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Report of Tax Payments on Real Property Conveyances

Form **OR-18**

Tax year **2017**

The authorized agent is required to complete Form OR-18 and Form OR-18-V to send a payment. The authorized agent must prepare two copies of Form OR-18 and Form OR-18-V for each transferor and distribute as follows:

- To the transferor for their records.
- To be retained for the authorized agent's records.

Mail Form OR-18-V within 20 days from disbursal to:
Oregon Department of Revenue
PO Box 14950
Salem OR 97309-0950

PART A—Authorized agent

Name of authorized agent

Federal employer ID number (FEIN)

Agent daytime phone ( )

Street address

City | State | ZIP code

Type of authorized agent

☐ Escrow agent ☐ Attorney ☐ Other:

PART B—Transferor's information

Transferor first name, middle initial, and last name | Social Security number (SSN)/FEIN of transferor

Transferor spouse first name, middle initial, and last name | Spouse Social Security number (SSN)

Street address

City | State | ZIP code

Type of taxpayer: ☐ Individual ☐ C corporation

Taxpayer tax year end date / /

PART C—Transferor's Oregon income and ownership information

(1) Percent of ownership in real property

(2) Nonresident owner's share of consideration from conveyance

Address of property conveyed

PART D—Payment information

- **Individuals:** Claim as tax payments from real estate transactions on your Oregon Form OR-40-N or OR-40-P.
- **Corporations:** Claim as payments made on your behalf from real estate income on your Oregon Form OR-20 or OR-20-INC.

Tax year 2017 Date paid: / /

Payment amount $

150-101-183 (Rev. 12-16)

Don't include this form with your Oregon return. Keep it with your records.

Form OR-18-V, Tax for Nonresidents Payment Voucher

Office use only

- **Tax year**:
  Begins: / /
  Ends: / /

First name and initial | Last name | SSN

Legal name of filer on tax return | FEIN

Filer address

City | State | ZIP code | Contact phone ( )

Enter payment amount

$ .00

150-101-186 (Rev. 12-16)

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2017 Form OR-WC

Page 1 of 1, 150-101-283 (Rev. 12-16) Oregon Department of Revenue

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Office use only

Written Affirmation for an Oregon Real Property Conveyance

Submit original form—do not submit photocopy.

Transferor first name, middle initial, and last name	Social Security no. (SSN)/FEIN of transferor	Transferor is (check one)
Transferor spouse first name, middle initial, and last name	Spouse Social Security number (SSN) — —	☐ Individual ☐ C corporation

Transferor's address	City	State	ZIP code

Percentage of ownership interest in property	Date acquired / /	Transferor's daytime phone ( ) —

Address of property conveyed	City	State	ZIP code

Type of property conveyed:

☐ Specially assessed ☐ Undeveloped land ☐ Acquired as gift

☐ Rental property ☐ Farm use ☐ Other: ______

Part A: Exemption

I (we) hereby affirm that I am (we are) the transferor(s) of the property described above, and that as of the date of closing, I have (we have) knowledge (or have received advice from a tax professional) that there is no tax likely to be due under Oregon Revised Statutes (ORS) Chapters 118, 316, 317, or 318. Enter explanation and calculation below, or attach separate page.

Part B: Calculation of gain and tax payment (see FAQs on page 5 for assistance on calculation)

Use this section to calculate Oregon tax required to be withheld. The tax payment sent to the Oregon Department of Revenue by the authorized agent will be credited to the Oregon income tax account of the transferor as an estimated payment.

1. **Consideration.** Amount of seller's share of sales price .... 1 .00
2. Multiply line 1 by 4% (0.04) .... 2 .00
3. **Net proceeds.** ("cash to seller") .... 3 .00
4. Your federal or Oregon adjusted basis in the property, whichever is greater (attach separate basis calculation) .... 4 .00
5. Selling costs directly related to this conveyance not already included in the basis calculation .... 5 .00
6. Add lines 4 and 5 .... 6 .00
7. **Taxable gain.** Subtract line 6 from line 1 .... 7 .00
8. Reduce gain by applicable nonrecognition section under federal law. Enter IRC section ______ .... 8 .00
9. Subtract line 8 from line 7 .... 9 .00
10. Multiply line 9 by 8% (0.08) .... 10 .00
11. **Tax payment.** Enter the least of lines 2, 3, or 10 .... 11 $ .00

I (we) certify under penalty of perjury the above statements are true. I (we) understand that the amount shown on line 11 is being remitted. If the amount on line 11 is zero, no tax payment is being made. [Corporate officers, fiduciaries, or other qualified persons signing on behalf of the taxpayer(s): By signing, I also certify that I have the authority to execute this form.]

Signed under penalty of perjury:

Transferor's signature X	Date / /
Spouse's signature (if applicable) X	Date / /

Keep a copy of this form in authorized agent's records for six years from date signed

Mail within 30 days of closing to:

Oregon Department of Revenue, ATTN: Processing Center, 955 Center St NE, Salem OR 97301

Publication OR-RPC — Tax Payments on Real Property Conveyances — 2017

Form OR-18, Form OR-WC, Form OR-18-V, and instructions

Introduction

Real estate tax payments at a glance

Those who sell Oregon real property are subject to Oregon tax on the gain from the sale. Escrow agents, and in some cases, attorneys (authorized agents), are usually required to withhold and remit tax payments to the Oregon Department of Revenue as an estimated payment for any taxes that may be due when the seller is a nonresident. Taxpayers will claim these tax payments as estimated tax payments on their Oregon OR-40-P or OR-40-N tax returns filed for the year in which the sale was made. These instructions and forms are designed to inform authorized agents and taxpayers of their requirements. Note that there are exceptions as indicated in these instructions.

Definitions

The following terms are used in these instructions:

Authorized agent is an escrow agent licensed under Oregon Revised Statutes (ORS) 696.505 to 696.590. An attorney is an authorized agent if there is no licensed escrow agent involved and the attorney deposits the proceeds of the sale into a client trust account and disburses funds to the transferor.

FEIN is the federal employer identification number a business is assigned for federal tax purposes.

Nonexempt transferor is a transferor that is a nonresident of Oregon, including grantor trusts and single-member LLCs, or a C corporation that isn't registered to do business in Oregon.

Pass-through entity is an entity through which income and expenses flow to the owners of the entity, such as a partnership, S corporation, limited liability company (LLC) that isn't a disregarded entity, limited liability partnership (LLP), certain trusts, or estates.

Transferee is a person who acquires ownership of real property located in Oregon.

Transferor is a property owner who transfers, sells, deeds, or otherwise conveys their ownership interest in real property to another person or entity.

Exemptions

Exempt transferors

Authorized agents aren't required to submit tax payments if the transferor is an exempt transferor, such as:

- An individual who is a resident of Oregon (see **Determining residency status**);
- A C corporation registered to do business in Oregon;
- A personal representative, executor, conservator, bankruptcy trustee, or other person acting under judicial review;
- A pass-through entity; or
- A governmental instrumentality (such as city, county, state, or federal agencies).

Authorized agents should keep information showing that the seller is an exempt transferor or obtain Form OR-WC from the seller.

Exempt transfers

Authorized agents aren't required to submit tax payments if:

- The **consideration** (total sales price) for the real property is $100,000 or less;
- The transferor delivers to the authorized agent a written assurance as provided in section 6045(e) of the Internal Revenue Code (IRC) that the sale or exchange qualifies for exclusion of gain as the seller's principal residence under IRC section 121;
- The conveyance is pursuant to a judicial foreclosure proceeding, a writ of execution, a nonjudicial foreclosure of a trust deed, or a nonjudicial forfeiture of a land sale contract; or
- The conveyance is occurring instead of foreclosure of a mortgage, trust deed sales contract, or other security instrument, or a land sale contract with no additional monetary consideration.

Principal residence exemption. If the transferor is selling a personal residence and the entire gain qualifies for exclusion under federal law, the transferor must provide a written assurance to the authorized agent that the entire gain qualifies for exclusion under IRC section 121. The transferor doesn't need to complete Form OR-WC.

If the transferor is selling a personal residence and the *entire* gain isn't excludable from federal tax, the transferor must complete Form OR-WC. Situations where the entire gain isn't excludable include if the taxpayer claimed business use of home deductions in the past, or the gain exceeds the federal exclusion amount.

Determining residency status

Tax payments are required when nonresidents sell Oregon real property (unless the transfer is exempt, see **Exempt transfers,** above). If you are uncertain whether or not transferors are Oregon residents, use the criteria below to help make that determination. If still in doubt, authorized agents must obtain a completed Form OR-WC from the transferor attesting to their residency status.

Oregon resident

A transferor is a full-year resident of Oregon (even if living outside of Oregon) if all of the following are true:

- The transferor thinks of Oregon as his or her permanent home;
- Oregon is the center of the transferor's financial, social, and family life; and
- Oregon is the place the transferor intends to return to when away.

The transferor is still an Oregon resident if he or she moves out of Oregon temporarily or moved back to Oregon after a temporary absence.

Oregon nonresident

A nonresident of Oregon is a transferor that maintains his or her permanent home outside of Oregon all year. Sometimes Oregon residents are deemed nonresidents if they:

- Maintained a permanent home outside of Oregon the entire year; and
- Didn't keep a home in Oregon during any part of the year; and
- Spent less than 31 days in Oregon during the year.

Oregon part-year resident

A transferor who moved into or out of Oregon during the calendar year is a part-year Oregon resident. The individual is a resident of Oregon for part of the year and a nonresident of Oregon for part of the year. A part-year resident may only claim exemption from this requirement if the conveyance occurs and the proceeds are disbursed during the part of the year that the transferor is a resident of Oregon or another exemption applies.

Example 1: Anne moved from Oregon to California on March 31, 2017. She sold her Oregon property on July 28, 2017. Even though Anne was a resident of Oregon for the first three months of the year, she wasn't a resident at the time of the conveyance so she may not claim exemption as a resident of Oregon.

Determining nonexempt status

Disregarded entities

If a transferor is a limited liability company (LLC) or a grantor trust, special rules apply for tax purposes. Sometimes these entities are disregarded for tax purposes. To determine if the entity is disregarded for tax purposes use the guidelines below.

Limited Liability Companies (LLCs). An LLC owned entirely by a single member is disregarded for tax purposes and tax payment requirements are based on the owner of the LLC. If an LLC is owned by one individual or spouses filing a joint return, treat the member(s) as individuals and follow the related instructions. If the seller is a single member LLC owned by an exempt transferor, such as a pass-through entity, then tax payments aren't required.

Grantor Trusts. A grantor trust isn't recognized for tax purposes because the grantor retains substantial control. A grantor trust is sometimes referred to as a "revocable trust" or a "living trust." As long as the grantor is living, treat the trust as an individual and follow the related instructions. If the grantor is deceased, the trust is irrevocable and tax payments aren't required.

Form OR-WC

General

A nonexempt transferor must complete Form OR-WC. This is true even if a nonexempt transferor is engaging in an exempt transfer. Form OR-WC is retained in the records of the authorized agent for six years from the date the transaction closed. **The authorized agent also sends a copy of Form OR-WC and any required attachments to the department.** The transferor should keep a copy of the Form OR-WC provided to the authorized agent.

Complete the top section of the form for all nonexempt transferors that must complete Form OR-WC. Use the following guidelines to determine which box to check in the "Type of property conveyed" section:

Specially assessed is property that has received a special property tax assessment such as a reduced valuation or deferral.

Rental property is any real property that is a rental building or structure (including mobile homes) for which rental income is received (commercial, industrial, or residential).

Undeveloped land is a parcel of land that is vacant and hasn't been improved for accessibility to utilities nor has any structures located upon it.

Farm use is land that is employed in the trade or business of farming for a profit. The land may be zoned for exclusive farm use (EFU) but isn't required to be.

Acquired as gift is property that the seller didn't purchase. It could be property that was inherited or simply gifted to the seller.

When the property is owned by more than one transferor

Each transferor is considered separately for exemption. If one transferor is exempt, tax payments are only required on the portion of the conveyance attributable to the nonexempt transferor(s).

If two transferors are married and intend to file a joint Oregon tax return for the year of the transaction, complete one Form OR-WC. Otherwise, complete a Form OR-WC for each transferor.

Form OR-WC, part A: Exemption

General information

If a nonexempt transferor reasonably determines the gain from the sale is unlikely to be subject to Oregon tax, the nonexempt transferor may claim exemption. In making the determination, the transferor may not consider other losses or deductions that may be claimed when the tax return is filed. To claim this exemption, the nonexempt transferor must complete part A of Form OR-WC explaining why tax is unlikely to be due and a calculation that explains the estimate. If more space is needed, a separate page may be attached.

Example 2: A California resident (nonexempt transferor) sells Oregon property and reasonably expects to be eligible to claim the credit for taxes paid to another state on the Oregon nonresident return based on the amount of gain that California will also tax. The California resident completes the top part of Form OR-WC and part A and explains the situation and provides a simple calculation of how the credit will offset any Oregon tax due on gain from the sale of the real property.

Form OR-WC, part B: Calculation of gain and tax payment

General information

If a transferor isn't exempt from the tax payment requirements or doesn't complete part A of Form WC indicating an exemption, the authorized agent must withhold from the proceeds and submit the smaller of:

- Four percent of the consideration (sale price);
- Eight percent of the gain that is includable in Oregon taxable income; or
- The net proceeds disbursed to the transferor.

To determine the proper tax payment, the transferor must complete part B of Form OR-WC, "Calculation of gain and tax payment," and provide it to the authorized agent handling the transaction in the time specified by the authorized agent. If the transferor doesn't provide the completed Form OR-WC to the authorized agent as required, the authorized agent must remit 4 percent of the consideration for the conveyance, or, if less, the entire net proceeds.

Due date for Form OR-WC

The transferor must provide the completed Form OR-WC to the authorized agent by the closing date.

Calculating the tax payment

Line 1—Consideration

The consideration for the conveyance is the amount given to the transferor in exchange for the transferor's interest in the real property and is generally the sales price. Consideration includes cash, assumed debt, and the fair market value of any property given to the transferor.

Line 3—Net proceeds

Net proceeds is the amount from the conveyance that is to be disbursed to the transferor. Generally, this is the amount of "cash to seller" shown on the HUD-1 settlement sheet.

Example 3: Katie sold a small commercial building for $500,000. She purchased it for $250,000 ten years ago and still owed $205,000 on it. Her selling expenses from the property were $20,000 and included typical costs. The amount on the HUD-1 settlement sheet on the "cash-to-seller" line was $275,000. The escrow agent is scheduled to disburse $275,000 from this conveyance. The "net proceeds" related to this transaction used to calculate the tax payment is $275,000.

Example 4: Same facts as Example 2, except that Katie entered into a deferred like-kind exchange. The escrow agent forwarded $200,000 of the amount due to the transferor to a qualified intermediary. The escrow agent scheduled to disburse $75,000 to Katie, which is the net proceeds used to calculate the tax payment.

Line 4—Gain includable in Oregon taxable income

The gain included in Oregon taxable income is the amount of consideration received for the conveyance, less the transferor's federal adjusted basis in the property or the Oregon adjusted basis, if different than the federal adjusted basis. The result is reduced by the selling costs directly related to the conveyance (if not already taken into account in the basis calculation) and any part of the gain that is excludable under federal law.

To determine gain includable in Oregon taxable income, you must determine your adjusted basis in the property being sold. Adjusted basis is generally considered the amount originally paid for the property plus improvement costs and minus depreciation (see example 5 below). **Transferors may wish to consult a tax professional for assistance if they are unsure how to calculate their adjusted basis.** If the adjusted basis is unknown at the time of the transfer, the authorized agent must submit a tax payment of the lower of 4 percent of the consideration paid or the net proceeds from the sale.

Example 5: Matt sold his rental triplex for $750,000. He purchased the property 15 years ago for $400,000. He immediately renovated the property spending an additional $200,000. He has claimed straight-line depreciation on the property over the last 15 years totaling $327,270 ($21,818 each year for 15 years). His Oregon and federal adjusted basis in the rental is $272,730 ($600,000 - $327,270). He had ordinary selling costs of $50,000. His gain includable in Oregon taxable income is $427,270 ($750,000 - $272,730 - $50,000).

Line 8—Gain that is partially exempt from taxation

If a transferor conveys property that is partially exempt from taxation, the transferor may reduce the gain includable in Oregon taxable income by the exempt amount for this purpose.

Example 6: Steve's filing status is single. He sold his personal residence for $690,000. He purchased the property eight years ago for $225,000. The total gain from the sale of his personal residence is $465,000. Under IRC section 121, Steve may exclude $250,000 of the gain from the sale of his personal residence from taxation. He may reduce the gain includable in taxable income by the amount excludable on his federal tax return. The tax payment is based on the gain of $215,000 ($465,000 - $250,000).

Gain recognized using the installment method

If a transferor uses the installment method under IRC section 453 to report the gain associated with the conveyance, the transferor reduces the gain used to calculate the tax payment. Reduce the gain for the year by the amount that is deferred. The authorized agent is only required to submit a tax payment on the first installment of an installment sale.

Example 7: Edward sold a large acreage for $1 million. His total gain on the sale was $500,000. He and the transferee entered into a land-sale contract where the transferee pays Edward over five years with 50 percent paid in the first year and the remainder paid evenly each subsequent year. For tax purposes, Edward recognizes $250,000 of the gain in the year of the conveyance. He calculates the tax payment only on the portion of the gain recognized in the year of conveyance.

Information for authorized agents: Reporting tax payments

Form OR-WC and written assurances

An authorized agent must obtain a completed Form OR-WC from the transferor by the closing date. If the transferor refuses to provide a completed Form OR-WC, or is unable to return it to the agent by the time the agent requires, the authorized agent must submit a payment of 4 percent of the sales price or, if less, all of the net proceeds.

If a transferor completes a written assurance that the gain qualifies for the principal residence exclusion under IRC section 121, that is all that's required. If the transferor signs the written assurance, the authorized agent must send that form to the department.

The authorized agent must send the completed Form OR-WC (or written assurance) to the department **within 30 days from closing.**

Form OR-18 and Form OR-18-V

Purpose of forms

If you are an authorized agent, use Form OR-18 to report the tax payment the transferor may claim on the personal or corporate tax return. Complete Form OR-18 as part of the closing of the conveyance. Give Form OR-18 to the transferor and send the payment voucher, Form OR-18-V, to the department along with the tax payment. As evidence of the tax paid on the transferor's behalf, keep a copy of the Form OR-18 in your records.

Due date of Form OR-18 and Form OR-18-V

You must remit the tax payment along with the OR-18-V to the department within 20 days from the date the proceeds from the conveyance are disbursed to the transferor. Send the payment with the payment voucher, Form OR-18-V, to ensure timely processing. We will credit the payment to the appropriate tax year as of the date of the payment.

Example 8: Hanna conveyed her real property on August 14, 2017. The authorized agent completes Form OR-18 and OR-18-V. We will credit Hanna's tax account with the payment for the third quarter of 2017 as of the date the payment is made.

Important addresses

Mail **Form OR-18-V** with payment within 20 days from disbursal to:

Oregon Department of Revenue
PO Box 14950
Salem OR 97309-0950

Mail **Form OR-WC** within 30 days from closing to:

Oregon Department of Revenue
ATTN: Processing Center
955 Center Street NE
Salem OR 97301-2555

Do you have questions or need help?

www.oregon.gov/dor
(503) 378-4988 or 1 (800) 356-4222
questions.dor@oregon.gov

Contact us for ADA accommedations or assistance in other languages.

FAQs

Who needs to fill out Form OR-WC, part A?

All nonresidents and part-year residents who sold real property if the consideration (total sales price) is $100,000 or less, and nonexempt transferors who reasonably determines the gain from the sale is unlikely to be subject to Oregon tax.

Who needs to fill out Form OR-WC, part B?

All nonresident and part-year residents who sold real property and aren't exempt from the tax payment requirements or those that don't complete part A of Form OR-WC. If there is an ownership allocation between two or more individuals, a separate Form OR-WC, part B should be filled out for each individual.

Where do I find the information necessary to fill out this form?

Most of the monetary information necessary to fill out this form can be found in your closing documents, such as your HUD settlement statement. Definitions of the relevant terms can be found in the information provided above.

What is the nonrecognition of gain as referenced on line 8?

A certain amount of gain on the sale or exchange of real property can be excluded from gross income and is therefore not taxable. For example, IRC 121 states the amount of gain excluded from gross income shall not exceed $250,000 ($500,000 if married filing jointly). Therefore, if you meet the requirements for the nonrecognition of gain, you would put the applicable amount on line 8, which will reduce your taxable gain from line 7.

What if I am taking a loss on the sale?

If you are taking a loss on the sale, fill out part A only and enter the calculation and explanation of why you are exempt.

How do I fill out the form when I have an installment sale?

If you use the installment method under IRC 453, the total sales price (consideration) will be recorded on line 1 of Part B. You would reduce the gain for the year by the amount that is deferred on line 8. Referring to Example 7 above, the total gain on the sale was $500,000. As the installment sale contract called for 50% to be paid the first year, then 50% of the gain, or $250,000, is the amount used to calculate the tax payment for year one. That means tax is still owed on the remaining $250,000 of gain over the next four years.

What is an adjusted basis?

The adjusted basis of the property is generally considered to be the amount originally paid for the property plus improvement costs and minus depreciation. See Example 5 for an example on how to calculate your adjusted basis.

Line-by-line calculations for part B using Example 3 from above:

1. Consideration $500,000
2. Multiply line 1 by 4% (0.04) $20,000
3. Net proceeds ("cash to seller") $275,000
4. Federal or Oregon adjusted basis.......................... $250,000
5. Selling costs related to this conveyance $20,000
6. Add lines 4 and 5.. $270,000
7. Taxable gain. Subtract line 6 from line 1............... $230,000
8. Reduce gain by applicable nonrecognition section under federal law.. $0*
9. Subtract line 8 from line 7...................................... $230,000
10. Multiply line 9 by 8% (0.08) $18,400
11. Tax payment. Enter the least of lines 2, 3, or 10 ..... $18,400

*Line 8 is $0 because the building sold was a commercial building, not a personal residence.