



THE CITY OF ASPEN

Grantee _____

Exemption Cert # _____

Date Issued: _____

RETT EXEMPTION APPLICATION

This City of Aspen Real Estate Transfer Tax (RETT) Exemption Application is due at the time of transfer and prior to recording of the applicable deed(s). This form combines exemptions for both the Wheeler RETT and the Housing RETT.

Note: Incomplete RETT Exemption Applications will not be processed and may be returned for additional information and/or documents. PLEASE READ INSTRUCTIONS CAREFULLY.

State of _____)
 County of _____) SS.

The undersigned, as grantee of a deed or instrument of conveyance from _____ (grantor/seller) to _____ (grantee) dated _____ (see reverse for detailed ownership requirements) _____ transferring the following described property situated in the State of Colorado, County of Pitkin, and the City of Aspen:

hereby does apply for exemptions from the payment of the 0.5% Wheeler Real Estate Transfer Tax (WRETT) and the 1.0% Housing Real Estate Transfer Tax (HRETT) imposed by Chapter 23.48 of the City of Aspen's Municipal Code.

Please **indicate all of the applicable exemptions** defined in the City of Aspen Municipal Code Section 23.48 that apply: [\(See attached instructions for explanations of Exemptions A through N.\)](#)

Based on exemptions selected, attach required documents as listed in the instructions. If required documents are not attached, exemption application may be returned.

AFFIDAVIT

Under Penalty of Perjury, In Compliance with the City of Aspen's Municipal Code, the Foregoing is True and Correct. **Name of Purchaser (Grantee):** _____

Signature of Purchaser (Grantee): _____
Signature (If signed by an agent, certificate of agency is required.)

Phone Number of Purchaser (Grantee): _____

Notarization of Purchaser(s)' Signatures Is Mandatory:

Subscribed and sworn to before me this _____ day of _____, 20 _____

My commission expires: _____
Notary Public

Address: _____

PLEASE PROVIDE INDIVIDUAL OWNERSHIP DETAILS AS NOTED BELOW:

When the grantor or grantee are corporations, LLC's, LLP's, PC's, partnerships, trusts, etc. the City of Aspen requires documentation of each of the individual owners and their respective %'s of ownership in order to determine the propriety of RETT Exemption requests. Please indicate the individual full names of the grantors and grantees below and attach substantiating documentation such as corporate resolutions or partnership agreements which clearly support the individual ownerships and percentages listed below:

List All Individual's Names (First & Last Name) with Interest in Grantor Entity:				
1		% of Ownership	=	%
2		% of Ownership	=	%
3		% of Ownership	=	%
4		% of Ownership	=	%
	(If additional space is required, please attach a list of grantors and %'s of ownership)	TOTAL	=	100%

List All Individual's Names (First & Last Name) with Interest in Grantee Entity:				
1		% of Ownership	=	%
2		% of Ownership	=	%
3		% of Ownership	=	%
4		% of Ownership	=	%
	(If additional space is required, please attach a list of grantees and %'s of ownership)	TOTAL	=	100%

CERTIFICATE(S) OF EXEMPTION FROM CITY OF ASPEN RETT(S):

I hereby certify that the within described transfer of real property is exempt from payments of the Wheeler Real Estate Transfer Tax (WRETT) and the Housing Real Estate Transfer Tax (HRETT).

Print Name of Official Signer

Date: _____

Signature of City Official

Any person whose claim of exemption, duly applied for under the provisions of Chapter 23.48 of the City of Aspen's Municipal Code, is denied by the Director of Finance, may immediately appeal to the City Council for a determination of such exemption and such appeal shall be considered by the City Council at its' next regular meeting. In event of a determination by the City Council favorable to said grantee, any amount previously deposited, or so much therefore as may be allowed by the Council, shall be promptly refunded to said grantee.

For More Information, please contact:

Pete Strecker, Finance Director

Phone: 970-920-5007

E-mail: Pete.Strecker@cityofaspen.com

130 South Galena Street
Aspen, Colorado 81611

City of Aspen Municipal Code Web Page Address:

<https://www.cityofaspen.com/DocumentCenter/View/230/Title-23-Taxation-1-2-3-PDF>

(Section 23)

RETT EXEMPTION INSTRUCTIONS

EXEMPTIONS FROM THE CITY OF ASPEN'S RETT'S:

In general, the basic substantiation required for a RETT exemption will be detailed legal documents as noted below each section of the municipal code provided below.

COMMON EXEMPTION REQUESTS:

In the case of a gift or a "no change of individual %'s of ownership" and/or "no consideration" transaction, one or more of the following types of documents may be required:

- 1) A statement on the deed itself stating that no consideration in excess of \$500 is being exchanged. Exemption (C).
- 2) Legal documents proving that there has been no change in ownership through the detailed delineation of individual owners and the %'s of ownership which each owner holds, both before and after the real estate transaction, in order to substantiate that the %'s of ownership retained by each owner has not changed. Documents such as partnership agreements for all limited liability companies, limited liability partnerships, or similar types of ownership organizations may be required to provide proof of exemption. In the case of corporations, a copy of the corporate resolution stating the individual owners and the %'s of the outstanding stock of the corporation held may be required. In the event any of the owners indicated in any of these documents are other than individual's names, the City will require the same type of documentation for such organizations until the actual individual owners' names and %'s of ownership are determined. (Exemption "OTHER").

The following has been excerpted from the City of Aspen Municipal Code Chapter 23. *After each one, the types of acceptable documentation required are indicated:*

(A) Any document wherein the United States, or any agency or instrumentality thereof, the State of Colorado, any county, city and county, municipality, district or other political subdivision of this state, is either the grantor or grantee;

- *In the event the governmental status of a grantor or grantee is unknown, a legal document proving that the grantor or grantee is in fact a governmental entity, such as a certified copy of the approved and enacted referendum which created the governmental entity.*

(B) Any document wherein the grantee corporation, association or trust has been organized, operated and maintained solely and exclusively for charitable or religious purposes;

- *A copy of the IRS Code Section 501(c)3 certification that the subject organization is in fact a charitable organization.*

(C) Any document granting or conveying title to real property in consequence of a gift of such property, where no consideration other than love and affection, charitable donation or nominal compensation is evidenced by the terms of the instrument of transfer;

- *Evidentiary documentary proof of the gift or charitable status of the exchange of property such as a statement on the deed itself stating that no consideration other than love and affection is being exchanged or that no consideration in excess of \$500 is being exchanged.*

(D) Any document terminating or evidencing termination of a joint tenancy in real property except where additional consideration of value is paid in connection with such termination, or a decree or agreement partitioning real property held under common ownership unless a consideration of value is paid in connection therewith;

- *Evidentiary documentary proof of the termination of such joint tenancy for no compensation such as a statement on the deed itself that states that the purpose of the deed is to terminate joint tenancy.*

(E) The transfer of title or change of interest in real property by reason of death, will or decree of distribution;

- *A copy of the death certificate and will stating that the grantee is the recipient of such property.*

(F) Transfers made pursuant to mergers or consolidations of corporations, or by a subsidiary to a parent corporation for no consideration other than cancellation or surrender of the subsidiary's stock;

- *A clear notarized narrative description of the subject transaction with copies of the substantiating legal documents clearly indicating that there was in fact no consideration exchanged in the corporate transaction other than the surrender of the subsidiary's stock.*

(G) Any deed or conveyance made and delivered without consideration for the purpose of confirming, correcting, modifying, or supplementing a transfer previously recorded; making minor boundary adjustments, removing clouds on titles; or granting easements, rights-of-way or licenses;

- *Such deeds are normally headed at the top with the words "Correction Deed". Correction deeds should evidence that no change in principals or % of ownership of principals to the transaction has occurred.*

(H) Any decree or order of a court of record determining or resting title, including a final order awarding title pursuant to a condemnation proceeding;

- *A copy of the court decree or order.*

(I) Any deed granting or conveying title to cemetery lots;

- *A clear property description on the deed indicating that the deed is in fact for a cemetery lot.*

(J) Any lease of any real property (or assignment or transfer of any interest in any such lease) provided such lease by its terms does not constitute a de facto conveyance of the subject property. In the latter event the real estate transfer tax shall be based upon the capitalization at five (5) percent of the average annual rental over the entire term of the lease, including any renewal term, plus the actual consideration, other than rent, paid or to be paid. When the average annual rental cannot be determined, or at the election of the Director of Finance, the tax shall be based upon the assessed value of the property covered by the lease;

- *A copy of the subject lease and a clear indication through notarized statement or other legal document indicating that the lease does not constitute a de facto conveyance of property.*

(K) Any mineral deed or royalty deed;

- *A clear indication on the deed itself that the subject deed is in fact a "mineral" or "royalty deed".*

(L) Transfers to secure a debt or other obligation, or transfers or release of property which is security for a debt or other obligation;

- A copy of the actual debt obligations (promissory notes, etc) stating that the subject property is the specified collateral for the debt obligation.
- A copy of the signed legal document which releases the security (the subject property) for a debt.

(M) Any executory contract for the sale of real property under which the vendee is entitled to or does take possession thereof without acquiring title thereto, or any assignment or cancellation of any such contract;

- Copies of adequate legal documents to support the allegation that the vendee is in fact entitled to the subject property without acquiring title.

(N) Any deed or conveyance under execution, sale, or foreclosure sale under a power sale or court decree of lien foreclosure; sheriff's deed; public trustee deed or treasurer's deed or deed in lieu of foreclosure provided that the person holding the obligation or instrument upon which the proceeding or sale is based intends, as market conditions will allow, to resell the property in order to satisfy the obligation. If the property is not sold within two years, or within any extension of such time beyond two years as the Finance Director shall allow for good cause shown, then the transfer shall be considered an "artifice" as provided for in this chapter and taxable as provided for in this chapter. The Finance Director may place a lien on the subject property equal to the amount of tax that may be levied or other form of security acceptable to the Finance Director

- Copies of the notices of the foreclosure sales, sheriff's or treasurer's deed, clearly referencing the subject property.

Application for Exemption. In the event any document which is exempt from the real estate transfer tax herein imposed does not contain language clearly showing its exempt character, the grantor or grantee may apply for and obtain from the Director of Finance a certificate of exemption.

It is possible that "Other" reasons not specifically delineated in the City of Aspen's Municipal Code may exist:

"Other" may include transfers between trusts and their owners or their beneficiaries and other estate planning. In all cases, the City of Aspen requires a copy of the trust agreement(s) clearly delineating the trust relationships and demonstrating that no consideration was exchanged in such transactions, unless the language in the deed itself states that there is no other consideration other than love and affection.

Legal documents proving that there has been no change in ownership thru the detailed delineation of individual owners and the %'s of ownership which each owner holds, both before and after the real estate transaction, in order to substantiate that the %'s of ownership retained by each owner has not changed. This would include copies of partnership agreements for all limited liability companies, limited liability partnerships, or similar types of ownership organizations. In the case of corporations, a copy of the corporate resolution stating the individual owners and the %'s of the outstanding stock of the corporation held. In the event any of the owners indicated in any of these documents are other than individual's names, we will require the same type of documentation for such organizations until the actual individual owners' names and %'s of ownership are determined.

IRS Code Section 1031 Exchanges of Property:

In an IRS Section 1031 exchange of properties, any properties so exchanged are fully subject to the City of Aspen's RETT's. In the event that a "straw man" (an intermediary person or entity through which a transaction is made for income tax deferral purposes) is used in the transaction, the purchase by the "straw man" in order to set up the transaction would normally be exempted from the City of Aspen's RETT's and the subsequent exchange of properties would both be subject to the City of Aspen's RETT's (if both properties are located in Aspen).

In the event that the transfer from the "straw man" does not take place on the same day as the final exchange of properties, the "straw man's" purchase would be subject to payment of the City of Aspen's RETT's and, when the exchange actually takes place (assuming it takes place within 6 months time from the first transaction), the transfer from the "straw man" at that time would be exempted because the "straw man" had already paid the City of Aspen's RETT's on the first transaction when he acquired the property. If the final exchange does not take place within 6 months of the first transaction, the "straw man" exemption no longer applies; it is assumed that the "straw man" actually acquired title for their own use and is in fact required to pay the City of Aspen's RETT's.

Similarities Between Corporations and LLC's, etc.:

Deedless property sales may result in the City of Aspen's RETT's being due and payable. For example, if the majority interest in the outstanding stock of a corporation changes hands and that corporation owns real property within the corporate limits of the City of Aspen, this is considered as a sale of such properties and as such, RETT's are due on the appraised values of such properties. Acquisition of less than the majority interest of a corporation does not trigger a RETT taxable event. (City of Aspen Municipal Code Section 23.48.010(b))

However, in the case of LLC's and similar types of limited liability business organizations, the following applies: acquiring any interest in a limited liability business organization which owns property in Aspen, will require the payment of the City of Aspen's RETT's, whether or not there is an actual deed present and whether or not there is a transfer of the majority ownership.

Trusts and Financial Planning:

If the language "for no other consideration other than love and affection" is used on the deed itself, it is likely exempt from the City of Aspen's RETT. Otherwise, the City of Aspen requires copies of the trust documents/agreements etc. to demonstrate that no consideration has been exchanged.