

- Blog.AnthemVOICE.Org — Defending HOMEOWNER Rights in Sun City Anthem, Henderson, NV - http://blog.anthemvoice.org -

IRS Report Released—Board/Auditor Have No More Excuses!

Posted By [admin](#) On March 2, 2011 @ 01:33 In [Removal Election](#), [2011 Campaign](#), [Ann Small](#), [SCA Board](#), [Community Affairs](#), [Laws & Rules](#) | [No Comments](#)

Finally, the income tax issue is plain. Copies of the IRS report have been released by RMI. It is clear that our auditor/tax preparer and certain board members have been dead wrong about what they can do with end-of-year membership surpluses.

The fact is that "income" is taxable. But, for about 40 years, homeowner associations and condos have been avoiding paying income taxes on SURPLUS membership income if the HOA immediately RETURNS or CREDITS the surpluses back to the members.

The IRS Report states it has assessed Sun City Anthem \$1.345 Million in back taxes and penalties because:

"Based upon conversation with Jack Troia, President of Sun City Anthem Community Association, on September 9, 2010, during the field audit, the 2007 reserve surplus was never refunded or applied to the subsequent year."

Also stated in the IRS Report was this statement:

"The Taxpayer did not refund or credit the homeowners the surplus funds for tax years 2001-2007."

The truth is clear. The board can not spend such surpluses, save them, or do anything else with surplus membership assessments without having to pay income taxes on the full amount of the surplus. This IRS position has been tested in court before, and it is clear that Sun City Anthem and Nevada HOAs are not exempt.

We believe no one can read the IRS Report and honestly come away thinking there is any "wiggle room" in the findings. There is no evidence we can find showing that a single HOA has defeated the IRS on how it applies 70-604. The chance of beating this rap appears to be zero.

And, that is a good thing for homeowners. The rule prevents boards from consciously overcharging on dues and hiding the surpluses in "slush fund" accounts to spent as they wish.

Our members will be to blame if we allow the SCA board and its apparently discredited tax preparer/auditor and attorneys to waste more of our hard-earn money on a doomed quest to just try to save a bit of their highly inflated egos. Following that path would be a clear violation of the director's fiduciary duties, and might become a matter of personal liability in the future.

Meanwhile, there is reason to believe that a good negotiator (someone not involved in the past errors) could save our members a great deal of money. In return for not having to pay most or all of the taxes on the surpluses, it could be proposed that IRS allow SCA to admit its mistakes, return all of the accumulated surpluses to members, correct all subsequent tax returns, and pay a modest penalty of something less than \$100,000.

Even if the IRS unreasonably demanded all of the income tax be paid, it is obvious that immediate, full compliance with

70-604 is the least cost solution for SCA. Our members should immediately demand to receive nothing less.

However, time is of the essence. The approach of saying we are sorry for the mistakes and we promise to always be compliant, will quickly go up in smoke if the board follows its battle plan.

Nothing could be worse than hiring so-called experts to be the warriors that waste hundreds of thousands more of our dollars—with no chance of winning a reduction in taxes or penalties.

By the way, if you run into a current or past board member, finance committee member or board candidate who supports the board's announced plan to fight with the IRS, insist they explain to you exactly how they can be confident it will not fail. Ask for examples of where the past and current directors, auditor and attorneys or anyone else has ever beat IRS on its interpretation of Ruling 70-604.

See this link for more details on our library website:

[1] http://www.anthemvoice.org/taxes_issue.html

Article printed from Blog.AnthemVOICE.Org — Defending HOMEOWNER Rights in Sun City Anthem, Henderson, NV:

<http://blog.anthemvoice.org>

URL to article: **<http://blog.anthemvoice.org/2011/03/02/irs-report-released-boardauditor-has-no-more-excuses/>**

URLs in this post:

[1] http://www.anthemvoice.org/taxes_issue.html: **http://www.anthemvoice.org/taxes_issue.html**

Click [here](#) to print.