

STATE OF HAWAII — DEPARTMENT OF TAXATION
**INSTRUCTIONS FOR FORM P-64A
AND FORM P-64B**

(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 and Payment Requirements

Although the Conveyance Tax Law is administered by the Department of Taxation (Department), forms and payments are generally submitted to the Bureau of Conveyances (BOC), which is part of the Department of Land and Natural Resources. The person subject to the conveyance tax must complete and file Form P-64A, Conveyance Tax Certificate, and pay the conveyance tax due to the BOC no later than 90 days after the date of transaction regardless of whether the document will be recorded or not; otherwise, penalty and interest will be assessed. Make your check or money order payable in U.S. dollars to the “Bureau of Conveyance.” Do not postdate your check. **Do not send cash.**

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.

Penalty and Interest

Late Filing of Return – The penalty for failure to file a return on time is assessed on the tax due at a rate of 5% per month, or part of a month, up to a maximum of 25%.

Failure to Pay Tax After Filing Timely Return – The penalty for failure to pay the tax after filing a timely return is 20% of the tax unpaid within 60 days of the prescribed due date.

Interest – Interest at the rate of 2/3 of 1% per month, or part of a month, shall be assessed on unpaid taxes and penalties beginning with the first calendar day after the date prescribed for payment, whether or not that first calendar day falls on Saturday, Sunday, or legal holiday.

When Is a Conveyance Tax Certificate Not Required

A Form P-64B is not required for documents 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.

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 either Form P-64A or Form P-64B, please type or print. If Form P-64A or 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-64A or 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.

Island - Enter the island where the real property interest is located. Island numbers are: (1)Oahu; (2)Maui; (3)Hawaii and (4)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. Do not include the island number as part of the TMK number.

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 and their email addresses (if available). For example, if the grantor or grantee is a trust, include the name and title (e.g., trustee, co-trustee, successor trustee) of the trustee and the full name and date of the trust. If the names of the sellers/transferors/grantors and purchasers/transferees/grantees exceed the space provided, attach a separate continuation list to the Form P-64A or 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 the following **MUST** sign Form P-64A:

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

If there are multiple sellers or buyers, at least one seller and buyer must sign Form P-64A.

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-64A or Form P-64B and must retain a power of attorney (Form N-848). When signing the Form P-64A or Form P-64B, the duly authorized representative must print or type his/her name below his/her signature.

If the real property interest is transferred by the federal, State, or county governments, the purchaser(s)/transferee(s)/grantee(s) must sign the Form P-64A or 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-64A (To Pay the Conveyance Tax)

Form P-64A is filed for each document conveying any real property interest which is subject to the conveyance tax and is used to declare the actual and full consideration paid or required to be paid and to pay the conveyance tax.

Part I

Line 1 – Tax Map Key Information. See the *Specific Instructions* above.

Line 2 – Names of Parties to the Document. See the *Specific Instructions* above.

Part II

Tax Computation and Balance Due

Line 1 – Date of Transaction. See the *Specific Instructions* on page 2.

Line 5 – Check the box if the transaction is **EITHER**:

- Not a sale of a condominium or a single family residence **OR**
- The purchaser is **ELIGIBLE** for a county homeowner’s exemption on property tax with respect to the property conveyed.

Line 6 – Enter the conveyance tax rate applicable to the type and value of the property being conveyed. See *How Is the Conveyance Tax Determined* on page 1 in the General Information section of these instructions for details.

Transfers before July 1, 2009

If the date of transaction is prior to July 1, 2009, you must enter the appropriate conveyance tax rate on line 6 as follows:

If the amount on line 4 is:	And the box on line 5	
	is NOT checked.	IS checked.
Less than \$600,000	.0015	.0010
At least \$600,000 but less than \$1,000,000	.0025	.0020
\$1,000,000 or more	.0035	.0030

Line 7 – The tax is calculated by multiplying the actual and full consideration entered on Part II, line 4 by the rate entered on Part II, line 6. The conveyance tax must be rounded to the nearest ten cents (\$.10); the minimum conveyance tax is one dollar (\$1.00).

Line 8 – Add the amount of penalty on line 8a and the amount of interest on line 8b and enter the total on line 8.

Line 8a – Section 231-39, HRS, provides for the assessment of a late filing penalty of 5% of the tax due for each month or part of a month that Form P-64A is filed late, e.g., beyond 90 days after the date of transaction, up to a maximum of 25%. For assistance in calculating the penalty due, contact the customer service representative at (808) 587-4242 or toll-free at 1-800-222-3229.

Line 8b – Section 231-39, HRS, provides for the assessment of interest on taxes not paid by their due date. The interest rate for not paying the tax when due is 2/3 of 1% of the unpaid amount, e.g., the sum of the tax due plus the amount of any penalty, for each month or part of a month it remains unpaid. For assistance in calculating the interest due, contact the customer service representative at (808) 587-4242 or toll-free at 1-800-222-3229.

Line 9 – Make your check for the total balance due payable to the “**Bureau of Conveyances**.” If the real property is transferred by the federal, State, or county governments, the purchaser(s)/transferee(s)/grantee(s) must declare the actual and full consideration and pay the conveyance tax.

Part III

Lines 1 through 6 – Amounts Paid or Required to be Paid

Enter all amounts (consideration) paid or required to be paid for the real property interest conveyed. See *How Is the Conveyance Tax Determined* on page 1 in the General Information section of these instructions for a discussion of what is consideration.

Part IV

Sale, Agreement of Sale (A/S), Assignment of A/S, or Other Transfer/Conveyance

Line 1 – State the total amount of actual and full consideration paid or required to be paid for the real property interest. If the conveyance involves a timeshare interest with a term of five years or more, state the actual and full consideration for the timeshare interest.

Exchange of Properties

When parties exchange real property interests, both conveyances are subject to the conveyance tax. The consideration shall be the fair market value of all property interests exchanged plus any other consideration.

Line 2a – State the fair market value of all property interests exchanged.

Line 2b – State the total amount of other actual and full consideration paid or required to be paid for the real property interest(s) exchanged.

Assignment of Lease

When a lease is entered into, a conveyance tax is paid based on the rent to be paid over the life of the lease. When a lease is assigned, additional conveyance tax is due if any consideration is paid to have the lease assigned and/or if the rent to be paid or the term of the lease is increased.

Line 3a – State the total amount of actual and full consideration paid or required to be paid for the assignment of the lease.

Line 3b – State the value of any increase in lease rental related to the assignment of lease, discounted to present value and capitalized at the rate of 6%.

Lease or Sublease

Only leases or subleases with terms of five years or more are subject to the conveyance tax. The basis for the conveyance tax for these leases and subleases is the annual rent to be paid over the life of the lease or sublease discounted to present value and capitalized at the rate of 6% plus any other actual and full consideration paid for the lease or sublease, including improvements.

Note: *When the lease rent is renegotiated, you must file another Form P-64A to report and pay conveyance tax on the difference in the annual lease rent.*

Line 4a – State the term of the lease, e.g., how many years the lease is to run, and the date the lease is to start. If the annual lease rent to be paid is fixed throughout the life of the lease, state the number of years of the lease and the annual rent to be paid in the “1st period” line. If the annual rent to be paid changes during the life of the lease, e.g., a graduated or step-up lease, complete the appropriate number of “period” lines, stating the number of years of the lease a particular annual rent will be paid. To determine the total rent discounted to present value and capitalized at the rate of 6%, multiply the annual lease rent by the proper Inwood Factor (see the Inwood Factors Table on page 2 of the Form P-64A) or the equivalent present day valuation table at the rate of 6%.

Example 1: 10 year lease with rent fixed at \$12,000 per year. Multiply annual fixed rent by the proper Inwood Factor that corresponds to the entire term of the lease. \$12,000 x 7.360 (10 yrs. factor from the Inwood Factors Table) = \$88,320

Example 2: 20 year lease with rent fixed at \$12,000 per year for 15 years. Multiply annual fixed rent by the proper Inwood Factor that corresponds to the entire term of the lease. \$12,000 x 11.469 (20 yrs. factor from the Inwood Factors Table) = \$137,628

Example 3: 5 year percentage lease with minimum rent at \$12,000 per year. Multiply annual minimum rent by the proper Inwood Factor that corresponds to the entire term of the lease. \$12,000 x 4.212 (5 yrs. factor from the Inwood Factors Table) = \$50,544

Example 4: 15 year percentage lease with no minimum rent per year. Multiply the estimated average annual rent expected during the first 10-year period by the proper Inwood Factor that corresponds to the entire term of the lease. Estimated average annual rent x 9.712 (15 yrs. factor for the Inwood Factors Table)

Example 5: 15 year lease with rent fixed at \$12,000 for years 1 through 5, \$12,600 for years 6 through 10, and \$13,230 for years 11 through 15. Multiply the annual fixed rent by the proper Inwood Factor that corresponds to the terms of the lease.

\$12,000 x 4.212 (5 yrs. factor for the Inwood Factors Table) = \$50,544.00
 \$12,600 x (7.360 - 4.212) (10 yrs. factor less 5 yrs. factor from the Inwood Factors Table) = \$12,600 x 3.148 = \$39,664.80

$\$13,230 \times (9.712 - 7.360)$ (15 yrs. factor less 10 yrs. factor from the Inwood Factors Table) = $\$13,230 \times 2.352 = \$31,116.96$
 Capitalized Value of Graduated Lease Rental = $\$50,544.00 + \$39,664.80 + \$31,116.96 = \$121,325.76$

Line 4b – State the total amount of actual and full consideration paid or required to be paid for the leasehold, including improvements.

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

Where to File

If the document will be recorded, submit the completed Form P-64A, along with payment, to the Bureau of Conveyance at 1151 Punchbowl Street,

Honolulu, HI 96813 or P. O. Box 2867, Honolulu, HI 96803-2867, prior to or at the time of the recordation or filing, but no later than 90 days after the date of transaction. If the Form P-64A is being submitted more than 90 days after the date of transaction, please contact the customer service representative at (808) 587-4242, for the calculation of penalty and interest. If the document to be recorded is subject to the conveyance tax, it must be submitted with Form P-64A along with the payment of the tax and filing fees; otherwise, the BOC will reject it.

If the document will not be recorded, submit the completed Form P-64A, along with payment, to the Bureau of Conveyance at 1151 Punchbowl Street, Honolulu, HI 96813 or P. O. Box 2867, Honolulu, HI 96803-2867 no later than 90 days after the date of transaction.

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.)

Where to File Form P-64A

Mail Form P-64A with the documents to be recorded (if any) with your tax payment and filing fees to:

Bureau of Conveyances
 P.O. Box 2867
 Honolulu, HI 96803-2867

Your documents, tax payment, and filing fees are due no later than 90 days after the date of transaction. You may also drop off your documents at 1151 Punchbowl Street, Honolulu, HI 96813. See the BOC's website at dlnr.hawaii.gov/boc or call (808) 587-0147 for **filing fee information**.