



TAXATION OF HOMEOWNERS' ASSOCIATIONS AND COMMON INTEREST COMMUNITIES

The purpose of this publication is to clarify (1) How the common elements of a planned or common interest community are to be taxed, and (2) How state and municipal sales tax applies to fees paid to a homeowners' association. This publication provides general information. It is not a substitute for tax laws or regulations.

ALLOCATION OF PROPERTY TAXES ON COMMON ELEMENTS OF COMMON INTEREST COMMUNITIES

- With respect to property taxes, the Uniform Common Interest Ownership Act (UCIOA), W. Va. Code §36B-1-105, provides that:
 - In a condominium or planned community:*
 - If there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate.*
 - A “common interest community” is real estate with respect to which a person, by ownership of a unit, is obligated to pay for real estate taxes, insurance premiums, maintenance or improvement of other real estate, such as the allocated portion of common elements, as described in a declaration.
 - A “unit owner” is an owner of a physical portion of the common interest community, whether the units are houses, apartments, or condominiums.
 - The “declarant” is the developer who created the common interest community.
 - A “declaration” is the document or legal instrument that creates the common interest community.
 - The declaration must allocate to each unit:
 - In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association.
 - In a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association and a portion of the votes in the association; and
 - In a planned community, a fraction or percentage of the common expenses of the association and a portion of the votes in the association.
 - The declaration must state the formulas used to establish allocations of interests.
- Until a unit of the condominium or planned community is sold, the property is taxed as a whole; the declarant is responsible for taxes on the property. If the declarant has reserved development rights on any portion of the property within the common interest community, the declarant is responsible for property tax on the reserved property.
- As soon as one unit of the condominium or planned community is sold, the units making up the condominium or planned community must be assessed and taxed separately according to the declaration. This includes each unit owner’s allocated fraction or percentage of the common elements.
- The county assessor will appraise the value of the common elements, and the appropriate fraction or percentage, as set forth in the declaration, will then be allocated to each individual unit owner as that owner’s share of the property tax liability on the common elements.
- In the case of limited common elements, that is, common elements that benefit at least one, but not all, members of the community, the assessed value of those elements is allocated among only those that share the benefit. Again, the declaration should specify the limited common elements, if any, and allocate them properly.
- The same rule applies to common interest communities that were in existence before West Virginia adopted the UCIOA in 1980. The taxpayer must provide the assessor with sufficient data to properly tax and assess the property. Otherwise, the value of the common elements will be allocated equally among the unit owners of the common interest community.

EXAMPLE 1:

Assume a common interest community, created under the UCIOA, consisting of ten units, each having an appraised value of \$250,000. The golf course and lake comprising the common elements of the common interest community have a value of \$5 million. Assume that the allocation percentage in the declaration is 10% for each unit. Ten percent of the appraised value of the common elements would then be added to the appraised value of the individual units, raising their appraised value to \$750,000 each. The assessment for ad valorem tax purposes would then be based on that appraised value, thus ensuring that the value of the common elements would not elude taxation.

EXAMPLE 2:

Assume that, in the common interest community in Example 1, five of the ten units have lakefront access. In the declaration, the lakefront access is considered a "limited common element," and, accordingly, is allocated to only the five units with access. The additional value would then be added to the appraisal of those five units only.

EXAMPLE 3:

Assume the same common interest community as in Example 1, except that it is a preexisting common interest community, that is, it predates the adoption of the UCIOA in West Virginia. Therefore, it has no recorded declaration setting forth an allocation formula. Barring any other evidence, the value of the common elements should be allocated equally among all unit owners. The result will be the same as in Example 1.

EXEMPTION FROM SALES TAX

- Membership dues, fees and assessments paid to a homeowners' association by its members are exempt from state and municipal sales and use tax, if those payments are for the purpose of funding the payment of common expenses by the association. This would include such charges as:
 - Road maintenance
 - Pest control
 - Parking lot maintenance
 - Housekeeping
 - Snow removal
 - Television cable charges (for internal distribution)
 - Security
 - Telephone lines (for internal distribution)
 - Fire protection
 - Trash collection
 - Water and sewage
- The homeowners' association must pay state and municipal sales and use tax on these common expenses when purchased unless the expense is otherwise exempt.
- For a list of municipalities, effective dates and rates, visit our website at:

<https://tax.wv.gov/Business/SalesAndUseTax/Pages/SalesAndUseTax.aspx>

ASSISTANCE AND ADDITIONAL INFORMATION

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS
(1-800-982-8297)**

Or visit our website at:

www.tax.wv.gov

File and pay taxes online at:

<https://mytaxes.wvtax.gov>
