



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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Dear _____ :

This letter responds to your letter dated December 7, 2009. In your letter, you requested information regarding the deductibility of payments to certain "tax districts." Specifically, you asked whether the creation of a "tax district" under state law by a condominium association would allow certain expenses to be deducted for federal income tax purposes by the association's owners. The expenses would include "municipal type services" like road maintenance, garbage collection, water and sewer expenses, and recreational facilities, as well as landscaping, routine maintenance, insurance, property management fees, contributions to reserves for future component replacements, and similar expenses.

The Internal Revenue Code allows a deduction for certain taxes paid within a taxable year, including state and local real property taxes. A tax is an enforced contribution imposed by a governmental unit or political subdivision and collected for the purpose of raising revenue to be used for public or governmental purposes, and not as a payment for some special privilege granted or service rendered. A "real property tax" is imposed on interests in real property and levied for the general public welfare, and does not include taxes assessed against local benefits. Whether a tax district is a political subdivision depends on the level of governmental power that it exercises. The question of whether a particular charge is to be regarded as a tax depends upon its real nature. If it is not in the nature of a tax, then it matters little whether or not it is called one. Amounts that are collected for the exclusive purpose of benefitting the property owners in the district are essentially service charges and user fees for particular services and facilities. Only charges levied against ownership interests in real property for the general public welfare by a governmental unit or political subdivision are deductible as real property taxes.

I hope this information is helpful. This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. Please contact me or _____ if we can be of further assistance.

Sincerely,

JOHN P. MORIARTY
Chief, Branch 1
Office of Associate Chief Counsel
(Income Tax and Accounting)