

Department of the Treasury Internal Revenue Service

For Paperwork Reduction Act Notice, see page 2.

For calendar year 1994 or tax year beginning , 1994, and ending , 19

Use IRS label. Otherwise, please print or type. Name, Employer identification number, Number, street, and room or suite no., Date association formed, City or town, state, and ZIP code

Check applicable boxes: (1) Final return (2) Change of address (3) Amended return

Table with 4 rows: A Total exempt function income, B Total expenditures made for purposes described in 90% expenditure test, C Association's total expenditures for the tax year, D Tax-exempt interest received or accrued during the tax year

Gross Income (excluding exempt function income)

Table with 8 rows: 1 Dividends, 2 Taxable interest, 3 Gross rents, 4 Gross royalties, 5 Capital gain net income, 6 Net gain (or loss) from Form 4797, Part II, line 20, 7 Other income, 8 Gross income

Deductions (directly connected to the production of gross income, excluding exempt function income)

Table with 10 rows: 9 Salaries and wages, 10 Repairs and maintenance, 11 Rents, 12 Taxes and licenses, 13 Interest, 14 Depreciation, 15 Other deductions, 16 Total deductions, 17 Taxable income before specific deduction of \$100, 18 Specific deduction of \$100

Tax and Payments

Table with 10 rows: 19 Taxable income, 20 Enter 30% of line 19, 21 Tax credits, 22 Total tax, 23 Payments (23a-23g), 24 Tax due, 25 Overpayment, 26 Enter amount of line 25 you want

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of officer, Date, Title

Paid Preparer's Use Only

Preparer's signature, Date, Check if self-employed, Preparer's social security number, Firm's name, E.I. No., ZIP code

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

| | |
|---|-----------------|
| Recordkeeping | 11 hr., 14 min. |
| Learning about the law or the form | 5 hr., 9 min. |
| Preparing the form | 12 hr., 59 min. |
| Copying, assembling, and sending the form to the IRS | 2 hr., 9 min. |

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Attention: Tax Forms Committee, PC:FP, Washington, DC 20224; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0127), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see **Where To File** on page 3.

A homeowners association should compare its total tax computed on Form 1120-H with its total tax computed on either **Form 1120**, U.S. Corporation Income Tax Return, or **Form 1120-A**, U.S. Corporation Short-Form Income Tax Return. The homeowners association may file the form that results in the lowest tax.

Note: *The taxable income of a homeowners association that files its tax return on Form 1120-H is taxed at a flat rate of 30%. This rate applies to both ordinary income and capital gains.*

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

A Change To Note

Some associations are required to use a new method of depositing taxes for taxes due after 1994. Generally, the requirement applies to associations whose total deposits of certain taxes during calendar year 1993 exceeded \$78 million. Other associations may use the new method voluntarily. For details, see **Depository Method of Tax Payment** on page 3.

Purpose of Form

A homeowners association files Form 1120-H as its income tax return to take advantage of certain tax benefits. These benefits, in effect, allow the association to exclude exempt function income from its gross income.

Definitions

Homeowners association.—There are two kinds of homeowners associations:

1. A condominium management association organized and operated to acquire, build, manage, and care for the property in a condominium project substantially all of whose units are homes for individuals, and
2. A residential real estate management association organized and operated to acquire, build, manage, and care for a subdivision, development, or similar area substantially all of whose lots or buildings are homes for individuals.

Regulations section 1.528-4 explains the "substantially all" test. In addition:

- At least 60% of the association's gross income for the tax year must consist of exempt function income. See instructions below.
- At least 90% of the association's expenses for the tax year must consist of expenses to acquire, build, manage, and care for its property. See Item B on page 4.
- No private shareholder or individual can profit from the association's net earnings except by acquiring, building, managing, or caring for association property or by a rebate of excess membership dues or other fees.
- The association must file Form 1120-H to elect under section 528 to be treated as a homeowners association.

Association property.—Association property includes real and personal property that:

1. The association holds,
2. The association's members hold in common,
3. The association's members hold privately within the association, and
4. Is owned by a governmental unit and is used to benefit the unit's residents.

For more information, see Regulations section 1.528-3.

Taxable income.—Taxable income is the excess, if any, of:

1. Gross income for the tax year, excluding exempt function income, over
2. Allowed deductions directly connected with producing any gross income except exempt function income. Allowed deductions include a specific \$100 deduction. The following are not allowed:
 - Net operating loss deduction (section 172).
 - Deductions under Part VIII of subchapter B (special deductions for corporations).

If facilities are used (or personnel are employed) for both exempt and nonexempt purposes, see Regulations section 1.528-10.

Exempt function income.—Exempt function income consists of membership dues or other fees the homeowners association received from those who own the association's residential units or lots. This income must come from members as owners, not as customers of the association's services.

Assessments or fees for a common activity qualify, but charges for providing services do not qualify.

Examples.—In general, exempt function income includes assessments made to:

1. Pay principal, interest, and real estate taxes on association property.
2. Maintain association property.
3. Clear snow from public areas and remove trash.

Income that is **not** exempt function income includes:

1. Amounts that are not includible in the organization's gross income other than under section 528 (for example, tax-exempt interest),
2. Payments from nonmembers,
3. Payments from members for special use of the organization's facilities, apart from the uses generally available to all members,
4. Interest on amounts in a sinking fund,
5. Payments for work done on nonassociation property, and
6. Members' payments for transportation.

For more information, see Regulations section 1.528-9.

Electing To File Form 1120-H

By filing a properly completed Form 1120-H, the association elects to take advantage of the tax benefits provided by section 528. This election must be made not later than the time, including extensions, for filing an income tax return for the year in which the election is to apply. The association makes the election separately for each tax year. Once Form 1120-H is filed, the association cannot revoke its election for that year unless the Commissioner consents. If the homeowners association has filed Form 1120-H, it may request the consent of the Commissioner to revoke the election to file Form 1120-H by filing a ruling request with the IRS. A user fee must be paid with all ruling requests. For more information on ruling requests, see Rev. Proc. 94-1, 1994-1, I.R.B. 10.

If the homeowners association does not elect to use Form 1120-H, it must file the applicable income tax return (Form 1120, etc.).

If the association is tax exempt under section 501, do not file Form 1120-H. See section 6033 and related sections. If the association loses its exempt status, see Regulations section 1.528-8(e).

When To File

In general, an association must file Form 1120-H by the 15th day of the 3rd month after the end of the tax year.

If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day.

Extension.—File **Form 7004**, Application for Automatic Extension of Time To File Corporation Income Tax Return, to request a 6-month extension of time to file.

Where To File

| If the association's principal office is located in | Use the following Internal Revenue Service Center address |
|---|---|
| New Jersey, New York (New York City and counties of Nassau, Rockland, Suffolk, and Westchester) | Holtsville, NY 00501 |
| New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont | Andover, MA 05501 |
| Florida, Georgia, South Carolina | Atlanta, GA 39901 |
| Indiana, Kentucky, Michigan, Ohio, West Virginia | Cincinnati, OH 45999 |
| Kansas, New Mexico, Oklahoma, Texas | Austin, TX 73301 |
| Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming | Ogden, UT 84201 |
| California (all other counties), Hawaii | Fresno, CA 93888 |
| Illinois, Iowa, Minnesota, Missouri, Wisconsin | Kansas City, MO 64999 |
| Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Tennessee | Memphis, TN 37501 |
| Delaware, District of Columbia, Maryland, Pennsylvania, Virginia | Philadelphia, PA 19255 |

Associations having their principal place of business outside the United States must file with the Internal Revenue Service Center, Philadelphia, PA 19255.

Who Must Sign

The return must be signed and dated by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or any other association officer (such as a tax officer) authorized to sign. Receivers, trustees, or assignees must sign and date any return filed on behalf of an association.

If an association officer completes Form 1120-H, the Paid Preparer's space should remain blank. Anyone who prepares Form 1120-H but does not charge the association should not sign the return. Generally, anyone who is paid to prepare the return must sign it and fill in the Paid Preparer's Use Only area.

The paid preparer must complete the required preparer information and:

- Sign the return, by hand, in the space provided for the preparer's signature (signature stamps and labels are not acceptable).
- Give a copy of the return to the taxpayer.

Accounting Methods

Taxable income must be computed using the method of accounting regularly used in keeping the association's books and records. Generally, permissible methods include the cash, accrual, or any other method authorized by the Internal Revenue Code. In all cases, the method used must clearly reflect taxable income.

Generally, an accrual basis taxpayer can deduct accrued expenses in the tax year in which all events that determine the liability have occurred, the amount of the liability can be figured with reasonable accuracy, and economic performance takes place with respect to the expense. There are exceptions for recurring items. See section 461(h) and the related regulations for the rules for determining when economic performance takes place.

Generally, the association may change the method of accounting used to report taxable income (for income as a whole or any material item) only by getting consent on **Form 3115**, Application for Change in Accounting Method. For more information, get **Pub. 538**, Accounting Periods and Methods.

Change in Accounting Period

Generally, before changing an accounting period, the Commissioner's approval must be obtained (Regulations section 1.442-1) by filing **Form 1128**, Application To Adopt, Change, or Retain a Tax Year. Also see Pub. 538.

Rounding Off to Whole Dollars

The association may show amounts on the return and accompanying schedules as whole dollars. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

Depository Method of Tax Payment

The association must pay the tax due in full no later than the 15th day of the 3rd month after the end of the tax year. Deposit association income tax payments with **Form 8109**, Federal Tax Deposit Coupon. Do not send deposits directly to an IRS office. Mail or deliver the completed Form 8109 with the payment to a qualified depository for Federal taxes or to the Federal Reserve bank (FRB) servicing the association's geographic area. Make checks or money orders payable to that depository or FRB.

To help ensure proper crediting, write the association's employer identification number, the tax period to which the deposit applies, and "Form 1120-H" on the check or money order. Be sure to darken the "1120" box on the coupon. These records of deposits will be sent to the IRS.

A penalty may be imposed if the deposits are mailed or delivered to an IRS office rather than to an authorized depository or FRB.

For more information on deposits, see the instructions in the coupon booklet (Form 8109) and **Pub. 583**, Taxpayers Starting a Business.

Caution: If the association owes tax when it files Form 1120-H, do not include the payment with the tax return. Instead, mail or deliver the payment with Form 8109 to a qualified depository or FRB.

Generally, associations whose total deposits of withheld income, social security, and Medicare taxes during calendar year 1993 exceeded \$78 million are required to deposit all depository taxes due after 1994 by electronic funds transfer (EFT). TAXLINK, an electronic remittance processing system, must be used to make deposits by EFT. Associations who are not required to make deposits by EFT may voluntarily participate in TAXLINK. For more details on TAXLINK, see Rev. Proc. 94-48, 1994-29 I.R.B. 31. You may also call the toll-free TAXLINK HELPLINE at 1-800-829-5469.

Estimated Tax, Alternative Minimum Tax, Environmental Tax, Investment Credit, and Jobs Credit

These items do not apply to homeowners associations electing to file Form 1120-H. However, a homeowners association that does **not** elect to file Form 1120-H may be required to make payments of estimated tax. Because the election is **not** made until the return is filed, Form 1120-H provides lines for estimated tax payments and the crediting of overpayments against estimated tax if payments or overpayments apply.

Interest and Penalties

Interest.—Interest is charged on taxes not paid by the due date even if an extension of time to file is granted. Interest is also charged on penalties imposed for failure to file, negligence, fraud, gross valuation overstatements, and substantial understatement of tax from the due date (including extensions) to the date of payment. The interest charge is figured at a rate determined under section 6621.

Late filing of return.—In addition to losing the right to elect to file Form 1120-H, a homeowners association that does not file its tax return by the due date including extensions, may have to pay a penalty of 5% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax. The minimum penalty for a return that is more than 60 days late is the smaller of the tax due or \$100. The penalty will not be imposed if the association can show that the failure to file on time was due to reasonable cause. Associations that file late must attach a statement explaining the reasonable cause.

Late payment of tax.—An association that does not pay the tax when due may have to pay a penalty of 1/2 of 1% of the unpaid tax for each month or part of a month the tax is not paid, up to a maximum of 25% of the unpaid tax. This penalty may also apply to any additional tax not paid within 10 days of the date of the notice and demand for payment. The penalty will not be imposed if the association can show that the failure to pay on time was due to reasonable cause.

Other penalties.—Other penalties can also be imposed for negligence, substantial understatement of tax, and fraud. See sections 6662 and 6663.

Other Forms and Statements That May Be Required

The association may have to file any of the following:

Form W-2, Wage and Tax Statement.

Form W-3, Transmittal of Income and Tax Statements.

Form 1096, Annual Summary and Transmittal of U.S. Information Returns.

Form 1098, Mortgage Interest Statement. This form is used to report the receipt of \$600 or more of mortgage interest in the course of the association's trade or business during any calendar year.

Forms 1099-A, B, C, DIV, INT, MISC, OID, PATR, R, and S. These information returns are for reporting of abandonments, acquisitions through foreclosure, proceeds from broker and barter exchange transactions, discharges of indebtedness, certain dividends and distributions, interest payments, medical and dental health care payments, miscellaneous income payments, nonemployee compensation, original issue discount, patronage dividends, distributions from profit-sharing plans, retirement plans, individual retirement arrangements, insurance contracts, etc., and proceeds from real estate transactions. Also use these returns to report amounts that were received as a nominee on behalf of another person.

For more information, see the instructions for Forms 1098, 1099, 5498, and W-2G, and **Pub. 937**, Employment Taxes.

Note: Every association must file Form 1099-MISC if, in the course of its trade or business, it makes payments of rents, commissions, or other fixed or determinable income (see section 6041) totaling \$600 or more to any one person during the calendar year.

Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business. Generally, this form is used to report the receipt of more than \$10,000 in cash or foreign currency in one transaction or a series of related transactions.

Cashier's checks, bank drafts, and money orders with face amounts of \$10,000 or less are considered cash under certain circumstances. For more information, see Form 8300 and Regulations section 1.6050I-1(c).

Attachments.—Attach **Form 4136**, Credit for Federal Tax on Fuels, to Form 1120-H. Attach schedules in alphabetical order and other forms in numerical order after Form 4136.

To assist us in processing the return, please complete every applicable entry space on Form 1120-H. Do not write "See attached" instead of completing the entry spaces. If you need more space on the forms or schedules, attach separate sheets. Use the same size and format as on the printed forms. But show the totals on the printed forms. Attach these separate sheets after all the schedules and forms. Be sure to put the association's name and EIN on each sheet.

Specific Instructions

Period covered.—File the 1994 return for calendar year 1994 and fiscal years that begin in 1994 and end in 1995. For a fiscal year, fill in the tax year space at the top of the form.

Note: The 1994 Form 1120-H may also be used if (1) the organization has a tax year of less than 12 months that begins and ends in 1995 and (2) the 1995 Form 1120-H is not available at the time the organization is required to file its return. However, the organization must show its 1995 tax year on the 1994 Form 1120-H and must incorporate any tax law changes that are effective for tax years beginning after 1994.

Address.—Include the suite, room, or other unit number after the street address. If a pre-addressed label is used, include this information on the label.

If the Post Office does not deliver mail to the street address and the association has a P.O. box, show the box number instead of the street address.

Note: If a change in address occurs after the return is filed, the association can use **Form 8822**, Change of Address, to notify the IRS of the new address.

Employer identification number (EIN).—Show the correct EIN in the space provided. If the association does not have an EIN, it should apply for one on **Form SS-4**, Application for Employer Identification Number. Form SS-4 can be obtained at most IRS and Social Security Administration (SSA) offices. If the association has not received its EIN by the time the return is due, write "Applied for" in the space for the EIN. See Pub. 583 for more information.

Final return, change of address, or amended return.—If the association ceases to exist, file Form 1120-H and check the "Final return" box at the top of the form. If the association has changed its address since it last filed a return, check the box for "Change of address."

To amend a previously filed Form 1120-H, file a corrected Form 1120-H and check the "Amended return" box at the top of the form.

Item A.—Enter the association's exempt function income for the tax year, figured by the association's accounting method. This income must meet the 60% test explained under **Definitions** on page 2.

Item B.—Enter the association's expenditures for the tax year to acquire, build, manage, and care for association property. Include current and capital expenditures. These expenditures must meet the 90% test explained under **Definitions** on page 2. Use the association's accounting method to figure the total.

Include:

- Salary for an association manager or secretary.
- Expenses for gardening, paving, street signs, security guards, and property taxes assessed on association property.

- Current operating or capital expenditures for tennis courts, swimming pools, recreation halls, etc.

- Replacement costs for common buildings, heating, air conditioning, elevators, etc.

Do not include expenditures for property that is not association property. Also, do not include investments or transfers of funds held to meet future costs. An example would be transfers to a sinking fund to replace a roof, even if the roof is association property.

Item C.—Enter the association's total expenditures for the tax year including those expenditures directly related to exempt function income. Use the association's accounting method to figure the entry for item C.

Line 21.—Tax credits—The association may qualify for the following tax credits:

Foreign tax credit. See **Form 1118**, Foreign Tax Credit—Corporations.

Credit for fuel produced from a nonconventional source. See section 29 for a definition of qualified fuels, provisions for figuring the credit, and other special rules.

Alcohol fuel credit. See **Form 6478**, Credit for Alcohol Used as Fuel, and section 40.

Credit for increasing research activities. See **Form 6765**, Credit for Increasing Research Activities, and section 41.

Low-income housing credit. See **Form 8586**, Low-Income Housing Credit, and section 42.

Enhanced oil recovery credit. See **Form 8830**, Enhanced Oil Recovery Credit, and section 43.

Disabled access credit. See **Form 8826**, Disabled Access Credit, and section 44.

Qualified electric vehicle credit. See **Form 8834**, Qualified Electric Vehicle Credit, and section 30.

Renewable electricity production credit. See **Form 8835**, Renewable Electricity Production Credit, and section 45.

Enter the total amount of credits on line 21 and attach the appropriate form(s).

Line 22.—If the association must recapture any of the low-income housing credit (or the qualified electric vehicle credit), include the amount of the recapture in the total for line 22. To the right of the entry space, write "LIH recapture" (or "QEV recapture") and the amount. See **Form 8611**, Recapture of Low-Income Housing Credit, and section 42(j) for more details. Also get **Pub. 535**, Business Expenses, to see how to figure the recapture for the qualified electric vehicle credit.

Backup withholding.—If the association had income tax withheld from any payments it received, because, for example, it failed to give the payer its correct employer identification number, include this amount in the total for line 23g. This type of withholding is called "backup withholding." Show the amount withheld in the blank space in the right-hand column between lines 22 and 23g, and label the amount as "backup withholding."

