

The Overlook Property Owners Association, Inc 2017 IRS Tax Resolution

This is an annual ‘precautionary’ resolution that allows the Association to reduce or defer tax liability should the Association need/decide to file as a regular corporation (Tax Form 1120) rather than as a homeowners association (Tax Form 1120-H).

Homeowners associations may elect to be taxed as regular corporations (Tax Form 1120) or as homeowners associations (Tax Form 1120-H). If the election is to file as a homeowners association, the Association is taxed on its nonexempt function income, such as interest earnings, at a flat rate of 30%. Exempt function income, which consists primarily of member assessments, is not taxable. If the election is to file as a regular corporation, the Association may be taxed at a rate as low as 15%; however, unlike a homeowners association, any excess membership income is taxed, so the net taxable income can be larger. Generally, it is more advantageous to file as a homeowner’s association, especially if the interest earnings are small relative to the excess membership income. In addition, filing as a homeowners association reduces audit exposure due to the lack of specific rulings in several areas for associations that file as regular corporations. The Association has historically filed as a homeowners association (Tax Form 1120-H).

In order to file as a homeowners association, there are limits on non-exempt income and expenses. More than 60% of all income must be exempt function income and more than 90% of all expenses must be exempt function expenses. If the Association does not qualify to file as a homeowners association or decides to file as a regular corporation, it may be possible to reduce or defer the tax liability if the following resolution is adopted. The resolution is designed to take advantage of IRS Revenue Ruling (70-604). In order to be effective, the resolution must be adopted by the stockholders of the corporation (i.e., the members of the Association) before the end of the tax year (i.e. December 31, 2017).

See http://www.garyportercpa.com/index.php?option=com_content&view=article&id=147:revenue-ruling-70-604-guide&catid=1:tax-articles&Itemid=20 for more information.

Election Under Revenue Ruling 70-604 Excess Income Applied to Following Year Assessments

WHEREAS the Association is a Maryland corporation duly organized and existing under the laws of the State Of Maryland; and,

WHEREAS, the members desire that the corporation shall act in full accordance with the rulings and regulations of the Internal Revenue Service;

NOW, THEREFORE, the members hereby adopt the following resolution by and on behalf of the Association:

RESOLVED, that any excess of membership income over membership expenses, for the tax year ended December 31, 2017, shall be applied against the succeeding tax years member assessments, as provided by IRS Revenue Ruling 70-604.

This resolution is adopted and made a part of the minutes of the membership meeting of February 9, 2017.

BY: _____ (President)

ATTESTED: _____ (Secretary)