

INTERNAL REVENUE CODE

(Federal) Internal Revenue Code §528. Certain Homeowner Associations.

(a) General rule. A homeowners association (as defined in subsection (c)) shall be subject to taxation under this subtitle only to the extent provided in this section. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(b) Tax imposed. A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall be equal to 30 percent of the homeowners association taxable income (32 percent of such income in the case of a timeshare association).

(c) Homeowners association defined. For purposes of this section--

(1) Homeowners association. The term "homeowners association" means an organization which is a condominium management association, a residential real estate management association, or a timeshare association if--

(A) such organization is organized and operated to provide for the acquisition, construction, management, maintenance, and care of association property,

(B) 60 percent or more of the gross income of such organization for the taxable year consists solely of amounts received as membership dues, fees, or assessments from--(i) owners of residential units in the case of a condominium management association, (ii) owners of residences or residential lots in the case of a residential real estate management association, or (iii) owners of timeshare rights to use, or timeshare ownership interests in, association property in the case of a timeshare association,

(C) 90 percent or more of the expenditures of the organization for the taxable year are expenditures for the acquisition, construction, management, maintenance, and care of association property and, in the case of a timeshare association, for activities provided to or on behalf of members of the association,

(D) no part of the net earnings of such organization inures (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any private shareholder or individual, and

(E) such organization elects (at such time and in such manner as the Secretary by regulations prescribes) to have this section apply for the taxable year.

(2) Condominium management association. The term "condominium management association" means any organization meeting the requirement of subparagraph (A) of paragraph (1) with respect to a condominium project substantially all of the units of which are used by individuals for residences.

(3) Residential real estate management association. The term "residential real estate management association" means any organization meeting the requirements of subparagraph (A) of paragraph (1) with respect to a subdivision, development, or similar area substantially all the lots or buildings of which may only be used by individuals for residences.

(4) Timeshare association. The term "timeshare association" means any organization (other than a condominium management association) meeting the requirement of subparagraph (A) of paragraph (1) if any member thereof holds a timeshare right to use, or a timeshare ownership interest in, real property constituting association property.

(5) Association property. The term "association property" means--

(A) property held by the organization,

(B) property commonly held by the members of the organization,

(C) property within the organization privately held by the members of the organization, and

(D) property owned by a governmental unit and used for the benefit of residents of such unit. In the case of a timeshare association, such term includes property in which the timeshare association, or members of the association, have rights arising out of recorded easements, covenants, or other recorded instruments to use property related to the timeshare project.

(d) Homeowners association taxable income defined.

(1) Taxable income defined. For purposes of this section, the homeowners association taxable income of any organization for any taxable year is an amount equal to the excess (if any) of--(A) the gross income for the taxable year (excluding any exempt function income), over (B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

(2) Modifications. For purposes of this subsection--(A) there shall be allowed a specific deduction of \$100, (B) no net operating loss deduction shall be allowed under section 172, and (C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

(3) Exempt function income. For purposes of this subsection, the term "exempt function income" means any amount received as membership dues, fees, or assessments from--(A) owners of condominium housing units in the case of a condominium management association, (B) owners of real property in the case of a residential real estate management association, or (C) owners of timeshare rights to use, or timeshare ownership interests in, real property in the case of a timeshare association.



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