.

1. You are married and file a joint return for the year.
2. Either you or your spouse meets the ownership test.
3. Both you and your spouse meet the use test.
4. During the 2-year period ending on the date of the sale, neither you nor your spouse excluded gain from the sale of another home.

If either spouse does not satisfy all these requirements, the maximum exclusion that can be claimed by the couple is the total of the maximum exclusions that each spouse would qualify for if not married and the amounts were figured separately. For this purpose, each spouse is treated as owning the property during the period that either spouse owned the property.

Reduced Maximum Exclusion

You can claim an exclusion, but the maximum amount of gain you can exclude will be reduced if either of the following is true.

1. You did not meet the ownership and use tests, but the **primary reason** you sold the home was:
   a. A change in the place of employment,
   b. Health, or
   c. Unforeseen circumstances, to the extent provided in regulations (as discussed below).
2. Your exclusion would have been disallowed because of the rule described in More Than One Home Sold During 2-Year Period, later, except that the primary reason you sold the home was:
   a. A change in place of employment,
   b. Health, or
   c. Unforeseen circumstances, to the extent provided in regulations (as discussed below).

Primary reason. There are certain sets of facts and circumstances (safe harbors), described later, that will be treated as satisfying the primary reason test for the sale of a main home. If your home sale does not qualify under one of these safe harbors, factors that may be relevant in determining your primary reason for sale include the following.

1. Your financial ability to maintain your home materially changed.
2. The suitability of your property as a home materially changed.
3. The circumstances causing your sale were not reasonably foreseeable when you began using the property as your main home.
4. During the time you owned the property, you used it as your home.
5. The circumstances causing your sale occurred during the time you owned and used the property as your main home.
6. Your sale and the circumstances causing it were close in time.

Change in place of employment. The sale of your home is because of a change in place of employment if your primary reason for the sale is a change in the location of employment of a qualified individual.

Qualified individual. For purposes of the reduced maximum exclusion, a qualified individual is any of the following.

- The taxpayer.
- The taxpayer's spouse.
- A co-owner of the residence.
- A person whose main home is the same as the taxpayer's.

Employment. For this purpose, employment includes the start of work with a new employer or continuation of work with the same employer. It also includes the start or continuation of self-employment.

Distance safe harbor. The primary reason for the sale of your main home is a change in place of employment if:

1. The change occurred during the period you owned and used the property as your main home, and
2. The new place of employment is at least 50 miles farther from your home than the former place of employment was.

Health. The sale of your main home is because of health if your primary reason for the sale is to obtain, provide, or facilitate the diagnosis, cure, mitigation, or treatment of disease, illness, or injury of a qualified individual. For purposes of this reason, a qualified individual includes, in addition to the individuals listed earlier, any of the following:

- Parent, grandparent, stepmother, stepfather,
- Child, grandchild, stepchild, adopted child,
- Brother, sister, stepbrother, stepsister, half brother, half sister,
- Mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law,
- Uncle, aunt, nephew, or niece.

Doctor's recommendation safe harbor. The primary reason for the sale of your main home is because of health if, for one or more of the reasons listed at the beginning of this discussion, a doctor recommends a change of residence.

Unforeseen circumstances. The sale of your main home is because of an unforeseen circumstance if your primary reason for the sale is the occurrence of an event that you do not anticipate before purchasing and occupying your main home.

Specific event safe harbors. If the sale of your main home is because of any of the following events, the primary reason for your sale is an unforeseen circumstance and you are entitled to a reduced maximum exclusion.

1. An involuntary conversion of your home.
2. Natural or man-made disasters or acts of war or terrorism resulting in a casualty to your home, whether or not your loss is deductible.
3. In the case of qualified individuals (listed earlier under Change in place of employment):
   a. Death,
   b. Unemployment (if the individual is eligible for unemployment compensation),
   c. A change in employment or self-employment status that results in your (if you are the taxpayer) inability to pay reasonable basic living expenses (listed later under Reasonable basic living expenses),
   d. Divorce or legal separation, or
   e) Multiple births resulting from the same pregnancy.

Reasonable basic living expenses. Reasonable basic living expenses for the taxpayer's household include the following expenses.

- Amounts spent for food.
- Amounts spent for clothing.
- Housing and related expenses.
- Medical expenses.
- Transportation expenses.
- Tax payments.
- Court-ordered payments.
- Expenses reasonably necessary to produce income.

Amounts spent on these items to maintain an affluent or luxurious standard of living are not reasonable basic living expenses.

More Than One Home Sold During 2-Year Period

You cannot exclude gain on the sale of your home if, during the 2-year period ending on the date of the sale, you sold another home at a gain and excluded all or part of that gain. If you cannot exclude the gain, you must include it in your income.

However, you can still claim an exclusion if you sold the home due to:

1. A change in place of employment,
2. Health, or
3. Unforeseen circumstances, to the extent provided in regulations (as discussed earlier).

The maximum amount you can exclude is reduced. See Reduced Maximum Exclusion, earlier.

Ownership and Use Tests

To claim the exclusion, you must meet the ownership and use tests. This means that during the **5-year period** ending on the date of the sale, you must have:

1. **Owned** the home for at least **2 years** (the ownership test), **and**
2. **Lived in** the home as your main home for at least **2 years** (the use test).

Exception. If you owned and lived in the property as your main home for less than 2 years, you can still claim an exclusion in some cases. The maximum amount you can exclude will be reduced. See Reduced Maximum Exclusion, earlier.

Period of ownership and use. The required 2 years of ownership and use during the 5-year period ending on the date of the sale do not have to be continuous. You meet the tests if you can show that you owned and lived in the property as your main home for either 24 full months or 730 days (365 x 2) during the 5-year period ending on the date of sale.

Temporary absence. Short temporary absences for vacations or other seasonal absences, even if you rent out the property during the absences, are counted as periods of use.

Ownership and use tests met at different times. You can meet the ownership and use tests during different 2-year periods. However, you must meet both tests during the 5-year period ending on the date of the sale.

Cooperative apartment. If you sold stock in a cooperative housing corporation, the ownership and use tests are met if, during the 5-year period ending on the date of sale, you:

1. Owned the stock for at least 2 years, and
2. Lived in the house or apartment that the stock entitles you to occupy as your main home for at least 2 years.

Exception for individuals with a disability. There is an exception to the use test if, during the 5-year period before the sale of your home:

1. You become physically or mentally unable to care for yourself, and
2. You owned and lived in your home as your main home for a total of at least 1 year.

Under this exception, you are considered to live in your home during any time that you own the home and live in a facility (including a nursing home) that is licensed by a state or political subdivision to care for persons in your condition.

If you meet this exception to the use test, you still have to meet the 2-out-of-5-year ownership test to claim the exclusion.

Gain postponed on sale of previous home. For the ownership and use tests, you may be able to add the time you owned and lived in a previous home to the time you lived in the home on which you wish to exclude gain. You can do this if you postponed all or part of the gain on the sale of the previous home because of buying the home on which you wish to exclude gain.

Previous home destroyed or condemned. For the ownership and use tests, you add the time you owned and lived in a previous home that was destroyed or condemned to the time you owned and lived in the home on which you wish to exclude gain. This rule applies if any part of the basis of the home you sold depended on the basis of the destroyed or condemned home. Otherwise, you must have owned and lived in the same home for 2 of the 5 years before the sale to qualify for the exclusion.

Married Persons

If you and your spouse file a joint return for the year of sale, you can exclude gain if either spouse meets the ownership and use tests. (But see Maximum Amount of Exclusion, earlier.)

Death of spouse before sale. If your spouse died before the date of sale, you are considered to have owned and lived in the property as your main home during any period of time when your spouse owned and lived in it as a main home.

Home transferred from spouse. If your home was transferred to you by your spouse (or former spouse if the transfer was incident to divorce), you are considered to have owned it during any period of time when your spouse owned it.

Use of home after divorce. You are considered to have used property as your main home during any period when:

1. You owned it, and
2. Your spouse or former spouse is allowed to live in it under a divorce or separation instrument.

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 starting in 1990.

Individuals who purchase residential property **after December 31, 1989**, or those who purchased property before January 1, 1990, and have made the election to do so, 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, Form N-12, line 18, 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, Form N-12, line 18, 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 26, Form N-12, line 39, or Form N-15, line 41 and check the box 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. Generally, this includes the amount of money you received, plus all notes, mortgages, or other debts that are part of the sale. If you received a federal Form 1099-S, the total of these items should be shown in box 2. The selling price also includes the fair market value of any other property or services you received as part of the sale. If you received any other property or services as part of the sale, the value of these items is not shown on federal Form 1099-S. However, box 4 of that form should be checked.

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, 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 15—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 exclusion, use the Reduced Maximum Exclusion Worksheet in federal publication 523 to figure the amount to enter on line 15.

Line 17—Taxable gain.—If you are reporting the sale on the installment method, see federal Publication 523. All others, enter this amount on the Capital Gain/Loss Worksheet in the Instructions for Form N-12 or 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).