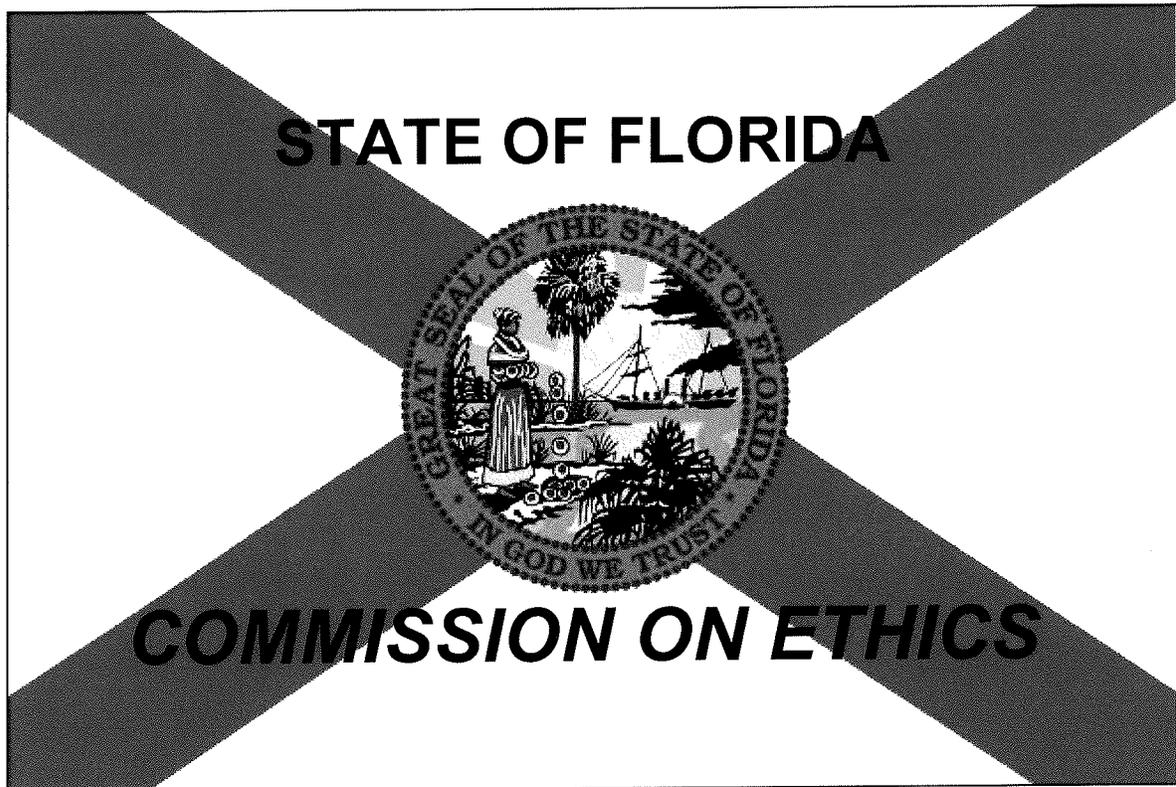


REPORT OF INVESTIGATION



Complaint Number 22-006

NOTICE CONCERNING CONFIDENTIALITY

This report of investigation concerns an alleged violation of Chapter 112, Part III, Florida Statutes, or other breach of public trust under provisions of Article II, Section 8, Florida Constitution. The Report and any exhibits may be confidential (exempt from the public records law) pursuant to Section 112.324, Florida Statutes, and Chapter 34-5, F.A.C., the rules of the Commission on Ethics. Unless the Respondent has waived the confidentiality in writing, this report will remain confidential until one of the following occurs: (1) the complaint is dismissed by the Commission; (2) the Commission finds sufficient evidence to order a public hearing; or (3) the Commission orders a public report as a final disposition of the matter. *See Section 112.3215, Florida Statutes, regarding executive branch lobbying matters and confidentiality.

STATE OF FLORIDA
COMMISSION ON ETHICS
Post Office Drawer 15709
Tallahassee, Florida 32317-5709

REPORT OF INVESTIGATION

TITLE: MARYBETH HENDERSON
Mayor
Town of Redington Shores
Redington Shores, FL

COMPLAINT NO.: 22-006
Exhibit A

INVESTIGATED BY:



Brian Durham

Distribution:

Commission on Ethics
Respondent
Advocate
File

Releasing Authority:



Kerrie J. Stillman
Executive Director



Date

* * * *

**REPORT OF INVESTIGATION
COMPLAINT NO. 22-006**

(1) Ms. Carol Muszik of Sevierville, Tennessee, alleges that the Mayor of the Town of Redington Shores, MaryBeth Henderson, violated the Code of Ethics for Public Officers and Employees.

(2) The complaint alleges that the Respondent failed to disclose taxable income earned from three separate mortgages issued to borrowers on her 2016, 2017, and 2018 CE Form 1, "Statement of Financial Interests." The complaint indicates one mortgage commenced on December 16, 2016, and was satisfied on August 8, 2017, and the other mortgages commenced, respectively, on June 20, 2017, and August 15, 2018. The complaint also alleges the Respondent failed to disclose her ownership interest in a parcel of property, located at 17720 Lee Avenue, Redington Shores, on her 2016 CE Form 1. Finally, the complaint alleges the Respondent sold the 17720 Lee Avenue property and failed to disclose the gain from the sale of the property on any financial disclosure form.

(3) The Executive Director of the Commission on Ethics noted that based upon the information provided in the complaint, the above-referenced allegations were sufficient to warrant a preliminary investigation to determine whether the Respondent's actions violated Section 112.3145, Florida Statutes (Disclosure of Financial Interests).

Allegation that Respondent Failed to Disclose Mortgage Interest

(4) The Complainant alleges the Respondent failed to disclose interest income she received relative to three mortgages that she and her (Respondent's) husband issued to borrowers. The Complainant claims the first mortgage was issued on December 16, 2016, to Marek and Aleksandra Stobnicki, for property located at 17720 Lee Avenue, Redington Shores, Florida. Records of the Pinellas County Clerk of Court reflect that the mortgage was for \$1,095,000, and that interest would be collected on the mortgage. The Clerk of Court's records confirm that the mortgage was satisfied by the Stobnicki's on August 8, 2017. A review of the Respondent's 2016 and 2017 CE Forms 1 (appended as pages 9 through 12 of the complaint) reflect the Respondent chose to use the "Dollar Value Threshold" manner of calculating her reportable interests. According to the disclosure form instructions for "Part A – Primary Sources of Income," using the Dollar Value Threshold manner of calculating reportable interests requires the filer to list "the name, address, and principal business activity of each source of your income which exceeds \$2,500 of gross income received by you in your name or by any other person for your use or benefit." The Respondent did not identify the Stobnicki's as a primary source of income on either her 2016 or 2017 CE Forms 1. The instructions for the CE Forms 1 explain in pertinent part:

"Gross income" means the same as it does for income tax purposes, even if the income is not taxable, such as interest on tax-free bonds. Examples include: compensation for services, income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, social security,

distributive share of partnership gross income, and alimony, but not child support.

(5) The second mortgage noted by the Complainant was issued on June 20, 2017, to Kylie Paige Henderson (the Respondent's daughter) and Christopher Richard Hann, Jr., for property located at 11627 Grove Place, Seminole, Florida. Records of the Pinellas County Clerk of Court reflect that the mortgage was for \$325,000, and that interest would be collected on the mortgage. The Clerk of Court's records do not reflect that this mortgage has been satisfied. The Respondent's 2017 (appended as pages 11 and 12 of the complaint) and 2018 CE Forms 1 (appended as Exhibit A) reflect the Respondent chose the Dollar Value Threshold manner of calculating her reportable income for these years. Ms. Henderson and Mr. Hann were not identified as primary sources of income on either her 2017 or 2018 CE Form 1s.

(6) The third mortgage noted by the Complainant was issued on August 15, 2018, to Susan Williamson, for property located at 17920 Gulf Boulevard, Unit 1403, Redington Shores, Florida. Records of the Pinellas County Clerk of Court reflect that the mortgage was for \$350,000, and that interest would be collected on the mortgage. The Clerk of Court's records reflect this mortgage was satisfied on May 21, 2019. The Respondent's 2018 CE Form 1 (Exhibit A) reflects she used the Dollar Value Threshold manner of calculating her reportable income, and she did not list Ms. Williamson as a primary source of income.

(7) The Respondent advised, in the presence of her attorney, Mark Herron, that she served as a Commissioner for the Town of Redington Shores in 2016 and 2017 and became the Mayor of Redington Shores in 2018. The Respondent advised that she relied on her husband, who has a work history in finance and accounting, to read the instructions and complete the CE Form 1s for each year in question. The Respondent said she spent very little time reviewing the disclosure forms, other than signing the forms, and did not understand the instructions or what was required to be reported on the forms even after reading them.

(8) The Respondent's husband, Chris Henderson, stated that they have learned a lot about the difference in percentage and dollar value thresholds for the CE Form 1, especially within the last six months since this instant complaint was filed. He said he thought he understood the instructions and spent about 10 minutes completing the forms when he completed them for the Respondent in the past. He continued that he has learned it takes closer to two days to gather the records and properly complete the CE Form 1. When asked why he and the Respondent failed to include the interest earned from the mortgages in Part A of the CE Form 1s, he stated that his understanding of the reportable income was that it must exceed five percent of the gross income, which he did not believe occurred relative to the mortgage interest. However, the five percent gross income threshold pertains to the instructions only when a filer uses the "comparative [percentage] threshold" method of calculation, which the Respondent and her husband did not use. The Respondent's husband agreed that he did not invest sufficient time to truly understand the instructions provided with the form. He said he now understands the interest income was incorrectly excluded.

(9) According to records provided by the Respondent and her husband, the amounts of interest from the mortgages in question exceeded the \$2,500 reportable amount on the CE Form 1s. The records provided reflect the annual interest from the mortgage with Marek and Aleksandra Stobnicki exceeded the \$2,500 threshold for reportable income for 2017, but no interest income was received during 2016. The annual interest from the mortgage with Kylie Henderson and Chris Hann exceeded the \$2,500 threshold for reportable income during 2017 and 2018. The annual interest from the mortgage with Susan Williamson exceeded the \$2,500 threshold for reportable income for 2018.

Allegation that Respondent did not Disclose Ownership of a Parcel of Property

(10) The Complainant alleges the Respondent purchased the property located at 17720 Lee Avenue in Redington Shores on January 11, 2012, and subsequently sold the property on December 16, 2016. The Complainant maintains that the Respondent failed to disclose ownership of this property in "Part C – Real Property," on her 2016 CE Form 1.

(11) The Respondent's husband stated that, after reading the CE Form 1 instructions, it appeared that they did not need to list their primary residence in Part C. He maintains the 17720 Lee Avenue residence was considered their primary residence in 2016, and for this reason, they did not list it.

(12) The instructions for Part C - Real Property, for the 2016 CE Form 1 note:

In this part, list the location or description of all real property in Florida in which you owned directly or indirectly at any time during the disclosure period in excess of 5% of the property's value. You are not required to list your residences. You should list any vacation homes if you derive income from them.

(13) The Pinellas County Property Appraiser's records confirm the property located at 17720 Lee Avenue was owned by the Respondent and her husband in 2016, and was homesteaded property, denoting the property was the Respondent's primary residence.

Allegation that the Respondent Failed to Disclose Gain from Sale of Property

(14) The Complainant alleges the Respondent sold the property located at 17720 Lee Avenue, Redington Shores, on December 16, 2016, and failed to disclose any gains earned from the sale of the property on her 2016 CE Form 1.

(15) The instructions for "Part A – Primary Sources of Income" for the 2016 CE Form 1 note that the filer must list each source of income exceeding \$2,500 of gross income earned by the filer or any other person for the filers use or benefit, including gains from property dealings. However, the instructions also state the term "gross income" means the same as it does for income tax purposes, even if the income is not actually taxable.

(16) There is an exclusion from gross income for capital gains over a certain amount (\$500,000 if married filing jointly) received from the sale of a taxpayer's principal residence. This exclusion is listed in 26 U.S.C. § 121, and indicates that gross income does not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, the taxpayer has owned and used the property as his or her principal residence for periods aggregating 2 years or more. IRS Publication 523 (2016) (Exhibit B) contains a specific eligibility test for income tax filers to determine whether they may exclude from gross income the gain realized from the sale of a home under 26 U.S.C. § 121. The eligibility test has five steps. The eligibility test details that you must: (Step 1) determine if you have any automatic disqualifications; (Step 2) have owned your home for two out of five years leading up to the date of the sale; (Step 3) have owned and used your home as your residence for at least two years of the previous five years leading up to sale; (Step 4) not have excluded gain for selling a home on your tax returns for the previous two years; and (Step 5) no other exceptions apply.

(17) The Respondent's husband advised he and the Respondent had no federally taxable gain to report to the IRS from the sale of their residence at 17720 Lee Avenue. He believed that the gain from the sale of real estate was not reportable to the IRS since it was below the \$500,000 threshold and since they lived in the home for more than two years during the preceding 5-year period. The Respondent's husband maintains that they met the requirements of the eligibility test detailed in IRS Publication 523 (2016) and realized no IRS reportable capital gain from the sale of the residence at 17720 Lee Avenue.

END OF REPORT OF PRELIMINARY INVESTIGATION

EXHIBIT A

EXHIBIT A

FORM 1

STATEMENT OF FINANCIAL INTERESTS

RECEIVED 2018

Please print or type your name, mailing address, agency name, and position below:

FOR OFFICE USE ONLY:

19 JUN -6 AM 9:39

LAST NAME -- FIRST NAME -- MIDDLE NAME

Henderson, MaryBeth

MAILING ADDRESS

17824 Lee Ave

CITY

Redington Shores

ZIP

33708

COUNTY

Pinellas

NAME OF AGENCY

Town of Redington Shores

NAME OF OFFICE OR POSITION HELD OR SOUGHT

Mayor / Commissioner

You are not limited to the space on the lines on this form. Attach additional sheets, if necessary.

CHECK ONLY IF: CANDIDATE OR NEW EMPLOYEE OR APPOINTEE

STATE OF FLORIDA
ELECTIONS SERVICE CENTER

**** **BOTH PARTS OF THIS SECTION MUST BE COMPLETED** ****

DISCLOSURE PERIOD:

THIS STATEMENT REFLECTS YOUR FINANCIAL INTERESTS FOR THE PRECEDING TAX YEAR, WHETHER BASED ON A CALENDAR YEAR OR ON A FISCAL YEAR. PLEASE STATE BELOW WHETHER THIS STATEMENT IS FOR THE PRECEDING TAX YEAR ENDING EITHER (must check one)

DECEMBER 31, 2018 OR SPECIFY TAX YEAR IF OTHER THAN THE CALENDAR YEAR _____

MANNER OF CALCULATING REPORTABLE INTERESTS:

FILERS HAVE THE OPTION OF USING REPORTING THRESHOLDS THAT ARE ABSOLUTE DOLLAR VALUES, WHICH REQUIRES FEWER CALCULATIONS, OR USING COMPARATIVE THRESHOLDS, WHICH ARE USUALLY BASED ON PERCENTAGE VALUES (see instructions for further details). CHECK THE ONE YOU ARE USING (must check one)

COMPARATIVE (PERCENTAGE) THRESHOLDS OR DOLLAR VALUE THRESHOLDS

PART A -- PRIMARY SOURCES OF INCOME [Major sources of income to the reporting person - See instructions]
(If you have nothing to report, write "none" or "n/a")

| NAME OF SOURCE OF INCOME | SOURCE'S ADDRESS | DESCRIPTION OF THE SOURCE'S PRINCIPAL BUSINESS ACTIVITY |
|--------------------------|---------------------------------------|---|
| Town of Redington Shores | 17425 Gulf Blvd, Redington Shores, FL | Town Government |
| Merrill Lynch | 1500 American B, Pennington, NJ | Dividends, Interest, Cap Gains |
| | | |

PART B -- SECONDARY SOURCES OF INCOME
(Major customers, clients, and other sources of income to businesses owned by the reporting person - See instructions)
(If you have nothing to report, write "none" or "n/a")

| NAME OF BUSINESS ENTITY | NAME OF MAJOR SOURCES OF BUSINESS INCOME | ADDRESS OF SOURCE | PRINCIPAL BUSINESS ACTIVITY OF SOURCE |
|-------------------------|--|-------------------|---------------------------------------|
| | | | |
| | | | |

PART C -- REAL PROPERTY [Land, buildings owned by the reporting person - See instructions]
(If you have nothing to report, write "none" or "n/a")

243 176th Ave, Redington Shores, FL 33708

FILING INSTRUCTIONS for when and where to file this form are located at the bottom of page 2.

INSTRUCTIONS on who must file this form and how to fill it out begin on page 3.

A1

Henderson, M

PART D — INTANGIBLE PERSONAL PROPERTY (Stocks, bonds, certificates of deposit, etc. - See instructions)
(If you have nothing to report, write "none" or "n/a")

| TYPE OF INTANGIBLE | BUSINESS ENTITY TO WHICH THE PROPERTY RELATES |
|------------------------------------|---|
| Mutual funds, stocks, bonds & cash | Merrill Lynch Brokerage Account |

RECEIVED

19 JUN -6 AM 9:39

PART E — LIABILITIES (Major debts - See instructions)
(If you have nothing to report, write "none" or "n/a")

| NAME OF CREDITOR | ADDRESS OF CREDITOR |
|------------------|---------------------|
| None | |

COMMISSION ON ETHICS
ELECTIONS SERVICE CENTER

PART F — INTERESTS IN SPECIFIED BUSINESSES (Ownership or positions in certain types of businesses - See instructions)
(If you have nothing to report, write "none" or "n/a")

| | BUSINESS ENTITY # 1 | BUSINESS ENTITY # 2 |
|---|---------------------|---------------------|
| NAME OF BUSINESS ENTITY | | |
| ADDRESS OF BUSINESS ENTITY | | |
| PRINCIPAL BUSINESS ACTIVITY | | |
| POSITION HELD WITH ENTITY | | |
| I OWN MORE THAN A 5% INTEREST IN THE BUSINESS | | |
| NATURE OF MY OWNERSHIP INTEREST | | |

PART G — TRAINING
For elected municipal officers required to complete annual ethics training pursuant to section 112.3142, F.S.

I CERTIFY THAT I HAVE COMPLETED THE REQUIRED TRAINING.

IF ANY OF PARTS A THROUGH G ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

SIGNATURE OF FILER:

Signature: 

Date Signed: 6/5/19 

CPA or ATTORNEY SIGNATURE ONLY

If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:

I, _____, prepared the CE Form 1 in accordance with Section 112.3145, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.

CPA/Attorney Signature: _____

Date Signed: _____

FILING INSTRUCTIONS:

If you were mailed the form by the Commission on Ethics or a County Supervisor of Elections for your annual disclosure filing, return the form to that location. To determine what category your position falls under, see page 3 of instructions.

Local officers/employees file with the Supervisor of Elections of the county in which they permanently reside. (If you do not permanently reside in Florida, file with the Supervisor of the county where your agency has its headquarters.) Form 1 filers who file with the Supervisor of Elections may file by mail or email. Contact your Supervisor of Elections for the mailing address or email address to use. Do not email your form to the Commission on Ethics, it will be returned.

State officers or specified state employees who file with the Commission on Ethics may file by mail or email. To file by mail, send the completed form to P.O. Drawer 15709 Tallahassee, FL 32317-5709, physical address 325 John Knox Rd, Bldg E, Ste 200, Tallahassee, FL 32303. To file with the Commission by email, scan your completed form and any attachments as a pdf (do not use any other format) and send it to CEForm1@leg.state.fl.us. Do not file by both mail and email. Choose only one filing method. Form 6s will not be accepted via email.

Candidates file this form together with their filing papers

MULTIPLE FILING UNNECESSARY: A candidate who files a Form 1 with a qualifying officer is not required to file with the Commission or Supervisor of Elections.

WHEN TO FILE: Initially, each local officer/employee, state officer, and specified state employee must file **within 30 days** of the date of his or her appointment or of the beginning of employment. Appointees who must be confirmed by the Senate must file prior to confirmation, even if that is less than 30 days from the date of their appointment.

Candidates must file at the same time they file their qualifying papers.

Thereafter file by July 1 following each calendar year in which they hold their positions.

Finally, file a final disclosure form (Form 1F) within 60 days of leaving office or employment. Filing a CE Form 1F (Final Statement of Financial Interests) does not relieve the filer of filing a CE Form 1 if the filer was in his or her position on December 31, 2018.

A2

EXHIBIT B

EXHIBIT B



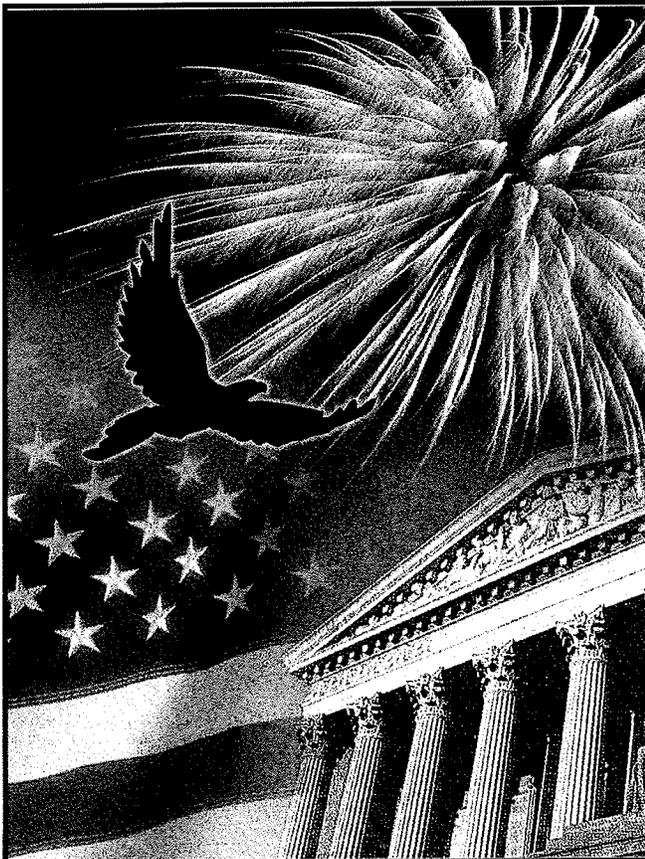
Department of the Treasury
Internal Revenue Service

Publication 523

Cat. No. 15044W

Selling Your Home

For use in preparing
2016 Returns



Get forms and other information faster and easier at:

- IRS.gov (English)
- IRS.gov/Korean (한국어)
- IRS.gov/Spanish (Español)
- IRS.gov/Russian (Русский)
- IRS.gov/Chinese (中文)
- IRS.gov/Vietnamese (Tiếng Việt)

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Key Points

This publication explains the tax rules that apply when you sell (or otherwise give up ownership of) a home. It also shows you how to do the calculations you'll need to do.

If you sell your home at a significant profit (gain), some or all of that gain could be taxable. However, in most cases, if the home you sold counts as your main home, the first \$250,000 of gain isn't taxable—\$500,000 if you are married and filing jointly.

If you sell your home at a loss, the money you receive isn't taxable. However, you can't deduct the loss from other income.

This publication will show you how to determine if you have a gain or loss, how much of that gain is taxable (if any), and how to report your transaction correctly.

Staying Current

To be sure you have the most up-to-date information related to Pub. 523, such as legislation enacted after it was published, go to IRS.gov/pub523.

B1

Related IRS Materials

You may find the following publications, forms, and instructions helpful when you are working through this publication.

Useful Items

You may want to see:

Publication

- 504** Divorced or Separated Individuals
- 505** Tax Withholding and Estimated Tax
- 527** Residential Rental Property
- 530** Tax Information for Homeowners
- 537** Installment Sales
- 544** Sales and Other Dispositions of Assets
- 547** Casualties, Disasters, and Thefts
- 551** Basis of Assets
- 587** Business Use of Your Home
- 936** Home Mortgage Interest Deduction
- 4681** Canceled Debts, Foreclosures, Repossessions, and Abandonments

Form (and Instructions)

- Schedule A (Form 1040)** Itemized Deductions
- Schedule B (Form 1040A or 1040)** Interest and Ordinary Dividends
- Schedule D (Form 1040)** Capital Gains and Losses
- 982** Reduction of Tax Attributes Due to Discharge of Indebtedness
- 1040** U.S. Individual Income Tax Return
- 1099-S** Proceeds From Real Estate Transactions
- 4797** Sales of Business Property
- 5405** Repayment of the First-Time Homebuyer Credit
- 6252** Installment Sale Income
- 8822** Change of Address
- 8828** Recapture of Federal Mortgage Subsidy
- 8949** Sales and Other Dispositions of Capital Assets
- W-2** Wage and Tax Statement
- W-7** Application for IRS Individual Taxpayer Identification Number

Additional Resources

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can send us comments from [irs.gov/formspubs](https://www.irs.gov/formspubs). Click on "More Information" and then on "Give us feedback."

Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

Although we cannot respond individually to each comment received, we do appreciate your feedback and will consider your comments as we revise our tax products.

Ordering forms and publications. Visit [irs.gov/formspubs](https://www.irs.gov/formspubs) to download forms and publications. Otherwise, you can go to [irs.gov/orderforms](https://www.irs.gov/orderforms) to order current and prior-year forms and instructions. Your order should arrive within 10 business days.

Tax questions. If you have a tax question not answered by this publication, check IRS.gov and [How To Get Tax Help](#) at the end of this publication.

Does Your Home Sale Qualify for Maximum Exclusion

The tax code recognizes the importance of home ownership by providing certain tax breaks when you sell your home. To qualify for these breaks, your home must meet the *Eligibility Test*, which is explained later.

The type of home involved is less important. A single-family home, condominium, cooperative apartment, mobile home, or houseboat can all count as a home.

How your sale qualifies. Your sale qualifies for exclusion of \$250,000 gain (\$500,000 if married filing jointly) if all of the following requirements are met.

- You owned the home and used it as your main home during at least 2 of the last 5 years before the date of sale.
- You didn't acquire the home through a like-kind exchange (also known as a 1031 exchange), during the past 5 years.
- You didn't claim any exclusion for the sale of a home that occurred during a 2-year period ending on the date of the sale of the home, the gain from which you now want to exclude.

If all of these are true, skip to *Figuring Gain or Loss*, later.

If one or more of these aren't true, you might still be eligible. Keep reading to find out.

Transfer of your home. If you transferred your home (or share of a jointly owned home) to a spouse or ex-spouse as part of a divorce settlement, you are considered to

have no gain or loss. You have nothing to report on your tax forms and this entire publication doesn't apply to you.

Main Home

If you own or live in more than one home, the test for determining which one is your main home is a "facts and circumstances" test.

The most important factor is where you spend the most time. However, other factors can enter the picture as well. The more of these that are true of a home, the more likely it is your main home.

- The address listed on your:
 1. U.S. Postal Service address,
 2. Voter Registration Card,
 3. Federal and state tax returns, and
 4. Driver's license or car registration.
- The home is near:
 1. Where you work,
 2. Where you bank,
 3. The residence of one or more family members, and
 4. Recreational clubs or religious organizations of which you are a member.

Eligibility Test

You can exclude up to \$250,000 of gain (\$500,000 if married filing jointly) on the sale of your home if you meet the eligibility test.

Eligibility Step 1—Automatic Disqualification

Determine whether any of the automatic disqualifications apply. Your home sale isn't eligible for the exclusion if ANY of the following are true.

- You acquired the property through a like-kind exchange (1031 exchange), during the past 5 years. See Pub. 544, *Sales and Other Dispositions of Assets*.
- You are subject to expatriate tax. For more information about expatriate tax, see chapter 4 of Pub. 519, U.S. Tax Guide for Aliens.

If any of these are true, skip to *Figuring Gain or Loss*, later.

Eligibility Step 2—Ownership

Determine whether you meet the ownership requirement. If you owned the home for at least 24 months (2 years) during the last 5 years leading up to the date of sale (date of the closing), you meet the ownership requirement.

If you received Form 1099-S, Proceeds From Real Estate Transactions, the date of sale appears in box 1 of Form 1099-S.

If you didn't receive Form 1099-S, the date of sale is either the date the title transferred or the date the economic burdens and benefits of ownership shifted to the buyer, whichever date is earlier. In most cases, these dates are the same.

Eligibility Step 3—Residence

Determine whether you meet the residence requirement. If your home was your residence for at least 24 of the months you owned the home during the 5 years leading up to the date of sale, you meet the residence requirement. The 24 months of residence can fall anywhere within the 5-year period. It doesn't have to be a single block of time. All you need is a total of 24 months (730 days) of residence during the 5-year period.

If you were ever away from home, you need to determine whether that counts as time living at home or not. A vacation or other short absence counts as time you lived at home (even if you rented out your home while you were gone).

If you have a disability, and are physically or mentally unable to care for yourself, you only need to show that your home was your residence for at least 12 months out of the 5 years leading up to the date of sale. In addition, any time you spend living in a care facility (such as a nursing home) counts toward your residence requirement, so long as the facility has a license from a state or other political entity to care for people with your condition.

If you have more than one home, see *Main Home*, earlier.

If your home was destroyed or condemned, see *Home Destroyed or Condemned—Considerations for Benefits*, later.

If you work for the government as uniformed or intelligence personnel, or are with the Peace Corps, see *Service, Intelligence, and Peace Corps Personnel*, later.

Eligibility Step 4—Look-Back

Determine whether you meet the look-back requirement. If you didn't exclude gain for selling a home on your tax returns for the previous two years (and you don't intend to do so on any returns or amended returns for the past two years that aren't yet filed), you meet the look-back requirement.

Eligibility Step 5—Exceptions

Check to see if there is anything about your situation that could affect your answer to Eligibility Step 2—Ownership through Eligibility Step 4—Look-Back.

You'll need to review *Does Your Home Qualify—Details and Exceptions*, later, if any of the following are true.

- A marriage, separation, divorce, or the death of a spouse occurred during the ownership of the home.
- The sale involved vacant land.
- What you sold was a “remainder interest” (such as ownership of a home in which another person has the right to live for the rest of his or her life).
- Your previous home was destroyed or condemned.

Eligibility Step 6—Review

Review your eligibility. If you meet the ownership, residence, and look-back requirements, your home sale qualifies for exclusion, skip to *Figuring Gain or Loss*, later.

If you didn't meet all the tests in Eligibility Step 1 through Eligibility Step 5, earlier, your home isn't eligible for the full maximum exclusion. However, you may still be eligible for partial exclusion if you can show the main reason you sold your home was a change in workplace location, health issues, or an unforeseeable event. See *Does Your Home Qualify—Details and Exceptions* below.

Does Your Home Qualify—Details and Exceptions

Partial Exclusion May Be Available

If you don't meet the eligibility test, you may still qualify for a partial exclusion of gain if you moved because of work, health, or an unforeseeable event.

You can qualify either by meeting a set of standard requirements (the “safe harbor” provisions) or by showing enough facts and circumstances to validate your claim.

Work-related move. You meet the standard requirements if any of the following happened during the time you owned and lived in the home you sold:

- You took or were transferred to a new job in a work location at least 50 miles farther from home than your old work location.
- You had no previous work location and you began a new job at least 50 miles from home.
- Either of the above is true of your spouse, a co-owner of the home, or anyone else for whom the home was his or her residence.

Health-related move. You meet the standard requirements if any of the following happened during the time you owned and lived in the home you sold.

- You moved to obtain, provide, or facilitate diagnosis, cure, mitigation, or treatment of disease, illness, or injury for yourself or a family member.
- You moved to obtain or provide medical or personal care for a family member suffering from a disease, illness, or injury.

• Family includes:

1. Parent, grandparent, stepmother, stepfather;
2. Child, grandchild, stepchild, adopted child, eligible foster child;
3. Brother, sister, stepbrother, stepsister, half-brother, half-sister;
4. Mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law;
5. Uncle, aunt, nephew, niece, or cousin.

• A doctor recommended a change in residence for you because you were experiencing a health problem.

• The above is true of your spouse, a co-owner of the home, or anyone else for whom the home was his or her residence.

Unforeseeable events. You meet the standard requirements if any of the following happened during the time you owned and lived in the home you sold.

- Your home was destroyed or condemned.
- Your home suffered a casualty loss because of a natural or man-made disaster or an act of terrorism. (It doesn't matter whether the loss is deductible on your tax return.)
- You, your spouse, a co-owner of the home, or anyone else for whom the home was his or her residence:
 1. Died;
 2. Became divorced or legally separated;
 3. Gave birth to two or more children from the same pregnancy;
 4. Became eligible for unemployment compensation;
 5. Became unable, because of a change in employment status, to pay basic living expenses for the household (including expenses for food, clothing, housing, medication, transportation, taxes, court-ordered payments, and expenses reasonably necessary for making an income).
- An event is determined to be an unforeseeable event in IRS published guidance.

Showing facts and circumstances. If your circumstances don't match any of the standard requirements described above but the primary reason for sale, based on facts and circumstances, is work-related, health-related, or unforeseeable. Important factors are:

- The situation causing the sale arose during the time you owned and used your property as your residence.
- You sold your home not long after the situation arose.
- You couldn't have reasonably anticipated the situation when you bought the home.
- You began to experience significant financial difficulty maintaining the home.