

## Sales and Use Taxes CERT 103 Form: Frequently Asked Questions

### **What is the purpose of the CERT 103 form?**

The CERT 103 form is specifically for residential condominium associations. Its purpose is to provide the vendor with the percentage of units not occupied by the unit owners (income producing). These units should be charged sales and use taxes on certain services provided to the common elements of the real property as outlined by the State of Connecticut Department of Revenue Services.

### **What is the difference between an owner occupied unit and a non-owner occupied unit?**

An owner occupied unit is one in which the owner of the unit resides. A non-owner occupied unit is one in which the person, who is not the owner, lives in the unit and is paying rent to the owner.

### **What are the services which are “exempt” from sales and use tax if the units are owner occupied but not exempt for non-owner occupied units?**

These services are generally “capital improvement/reconstructive” type services except for property management and refuse/sanitary removal services. For owner occupied units no sales and use taxes are applicable. For non-owner occupied units 100% of the services provided are subject to sales and use taxes.

“Capital improvement/reconstructive” services provided to the common elements include but are not limited to: Property management, construction management, demolition, electrical, plumbing, carpentry, plastering, heating, air conditioning, flooring, foundation work, ventilation, flooring, sandblasting, carpeting, masonry, refuse/sanitary removal services, paving, painting, staining, wallpapering, roofing, siding, elevator/escalator work, masonry, welding, structural inspection and exterior sheet metal work.

### **What are “non-exempt” services for both owner and non-owner occupied units?**

These expenses are generally for “general maintenance/preventative” and upkeep of the common areas and are 100% sales and use taxable for both owner and non-owner occupied units.

“General maintenance/preventative” services provided to the common elements associated with real property include *but are not limited to*: Landscaping, janitorial, swimming pool cleaning/maintenance, snow removal, locksmith, exterminating, window cleaning, house washing, and maintenance services.

### ***If the CERT 103 form has not been used in the past, what should we do?***

The process of using and issuing the CERT 103 form should begin as soon as possible. Currently, if there are “capital improvement/reconstructive” type services being provided to the association, it is important to issue the CERT 103 to that vendor.

### ***When sending out the CERT 103 form to vendors, is there a dollar limit on the services provided?***

There is no dollar limit. If “capital improvement/reconstructive” services are provided to the association and the association has units which are not occupied by the owner (income producing property) any dollar amount is subject to the sales and use taxes.

**How often is the CERT 103 completed?**

The CERT 103 form is completed once a year. The timeframe on the form is based on a calendar year; it is not necessarily the time that the Association conducts its business. The reason for the calendar year time frame is so that there is a set time each year to establish the percentage of non-owner occupied units. Although, the percentages could change throughout the year, the Association uses the percentage established on the first day of the calendar year. Therefore, if on the first day of calendar year 2012, the association had 100 of 200 units which were non owner occupied then 50% would be subject to sales and use taxes on “capital/reconstructive” services to the real property (common elements) of the Association. The sales and use tax allocation factor for non-owner occupied units will not change until the first day of the next calendar year.

**Who gets the CERT 103?**

The forms are given to any vendor that renders “capital improvement/reconstructive” services (refer to the list for applicable services) directly related to the common elements of the real property of the Association and where services are to industrial, commercial or to income producing real property (non-owner occupied units). Do not issue the CERT 103 to a vendor if the services provided were for “general maintenance/preventative” (refer to the list for applicable services) because there is no sales and use tax exemption on these type of services for either owner or non-owner occupied units.

**Does the State of Connecticut Department of Revenue Services (DRS) get a copy of the CERT 103?**

No, the State of Connecticut DRS does not get a copy of the CERT 103; the vendor gets the CERT 103. The State of Connecticut DRS recommends that you keep a copy of the issued CERT 103 form in the association’s records for at least six years.

**How do we obtain the information to find out if there are non-owner occupied units?**

The information should be obtained from the unit owners. The declaration on the CERT 103 form states that the information being declared on the form was obtained by unit owners, therefore the unit owners should be the primary source of this information.

**When would it be a good time to gather the occupancy information?**

A suggested time could be the last quarter of the current year (example October to December 2012) so that the association can have the occupancy information completed in the beginning of the next year (2013). The property manager can review this information again in the beginning of the next year to verify that the preliminary information provided remains accurate. Once complete, the final percentages for non-owner occupied units can be processed and the CERT 103 forms can be sent to the principal officer of the association to be signed. A copy of the CERT 103 form should be kept with the vendor files to insure that they are readily available.

**Useful Vocabulary:**

**Real property:** Land, buildings, and materials permanently affixed to the land or buildings. There are 6 types of real property (New construction, owner-occupied residential property, commercial property, Industrial property, Income-producing property, and public right of way).

**Personal property:** Everything that is the subject of ownership that does not come under the denomination of real property; any right or interest that an individual has in movable things.

**Common Element:** The common elements are parts of the property that are necessary or convenient to the existence, maintenance and safety of a condominium or are normally in common use by all of the condominium residents. Each condominium owner has an undivided ownership interest in the common elements.

**Site Improvement:** Improvements made to real property other than buildings.

**Owner occupied:** The owner of the unit resides in the unit.

**Non-owner occupied:** The person who is not the owner lives in the unit and is paying rent to the owner who does not reside in the unit. This type of occupancy is considered income producing property.

**Income Producing:** Property held for or used in the production of income. For example, rental property for a non-owner occupied residential property.

We hope that you find the answers about the CERT 103 form to be useful to your association. The most essential reason for completing this form is to ensure that the association is not being under or over taxed. Therefore, take time to understand the rules, ask questions and seek the proper advice to keep or put the association on the best financial path.

To learn more about sales and use taxes and the CERT 103 form, you can download the State of Connecticut: Building Contractor's Guide to Sales and Use (March 2007) from the state website [www.ct.gov/drs](http://www.ct.gov/drs). It provides detail for each type of service performed on real property. You can also call the State of Connecticut Department of Revenue services at 1-800-382-9463 for specific questions. However, if you contact the Department of Revenue Services for any sales and use tax questions always document and keep the support for any answers which will impact your decisions.

***Please note that the information provided above should not be the sole source of any decisions related to the topic. The primary source should be the Department of Revenue Services and, if necessary, legal or tax representation regarding the sales and use tax laws.***