

Manager's Column...



Jim Banno

The Sales Tax Man Cometh

By Jim Banno



Albert Einstein once quipped the subject of taxes is too difficult for a mathematician and requires the skills of a philosopher. I suspect that Socrates, renowned for raising more questions than he answered, may well have lent a hand in the creation of Connecticut's sales tax laws – especially as such laws pertain to condominiums.

The State Department of Revenue Services (DRS) publishes a guide to sales and use taxes¹. The purpose of this article is not to interpret that guide, but rather to raise awareness of the matter and to propose a solution for costs incurred by condominium associations as a direct result of investor owned units.

Sales tax in Connecticut is imposed on services (and materials²) rendered to real property including those services provided to condominiums. In some cases, the tax is imposed on the entire pre-tax service portion of the invoice and at other times, it is imposed on a percentage of the invoice amount. In the later case, the percentage is equivalent to the percentage of investor owned units (aka “investor ratio”). At the end of this article, I've provided list of services taken from the DRS publication that fall into both categories.

“When in doubt as to what tax is owed or has been paid in error, consult the DRS or your accountant.”

The philosophical distinction between fully taxable services

and services taxed on investor ratios seems to be whether the service is “maintenance and servicing” in nature vs. tangible changes involving demolition, reconstruction and improvements – but not always. For example, carpet cleaning is fully taxable, carpet replacement is taxed based on investor ratios. Likewise, boiler/burner tune-ups are fully taxable, the service to replace integral system components is not. Some seeming anomalies are refuse removal and property management services which are taxed on investor ratios and audit or architectural services which are not taxed at all.

To take advantage of the savings available to your association through partially taxable services, I would suggest that you read the DRS publication, file Cert 103's³ to all of those vendors that provide services that are on the “partially taxable” list and monitor the situation. When in doubt as to what tax is owed or has been paid in error,

consult the DRS or your accountant. There's a time limit on recouping overpayments.

Now, to the second purpose of this article: recapturing the cost of sales tax that is imposed as a result of investor ratios. Connecticut General Statutes provide that services rendered by an association that benefit less than all of the units⁴ can be charged back to those units. The sales tax imposed on services based on investor ratios is borne by the entire community (in effect, resident owners are subsidizing investor activity) unless and until a bill back regulation is adopted.

Services subject to sales tax based on investor ratios (sample list):

Air conditioning, carpentry, carpeting, construction management, demolition, electrical, elevator or escalator work, excavating, exterior sheet metal work, flooring, foundation work, heating, masonry, painting, paving, plastering, plumbing, property management, refuse removal, roofing, sandblasting, siding, staining, structural inspection, ventilation, wallpapering, welding.

Services that are fully taxable (sample list):

Carpeting cleaning, exterminating, house washing, janitorial, landscaping, locksmith services, maintenance, snow plowing and removal, swimming pool cleaning and maintenance, window cleaning. ■

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1 'BUILDING CONTRACTORS' GUIDE TO SALES AND USE TAXES' issued by the State of Connecticut Department of Revenue Services > Publication IP 2006 (35) issued March 2007

2 The focus of this article is the sales tax imposed on the “service” or labor portion of an invoice as space does not permit a full dissertation of the variables involved with sales tax on goods and materials.

3 The method required by DRS to establish investor ratios is to fill out a form called the CERT-103 which is given to the vendor supplying the partially taxable service. CERT 103's are available from DRS on line.

4 Post CIOA language. Pre-CIOA need to review documents for appropriate charge back language.