

1984 WL 249883 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 7, 1984

***1 SUBJECT: Taxation and Revenue—Valuation and Assessment—Time Sharing Units**

(1) The several owners of time sharing units of a single property collectively own the fee and are the owners for property tax purposes. The assessment and listing of the property should be in the names of such owners.

(2) The collective sales price of the time sharing units is a most important element in ascertaining the fair market value of the unit. Such, however, is not conclusive and all pertinent facts must be considered.

APPLICABLE LAW: § 27-32-10, et seq., § 27-31-270 and § 12-37-610, 1976 Code of Laws.

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QUESTION:

A condominium unit is sold by time use. Each purchaser by deed acquires what is designated as a fee simple undivided ownership and use of the unit for a time certain. Under such circumstances:

1. Is the value of each owner's interest to be separately assessed?
2. Is the sales price of each time sharing unit or the collective sales price of all time sharing units to be the basis of determining fair market value?

DISCUSSION:

Question 1.

[Section 12-37-610](#) provides that:

‘Every person shall be liable to pay taxes and assessments on the real estate of which he may stand seized in fee * * *.’

Section 27-32-10(8) defines ‘vacation time sharing’ as follows:

‘For purposes of this chapter:

(8) ‘Vacation time sharing ownership plan’ means any arrangement, plan or similar devise, whether by tenancy in common, sale, deed or by other means, which is subject to supplemental agreement or contract for use of the time share unit, whereby the purchaser receives an undivided ownership interest in and the right to use accommodations or facilities, or both, for a specific period of time during any given year, but not necessarily for consecutive years, which extends for a period of more than one year.’ (Emphasis added)

Under such, the purchaser of the time share unit is the owner of an undivided interest in the property. The owners of the time share units and the owners of any unsold time periods are for purposes of taxation the owners of the fee.

The time unit deed and the recorded master deed further reflect such ownership. These deeds provide that the conveyance is of 'a separate fee simple absolute estate held separately and independently by the respective owners as tenants in common with the other owners of all unit weeks * * *.'

The master deed defines 'Interval Ownership' as follows:

'[It] is a concept whereby units and the share of the common elements assigned to the unit are conveyed for a stated time period in fee simple as tenants in common with all other purchasers of 'Unit Weeks' in each such Condominium Unit.'

It is thus clear that the owners of the time share units possess an undivided interest in the property. For purposes of taxation and as provided by [§ 12-37-610](#), such persons are collectively the owners for tax purposes. The assessment should therefore be to all the owners.

*2 Such further conforms to the definition of fee simple. That term is defined in 28 Am.Jur.2d, Estate, § 10, as follows: 'The term 'fee simple' defines the largest estate in land known to the law and necessarily implies absolute dominion over the land. There can be only one estate in fee simple to a particular tract of land.'

Obviously, the owner of the time share unit cannot alter or change the property. His right of use is the same as the other owners. Collectively, theirs is a fee simple ownership.

CONCLUSION: (Question 1)

The several owners of time sharing units of a single property collectively own the fee and are the owners for property tax purposes. The assessment and listing of the property should be in the names of such owners.

Question 2. The sales price of the time share units is evidence of the property's market value. Such, however, is not conclusive. All relevant facts should be considered.

* * * the question of valuation depends on a proper consideration of all relevant factors, and in forming his estimate the assessor may or should avail himself of all proper sources of information and take into consideration all facts and circumstances bearing on the question * * *.' 84 C.J.S., Taxation, § 410.

The sales price of the time units is a most important element in ascertaining the unit's fair market value. (See 84 C.J.S., Taxation, § 410, Note 65 and cases cited.) You must determine, however, what is included in the sales price; in example, does the sales price include other property or benefits? When these factors are eliminated the sales price of all of the time periods would constitute a 'most important element' in fixing the unit's value. Such, however, is not conclusive of the property's value and all other factors must necessarily be considered.

CONCLUSION: (Question 2)

The collective sales price of the time sharing units is a most important element in ascertaining the fair market value of the unit. Such, however, is not conclusive and all pertinent facts must be considered.

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