

Condo Smarts

Headline: Tax Returns & US Citizens
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Dear Tony: Our strata corporation has been instructed by our new strata manager that we have an obligation to file a tax return every year. We have never filed a tax return and considering that strata corporations are non profit organizations and don't pay taxes we don't see the reason for filing a return, but the strata manager has insisted that we file a tax return. Could this be up to the discretion of the strata council? *Allyne C. Kamloops, BC*

Dear Allyne: A condominium corporation in Canada (strata corporation in BC) created under Canadian provincial or territorial legislation is a corporation without share capital whose members are owners. The classification of the strata corporation is not necessarily significant in determining the tax exempt status, in as much as the activities of the strata corporation. While expenditures of a strata corporation are generally met by the members' non taxable proportional contributions, such as strata fees and special levies, there are circumstances where strata corporations generate revenues that are not tax exempt. If the strata corporation operates a business such as a golf course, hotel, marina, riding stable, rental units or rental or leasing of space to third parties, the strata corporation may be in a situation where they are required to report the revenues and pay taxes on the revenues. A common example of taxable revenues for strata corporations is leases of roof top spaces to communications companies for transmission towers, or the lease of space for advertising, such as billboards or public rental of parking spaces. Interest owned on the operating accounts, contingency reserve fund and special levy fund are also generally nontaxable provided the interest becomes part of those funds. In addition, strata corporations with commercial strata lots may also be required to collect and remit GST on the commercial portion of strata fees or strata units used for commercial purposes such as rental pools. Paragraph 150 (1) (a) of the Federal Tax Act requires all corporations, including condominium

corporations to file an income tax return each year, even if they are exempt from paying taxes. The strata corporation is required to file a T1044 Information Return with its T2 tax return. If your strata corporation is conducting any type of commercial activity or is a mixed use residential/commercial property please seek the advice of a qualified accountant to ensure you properly file and disclose your financial information.

US citizens and US persons who live in Canada also have personal obligations of reporting and liabilities to the IRS even though they are residents of Canada. It is important to understand that the sale of a principle residence in Canada is not tax exempt for US persons. In addition, if you have a US person on your strata council, who is also an authorized signing officer on your trust funds, that US person is also required to report on their US tax return whether they have any foreign bank or investment accounts. The US Bank Secrecy Act requires you to file a Report of Foreign Bank and Financial accounts if; you have a financial interest in, signature authority, or other authority over one or more accounts in a foreign country, and the aggregate value of all foreign financial accounts exceeds \$10,000 at any time during the calendar year. While these are the personal issues of the US citizen, the strata corporation may also discover the release of the financial information of the strata corporation to a foreign government may also be in conflict with our privacy legislation. Canadian strata corporations do not report to the IRS, so before any information of the strata corporation is released or published as part of the US return, the strata corporation should seek advice on the risk of the release of personal information to a foreign government. For more information, US persons may wish to go to <http://americansabroad.org>.

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