

STATE OF HAWAII - DEPARTMENT OF TAXATION
SUBLEASE DEDUCTION WORKSHEET
(Do NOT file this worksheet with the Department of Taxation. Keep it for your records.)

Lessee's Name	Lessee's Hawaii Tax I.D. Number GE _____ - _____ - _____ - _____
Lessor's Name	Lessor's Hawaii Tax I.D. Number GE _____ - _____ - _____ - _____
Description of real property or space leased	

COMPUTATION OF THE SUBLEASE DEDUCTION

1. Amount of rent you paid to the lessor for the real property or space leased. (If you sublease less than 100% of the real property or space that you leased from the lessor, see Instructions.).....	1	
2. Allowable rate used in computing the deduction.....	2	0.875
3. Multiply line 1 by line 2. This is your maximum allowable deduction.....	3	
4. Amount of rent you received from the sublease of the same real property or space.....	4	
5. Sublease deduction. Enter the lesser of line 3 or line 4. Include this amount in column b on Forms G-45 or G-49, for Transient Accommodations Rentals or Other Rentals, as applicable	5	
PROPERTIES LOCATED IN A COUNTY WITH A COUNTY SURCHARGE, CONTINUE TO LINE 6		
6. Subtract the amount on line 5 from the amount on line 1. Include this amount in column b on Forms G-45 or G-49, line 19, and in Part I of Schedule GE (Form G-45/G-49).	6	

GENERAL INSTRUCTIONS

Section 237-16.5, Hawaii Revised Statutes (HRS) allows a general excise tax (GET) deduction ("sublease deduction") to a taxpayer who leases real property from a lessor, and who subsequently subleases that same real property to a sublessee. If that same real property is located in a county with a county surcharge, an additional GET county surcharge deduction ("additional sublease deduction") is also allowed. The deduction amounts cannot exceed the total amount received from the sublease of that same real property. Use this worksheet to compute the sublease deduction and if applicable, the additional sublease deduction. Failure to meet the following requirements will result in the disallowance of the deduction(s):

- (1) The lessor and lessee must be licensed and taxable on the gross proceeds or gross income received under a written lease of real property under the GET law;
- (2) The lessee must obtain Form G-71, General Excise Sublease Deduction Certificate, from the lessor;
- (3) The lessee must report the sublease deduction amount and the additional sublease deduction amount (if any) on Form G-45, Form G-49, and Schedule GE (Form G-45/G-49);
- (4) The lessee's sublease deduction is limited to leases and subleases in writing and related to the same real property or space;

- (5) The lessee must compute the allocations with no allowances for changes during the specified term of the sublease, provided that this requirement shall not apply to a lease with terms that vary in the amount of periodic rent due, including a percentage lease with fixed minimum rent, a percentage lease with no minimum rent, a combination percentage lease with fixed minimum rent or percentage leases with no minimum rent, whichever amount is higher, or a graduated or step-up lease; and

- (6) The lessee must retain records of the lessor's name, general excise Hawaii tax identification number (Hawaii Tax I.D. No.), and the amounts paid to the lessor.

For purposes of the sublease deduction:

Lease means the rental of real property under an instrument in writing by which one conveys real property for a specified term and for a specified consideration, and includes the written extension or renegotiation of a lease, and any holdover tenancy.

Lessee means one who holds real property under a lease, and includes a sublessee. A lessee or sublessee includes a sublessor who is subject to the GET and qualifies for the deduction under section 237-16.5, HRS, provided the real property or space is conveyed by a written sublease.

Lessor means one who conveys real property by a lease, and includes a sublessor. A lessor does not include a person who is not subject to the taxes imposed by chapter 237,

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HRS, or a person whose gross proceeds or gross income from leasing the real property or space is not taxable under chapter 237, HRS.

Sublessee means one who holds real property under a sublease.

Sublessor means one who conveys real property by a written sublease, is subject to the GET on the gross rental receipts derived from the subletting of such real property, and qualifies for the deduction under section 237-16.5, HRS.

For more information, see section 18-237-16.5, Hawaii Administrative Rules.

SPECIFIC INSTRUCTIONS

Use this worksheet to compute the sublease deduction. Use a separate worksheet for each real property or space for which you are claiming a deduction. Keep Form G-72 for your records.

The deduction(s) must be reported on Form G-45, Form G-49, and Schedule GE (Form G-45/G-49) in order to be properly claimed.

REAL PROPERTY ALLOCATION

If you sublease less than 100% of the real property or space that you leased from the lessor, you must allocate the total amount of rent you paid for that real property or space based upon the percentage of the real property or space subleased, or the fair rental value of the real property or space subleased. The allocation may be based upon the percentage of the real property or space subleased when it is reasonable under the circumstances. If an allocation based upon the percentage of the real property or space subleased is not reasonable under the circumstances, you must allocate the total amount of rent you paid for the real property or space subleased based upon the fair rental value.

Example A: Lessor A leases real property X to lessee B for \$1,000 a year, and lessee B subleases the same real property X to sublessee C for \$2,500 a year. Since lessee B subleases 100% of real property X to sublessee C, lessee B would enter \$1,000 on line 1.

Example B: Lessor A leases real property X to lessee B for \$1,000 a year, and lessee B subleases 50% of real property X to sublessee C for \$2,500 a year. Assuming there are no significant differences between the portion of X subleased by B and the portion not being subleased which would significantly affect the value of the respective portions of X, an allocation based upon the percentage of area of X being subleased would be reasonable. In this case, lessee B would enter \$500 (\$1,000 rent paid to lessor A x 50%) on line 1.

Example C: Lessor A leases real property X to lessee B for \$1,000 a year. Real property X consists of ground floor retail space (which has a rental value of \$800) and upper floor office space (which has a rental value of \$200) equal in size to the ground floor retail space. Lessee B subleases only the upper floor office space to sublessee C for \$2,500 a year. An allocation based upon the percentage of area of X being subleased would not be a reasonable allocation method un-

der these circumstances. An allocation based upon the fair rental value of X would be reasonable. In this case, lessee B would enter \$200 (the portion of the \$1,000 rent paid to lessor A allocable to the upper floor office space) on line 1.

Computation of the Sublease Deduction

Line 1 – Enter the amount of rent you paid to the lessor for the real property or space leased. If you sublease less than 100% of the real property or space that you leased from the lessor, see the “Real Property Allocation” section above.

Line 2 – The rate is 0.875.

Line 3 – Multiply line 1 by line 2.

Line 4 – Enter the amount of rent you received from the sublease of the same real property or space. Include this amount in Part II, Column a on Form G-45 and on Form G-49, for Transient Accommodations Rentals or Other Rentals, as applicable.

Line 5 – Enter the lesser of line 3 or line 4. This is the amount of your sublease deduction to include in column b of Forms G-45 or G-49 for Transient Accommodations Rentals or Other Rentals, as applicable. Report on Schedule GE (Form G-45/G-49) the amount of the sublease deduction, the amount paid to the lessor, and the name and general excise Hawaii Tax I.D. Number of the lessor.

Line 6 – If the property is located in a county with a county surcharge, subtract the amount on line 5 from the amount on line 1. Include this amount in column b on Forms G-45 or G-49, line 19, and in Part I of Schedule GE (Form G-45/G-49). Once the county surcharge exemption is entered in Part I of Schedule GE (Form G-45/G-49), this will remove all of the rent paid to the lessor by the sublessor for the property that is subleased from the gross receipts subject to the county surcharge.

WHERE TO GET INFORMATION

More information is available on the Department’s website at tax.hawaii.gov or you may contact a customer service representative at:

Voice: 808-587-4242
1-800-222-3229 (Toll-Free)

Telephone for the Hearing Impaired:
808-587-1418
1-800-887-8974 (Toll-Free)

Fax: 808-587-1488

E-mail: Taxpayer.Services@hawaii.gov

Mail: Taxpayer Services Branch
P.O. Box 259
Honolulu, HI 96809-0259