



# TAX FACTS 98-4

## Transient Accommodations Tax on Time Share Occupancy

This Tax Facts provides information about the transient accommodations tax on time share occupancy (TSO tax). The TSO tax is imposed on the occupant of a time share vacation unit in the State of Hawaii. The TSO tax rate is 10.25%.

The following answers some of the most commonly asked questions about the TSO tax from the time share owner's perspective.

### 1 Why is the occupancy of a time share subject to tax?

The time share interval owners are occupying a transient accommodation and using state and county resources similar to other transient individuals whose rentals are subject to the transient accommodations tax (TAT).

### 2 Is the time share owner responsible for filing the tax returns for the TSO tax?

No. The time share plan manager is responsible for collecting the tax, filing the tax returns, and paying the tax to the Department of Taxation. A plan manager is a person who has the responsibility of managing a time share plan or is required to act for a time share plan under the TAT Law.

### 3 How is the TSO tax calculated?

The TSO tax is the appropriate tax rate multiplied by the fair market rental value of the time share unit and multiplied by the number of days the time share unit is occupied.

### 4 What is fair market rental value?

The fair market rental value is one-half of the daily maintenance fee paid by the owner. The maintenance fee includes maintenance costs, operational costs, insurance, repair costs, administrative costs, taxes other than the TAT, resort fees, and other costs (for example, payments required for reserves or sinking funds).

### 5 How do I determine the fair market rental value of the time share unit?

The following is an example for a time interval period of 7 days and annual maintenance fees of \$700. To calculate the fair market rental value:

- (1) Divide the maintenance fees for the time interval period by 7 days to get the daily maintenance fee ( $\$700 / 7 \text{ days} = \$100$ ).

- (2) Divide the daily maintenance fee by 2 to get one-half of the daily maintenance fee ( $\$100 / 2 = \$50$ ).

To get the amount subject to the TSO tax, the daily fair market rental value is multiplied by the number of days that the time share unit is occupied by the owner or by some other person (but not rented). The number of days that the unit was rented out by the owner would not be included in this calculation. See question 8.

### 6 Am I subject to the TSO tax on my time interval period of 7 days if I only occupied the unit for 5 days?

Not on the entire 7 days. Because you occupied the unit for only 5 days, the daily fair market rental value is multiplied by 5 days to get the total fair market rental value subject to the TSO tax.

### 7 I let my friend use my time share free of charge for 7 days. Is my friend subject to the TSO tax?

Yes. The TSO tax is imposed on the occupant of the time share and paid by the plan manager. An occupant is defined as an owner of a time share or other person occupying the time share. Because your friend occupied the unit for 7 days, the daily fair market rental value would be multiplied by 7 days to get the total fair market rental value that is subject to the TSO tax.

### 8 I occupied my unit for 7 days and rented it out for 7 days. Am I subject to the TSO tax for all 14 days?

No. Because you occupied the unit for only 7 days, the daily fair market rental value is multiplied by 7 days to get the total fair market rental value that is subject to the TSO tax paid by the plan manager.

Because you received income from the rental of the unit, you must be licensed under the TAT Law and under the General

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Excise Tax (GET) Law. You, not the plan manager, must report and pay the TAT at 10.25% on the gross rental proceeds (not the fair market rental value) from the rental of the time share unit. Because you are subject to the TAT for the 7 days that the time share unit was rented, the plan manager is not liable for the TSO tax for those 7 days. You must also report and pay the GET at 4% (plus the county surcharge if applicable) on the gross income from the rental of the time share.

**9 My time interval period is 7 days, but I paid an additional amount to stay for an extra 3 days. Am I subject to the TSO tax for 10 days?**

No. Although you occupied the unit for 10 days, the daily fair market rental value is multiplied by 7 days to get the total fair market rental value subject to the TSO tax.

Because you rented the time share for the 3 additional days, the person who rented the unit to you is subject to the TAT at 10.25% and to the GET at 4% (plus the county surcharge if applicable) on

the rental income received from you. The person may visibly pass on the cost of the taxes to you.

**10 I have the right to use a 2-bedroom, 2-bath unit, but was “locked out” of 1 bedroom and 1 bath during my latest stay. Am I subject to the TSO tax on the fair market rental value of the whole unit?**

No. The portion of the unit that was “locked out” is not included in the total fair market rental value subject to the TSO tax. The excluded portion of the fair market rental value may be calculated using the ratio of the square footage of the “locked out” portion to the total square footage of the whole unit.

If you have questions about the “lock out” of time share units, please contact your plan manager.

**Where to Get Forms and Information**

Website: [tax.hawaii.gov](http://tax.hawaii.gov)

Telephone: 808-587-4242

Toll-Free: 1-800-222-3229

Telephone for the hearing impaired: 808-587-1418

Toll-Free for the hearing impaired: 1-800-887-8974

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