

County of Hawaii
Office of Housing and Community Development
General Excise Tax Exemption Procedures (G-37)

In accordance with Hawai‘i Revised Statutes (HRS) §201H-36, a qualified firm may request tax exemptions for gross income received for the planning, design, financing, construction, sale, or lease of a newly constructed or rehabilitated Affordable Housing projects. The purpose of the exemption is to achieve cost savings and in turn, allow for the production of as many Affordable Housing units as possible. Pursuant to HRS §46-15.1, County shall have and may exercise the same powers, as the Hawaii Housing Finance and Development Corporation subject to applicable limitations.

The Developer will submit requests to the OHCD directly, except in the case of moderate or substantial rehabilitation of an Affordable Housing project. For moderate or substantial rehabilitations, the General Contractor will be responsible for submitting the exemption request.

The Developer/General Contractor is responsible for distributing, collecting, and submitting request(s) for G-37 approval to the Office of Housing and Community Development (OHCD). OHCD will act as the certifying agency to determine eligibility of allowable tax exemptions and file with the Office of Taxation.

I. ELIGIBILITY

Types of income eligible for exemption:

- Gross income received by a qualified person or firm as allowable development costs, construction costs or financing costs for the planning, design, financing, construction, moderate rehabilitation or substantial rehabilitation of an eligible housing project

Eligible Housing project for **new construction or moderate or substantial rehabilitation** must meet at least 1 of 3 income criteria **and** at least 1 of 3 development criteria.

Income Criteria	Development Criteria
1) At least 20% of units are rented or sold to households with incomes up to 50% of area median income (AMI) 2) At least 40% of units are rented or sold to households with incomes up to 95% of AMI 3) At least 60% of units are rented or sold to households with incomes up to 140% of AMI	1) Rental or for-sale housing projects developed under a housing development program pursuant to Part II of Chapter 201H, HRS 2) Rental or for-sale housing projects developed or acquired for the provision of affordable housing under a government assistance program approved by OHCD 3) Rental or for-sale housing projects developed under the sponsorship of a private non-profit organization

Eligible Housing project for **rental** of affordable units must pass either income criteria A **or** B

Income Criteria A (Must meet 1 of 3)	Income Criteria B (Must meet both)
1) At least 20% of units are rented to households with incomes up to 50% of area median income (AMI) 2) At least 40% of units are rented to households with incomes up to 95% of AMI 3) At least 60% of units are rented to households with incomes up to 140% of AMI	1) At least 50% of the available units are rented to households with incomes at or below 80% of area median income (AMI) - AND - 2) At least 20% of the available units are rented to households with incomes at or below 60% of AMI

Please note that Affordable Rentals as outlined above, **does not** include emergency shelters, which are ineligible for a General Excise Tax (GET) exemption.

II. DEVELOPER REQUIREMENTS – New Projects

For some new developments, there may be an Affordable Housing Agreement between the OHCD and the Developer. This agreement can establish eligibility for the tax exemption. However, an Affordable Housing Agreement is not sufficient to establish an exemption to taxes; All Developers must also submit their request in writing to OHCD.

The General Contractor for the moderate or substantial rehabilitation of a qualified Affordable Housing project is also required to submit a letter to the Office of Housing and Community Development that establishes their intention of exempting taxes prior to submitting their bid. If funding is provided by OHCD, the General Contractor must also clearly state that the GET has been excluded from their total bid amount within the terms of the contract with OHCD.

III. LETTER TO INITIATE EXEMPTION REQUESTS

The Developer and General Contractor requirements include a documented request to the OHCD to initiate the exemption process. The letter must include:

1. A description of the eligible housing project that includes the number of affordable housing sale or rental units and breakdown for the amount dedicated to households earning up to 50%, 60%, 80%, 95% and 140% of area median income (AMI); and
2. A statement indicating how any cost savings realized from the GET exemptions will be used (e.g. to further build and/or rehabilitate low income housing units); and
3. Either:
 - a. Authorization for the OHCD to conduct on-site inspections of the project; or
 - b. An indication of an auditing entity that will be funding the project (i.e. HUD, USDA, HHFDC, DHHL, OHCD).

IV. SUBMITTING G-37 FORMS

Once the project has been approved and contracts have been executed amongst the parties, the Developer/General Contractor must collect documentation to submit to OHCD. OHCD recommends that the Developer or General Contractor submit documentation for multiple subcontractors together, however it is not required.

Each submission must include the following:

1. Cover letter requesting the tax exemption including:
 - a. Name of the Developer/General Contractor
 - b. Contact person, phone number and address
 - c. The name and address of the approved Affordable Housing project
 - d. The name of subcontractor(s) in the attached G37 form(s)
2. Cumulative list of licensed suppliers or subcontractors previously granted or currently claiming an exemption with a running tally of the contract amounts. OHCD has a template “tally sheet” available for use, or the Developer/General Contractor may submit their own form with the following information:
 - a. Project name
 - b. Tax Map Key (TMK) number
 - c. Name of licensed supplier or subcontractor
 - d. Type of business or services
 - e. Contract Date
 - f. General Excise Number
 - g. GET ED 100 Gross Income
 - h. Name of Developer/General Contractor
 - i. Printed name and signature of authorized person
3. Proof of work contracted or performed for each G-37 submittal (e.g. invoice or executed contract showing parties involved and contracted amount, etc.).
4. An original and complete G-37 form for all qualified persons and firms involved in the planning, design, financing, construction or sale of the housing project. Please refer to the back of Form G-37 for specific instructions.
 - a. ED Code 100 Amount is the amount you are requesting an exemption for (Contract amount less amounts paid to subcontractors and for equipment/tools purchased and retained)
 - b. Tax Amount that you are requesting to reduce from the contract/invoice total. For any uncertainty with the tax amount, the Department of Tax should be contacted directly for guidance. This percentage is subject to change based on the current State GET rate and Hawai'i County surcharge (HRS §18-237-8.6-01 to §18-237-8.6-10)
 - c. G-37 forms must be submitted timely or may be subject to disapproval in accordance with HAR §15-306-12.
 - d. G-37 forms may be delivered to the Hilo or Kona OHCD office, or submitted by mail. Copies, faxes, electronic forms, or digital signatures will not be accepted.

Upon review of each G-37 form, OHCD will make a determination of eligibility, and if approved, OHCD will certify the document and submit the form G-37 to the State of Hawai'i Department of Taxation and forward a copy to the Developer and Claimant for their records. If disapproved, OHCD will notify the Developer and Claimant in writing with the reason the claim is ineligible for an exemption. OHCD may request additional information or documentation as part of their review before making a determination.

Note: These procedures are subject to change based on any amendments to HRS sections related to G-37 Tax Exemptions.