

## Frequently Asked Questions: Taxes

Very recently, we answered a sales and use tax question for a board member submitted through AskMisterCondo.com. While answering this question, we thought perhaps someone else may have a similar question. In addition to this question, we have found over the past 30 years that income taxes have been a topic of frequent discussion. We understand tax topics can be confusing and so hopefully answering the following frequently asked questions will help you:

**Question:** Does my homeowners association have to pay Connecticut sales and use tax on purchases of goods and services?

**Answer:** Yes, your association has to pay Connecticut sales and use tax

**Explanation:** There are two questions to consider when addressing sales and use tax. The first is what types of services can be subject to sales and use tax and the second is will your homeowners association be charged? The state requires that you provide a CERT 103 form to any contractor who provides services to any common elements of the association. The CERT 103 form provides the service provider with a breakdown of the percentage of units which are being occupied by the owner and those which are being rented by a unit owner; the form is filled out annually. This form provides the necessary information so that any services provided to the association are properly taxed.

The following services are not taxable when rendered to owner-occupied residential property, but are taxable when rendered to income-producing property (rentals). Services include, but are not limited to:

Air conditioning	Excavating	Paving	Siding
Carpentry	Exterior sheet metal work	Plastering	Structural inspection
Carpeting	Flooring	Plumbing	Ventilation
Construction management	Foundation work	Property management	Wallpapering
Demolition	Heating	Refuse removal	Welding
Electrical	Masonry	Roofing	
Elevator or escalator work	Painting/Staining/Varnishing	Sandblasting	

For example, there are 10 units in your association and 2 of them are non-owner occupied and are being rented. Well, if you are getting roofing work done at the association for a cost of \$10,000 then 20% (2 of 10 units) of the cost or \$2,000 is subject to sales and use tax. On the other hand, if there are no units being rented, then you should not be charged sales and use tax.

The following services are taxable when rendered to owner-occupied residential property and income-producing property (rentals). Services include, but are not limited to:

Carpet cleaning	Locksmith services	Power washing
Janitorial	Maintenance	Swimming pool maintenance
Landscaping	Pest control/exterminating	Window cleaning

For example, if the association is having carpet cleaning done for \$10,000 then 100% of the cost would be subject to sales and use tax for both owner-occupied and rented units.

As you have read, we hope that you can see how important it is that your association obtains and provides the CERT 103 form to ensure that the association is not being under or over taxed. For more detail on taxable and nontaxable services please see the reference guide, *Building Contractors' Guide to Sales and Use Taxes*, to obtain a CERT 103 form and to get answers to more detailed sales tax related questions, visit [www.ct.gov/drs](http://www.ct.gov/drs) or contact the Department of Revenue Services (DRS) Taxpayer Services Division by phone or email.

**Question:** Why do we have to file income tax returns if we are an exempt homeowner's association?

**Answer:** *It is required by federal law and the term exempt does not mean you are exempt from paying taxes.*

**Explanation:** Condominium associations are not exempt from Federal taxation under current law. A residential condominium association has basically two choices when it files its annual Federal income tax return. It can either file as a homeowner's association under IRC Section 528, or it can generally file as a corporation under IRC Section 277.

When a residential condominium association elects to file under IRC Section 528 it must break down income and expense between exempt function activities and those that are entered into for the production of income such as laundry income and interest income earning activities (referred to as nonexempt function activities). Once this analysis is performed, the nonexempt function activities less any applicable expenses are taxed at the flat Federal rate only of 30% after a statutory allowance of \$100 is deducted. In addition, electing to file as a homeowners association provides an exemption from paying Connecticut corporate income taxes, if filed by the due date.

On the other hand, when a residential association files an annual tax return according to IRC Section 277, it must analyze the components of income and expense into membership and non-membership activities. The net non-membership income is taxed at regular corporate income tax rates for Federal and State purposes.

In summary, although there are some aspects of residential condominium association that are generally exempt from income taxes, a tax return is still required to be filed, and there may be some taxes owed on either nonexempt function activities or non-membership activities. If you can master these two important aspects of your condominium management challenges, your association will be moving in the right direction towards income tax compliance.