

TIMESHARE TAX BILL BECOMES LAW

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In the summer 1997 issue of *The Ledger Quarterly* we discussed H.R. 1350, a tax bill introduced to alleviate the tax filing problems of timeshare associations. That bill was passed into law as part of the Taxpayer Relief Act of 1997, which was signed into law July 31, 1997. The law was unchanged from the final bill, which was the subject of the article. The Bill modified Internal Revenue Code Section 528 to:

- 1) Allow timeshare associations to specifically qualify to file Form 1120-H,
- 2) Modify the 60% income to test to assessments from timeshare ownership or timeshare “right-to-use”,
- 3) Modify the 90% expenditure test to include activities provided by the association to, or on behalf of, members of the timeshare association,
- 4) Provide for a flat 32% tax rate for timeshare associations,
- 5) Become effective for timeshare associations for years beginning after December 31, 1996.

It is interesting to note that this Bill actually elevated timeshare associations to a position more beneficial than that enjoyed by full ownership residential homeowners associations. Specifically, the modification to the 90% test allows inclusion of recreational activities as qualifying expenditures for timeshare associations. Residential full ownership associations are still subject to the old test of “acquisition, construction, management, maintenance, and care of association property.”

This modification to IRC Section 528 can be viewed as a positive event for two reasons;

“Timeshare Associations can now file Form 1120-H, virtually eliminating tax audit risk. The tax rate for Timeshare Associations is 32%.”

First, it virtually eliminates the tax filing problems of timeshare associations, as most will now be able to qualify to file Form 1120-H, and

Second, it paves the way for seeking the same change for full ownership residential associations. The language of the new modification to the 90% test is virtually identical to the language of CAI’s proposed modification to IRC Section 528.

This first change to IRC Section 528 in almost 20 years also means that Congress may be receptive to additional changes. CAI will continue to fight for tax relief for associations.

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