

VERMONT DEPARTMENT OF TAXES
2023 TIME-SHARE PROPERTY VALUATION
RECOMMENDATIONS, PER ACT 163 SECTION 7

2023 TIME-SHARE PROPERTY VALUATION RECOMMENDATIONS, PER ACT 163 SECTION 7

SUBMITTED TO

House Committee on Ways and Means
House Committee on Government Operations
Senate Committee on Finance
Senate Committee on Government Operations

SUBMITTED BY

Office of the Commissioner
Vermont Department of Taxes

PREPARED BY

Kirby Keeton, Tax Policy Analyst
Office of the Commissioner

Vermont Department of Taxes
133 State Street
Montpelier, VT 05633
(802) 828-2505
tax.vermont.gov

DATE SUBMITTED

January 15, 2023
Publication RP-1320

Table of Contents

- Introduction3**
 - Requested Information3
- Unique Nature of Time-Share Properties.3**
- Time-share Valuation in Vermont.3**
- Time-share Valuation in Other States.4**
 - Arizona4
 - California.4
 - Florida5
 - Maine5
 - South Carolina5
 - Utah5
- Conclusion6**



Introduction

This report was prepared according to Section 7 of Act 163, an act relating to municipal retention of property tax collections and valuation for purposes of the education property tax, effective June 1, 2022.

Section 7 requires the Department of Taxes to submit a report “proposing options for addressing the complexities of valuing time-share projects in this State.”

Requested Information

This report is required to address the following topics:

- A review of other states’ time-share project valuation laws and an evaluation of the feasibility of applying those formulas in Vermont
- Any recommendations for legislative changes to clarify the valuation of time-share projects

Unique Nature of Time-Share Properties

Building a time-share project entails unique opportunities for income, but also additional costs. A time-share project generates more income for a developer than a typical residential property because the total income from selling time-share plans will usually be greater than the market value of the property if sold for a different purpose. Additionally, the development costs of the property are greater because of costs associated with marketing, sales, furnishings, and amenities.

The real estate market for time-shares is unique. The purchasers of time-share interests tend to spend a short amount of time in the place where a time-share is located. Accordingly, time-share properties tend to compete with the hotel and short-term rental markets more than they compete with the residential housing market. Time-shares are usually intentionally built with short-term stays in mind. Some look like condominiums, some look like hotels, and some look like houses. They are categorically different than typical residential properties.

Ownership rights relating to time-shares are unique. The owners of a time-share property purchase a small portion of the property rights associated with the property. These rights can vary greatly in form and detail, which is something assessing officials may have to consider on a case-by-case basis. Time-shares further require a managing entity that has numerous contractual and legal responsibilities relating to maintenance and administration.

For these reasons, assessing officials in Vermont and other jurisdictions value time-shares as unique properties and use unique approaches to valuation.

Time-share Valuation in Vermont

Vermont law does not establish a specific valuation approach for time-shares. It requires that the managing entity be the owner stated on the grand list and establishes the manner in which individual owners of time-share interests are responsible for property tax. 32 V.S.A. § 3619(b). It also states that managing entities are responsible for informing time-share owners of their tax liability. 32 V.S.A. § 3619(c).

When valuing time-share properties, Vermont assessing officials follow the practices and uniform standards of the International Association of Assessing Officers. Generally, an assessing official is trained to consider

all approaches to value and use the best information available to develop the most reliable valuation. Sales comparisons are an approach that is typically used and has been supported by the Vermont Supreme Court. *Jackson Gore Inn v. Town of Ludlow*, 2020 VT 11 ¶ 42 (holding that profits of a managing entity could not be added to the value of the sale price of time-share units because evidence showed that sales data was the more accurate valuation methodology).

Although a sales comparison is often the most appropriate approach, there could be situations in which another valuation approach is more appropriate. This could occur when the local market is lacking in comparable time-share properties. A lack of comparable properties is sometimes due to unique amenities of a property. It may also come up if a time-share contract has unique qualities that make the ownership arrangement so different that comparing it to other time-shares would be misleading.

Time-share Valuation in Other States

Most states do not specifically address the valuation of time-shares in their laws and regulations. States generally value time-share properties like Vermont does: according to fair market value using the practices established by professional valuation experts.

The states that actively address time-share valuation in their laws, regulations, and guidance tend to be states that are popular seasonal vacation destinations. In other words, the places where time-shares tend to be the most prevalent. Those states include Arizona, California, Florida, Maine, South Carolina, and Utah. These states tend to require a market analysis of the sales of the individual interests that have been sold for a given time-share property (often called a “market study” or “resale approach”).

Below is a summary of how each of these states approach the valuation of time-shares.

Arizona

Arizona law uses several definitions specific to time-shares, including those for various time-share plans and types of time-share interests. A.R.S. tit. 42 ch. 13 art. 10. It addresses valuation practices around concepts specific to time-shares, such as appurtenant amenities and bonus time. The valuation process is highly specific and treats time-shares as entirely unique properties. Arizona’s guidance document for valuing time-shares is 29 pages¹.

A market sales analysis is central to Arizona’s approach. See, Arizona Department of Revenue Property Tax Division, *Guideline for Timeshare Interest Valuation* (2005), at 23-25. The market study has three basic parts: identifying the types of ownership interests associated with the property, identifying sources of sales information for the units in the property being valued, and reviewing all sales of time-share interests for the specific property. The market study approach only considers time-share interests and does not attempt to compare their values to non-time-share properties.

California

California requires assessing officials to consider “the fact that the timeshare estate or use is marketed in increments of time . . . [and] [t]he season of the year during which the owner is entitled to the right to use or possession of the property” when determining value. [State of California Board of Equalization Property Tax Rule 472\(b\)\(boe.ca.gov\)](#). California does not mandate a specific approach to valuation if the approach used reflects “any increase or decrease in value attributable to the fact that the subject property is marketed in increments of time.” *Id.* 472(h).

¹Located at: https://www.azdor.gov/sites/default/files/media/PROPERTY_TimeshareInterestValuation.pdf.

Florida

Florida requires that time-share properties be valued by combining the values of individual time-share periods or time-share estates associated with a property. Fla. Stat. 192.037(2). Assessing officials are required to use a resale approach to establish these values. Fla. Stat. 192.037(10). If an official lacks sales data to conduct a valuation, they are permitted to use the original purchase price of the property and deduct reasonable fees and costs associated with the initial sale. Fla. Stat. 192.037(11).

Maine

Maine requires that each time-share estate be separately assessed and taxed. See, 33 M.R.S. ch. 10A; 33 M.R.S. § 593-2. Maine allows assessors to consider “other factors relevant to the valuation of a time-share estate” and to consider the “real property value of the time-share estate declared in the declaration of value.” *Id.* Relevant factors could include the unique ownership interests involved and the current market specific to these properties.

South Carolina

South Carolina requires that time-shares be valued in the same manner as if the unit were owned by a single owner. SC Code § 27-32-240. It precludes valuation based on the cumulative purchase price paid by the time share owners. *Id.* South Carolina has an exception for “vacation time sharing lease plans,” which allows a property to be assessed as other income producing and investment property when assessed.

Utah

Utah requires the value of timeshare estates to “be determined by valuing the real property interest associated with the timeshare interest or timeshare estate, exclusive of the value of any intangible property and rights associated with the acquisition, operation, ownership, and use of the timeshare interest or timeshare estate, including the fees and costs associated with the sale of timeshare interests and timeshare estates that exceed those fees and costs normally incurred in the sale of other similar properties, the fees and costs associated with the operation, ownership, and use of timeshare interests and timeshare estates, vacation exchange rights, vacation conveniences and services, club memberships, and any other intangible rights and benefits available to a timeshare unit owner.” Utah Code Ann., title 57, ch.8, § 27(5). Utah law also states that the provision should not be construed as requiring an assessment as something other than fair market value. *Id.*

Utah assessors conduct sales studies of timeshare units to determine the fair market value. They sometimes also look at the sales of condominiums when conducting a study, but this is not considered the best practice. See, Pamela B. Hunsaker, American Property Tax Council, *Why Timeshares Should Not be Taxed Like Condominiums*².

²Available at: <https://www.aptcnet.com/property-tax-resources/published-property-tax-articles/why-timeshares-shouldnt-be-taxed-like-condominiums> (explaining the issues generally and specific to Utah).

Conclusion

Of those states that address time-share valuation specifically in their laws or guidance, the Department of Taxes found little variation in their approach. Some expressly require a market or resale study while others provide more general guidance that does not mandate a particular approach. States consistently determine value by looking at sales of interests related to the property being valued and at other similar time-share properties.

Laws in South Carolina and Utah prevent an assessing official from considering some of the unique qualities of time-share properties. The assessing officials in those states can use market studies but are limited in how they can approach value. The Department considers these states as outliers and does not think it is appropriate to use either as a model because of the risk of valuations that arbitrarily lower a property valuation below fair market value³.

The Department of Taxes does not think there is a compelling need to clarify current law. We believe that assessing officials in Vermont are using appropriate approaches for valuation of time-share properties. If a change is made, the Department suggests that a provision be added requiring a market or resale study and a clarification that an assessing official cannot compare sales of residential properties when valuing a time-share property. We do not think this is necessary, however, because assessing officials are already using this approach in most cases, where appropriate. Time shares, however, are not a monolith and assessing officials in Vermont should have access to a flexible set of valuation tools to address the varying forms that ownership interests can take. The Department does not believe that limiting the tools available to assessing officials will help achieve more accurate values.

³South Carolina in particular risks an arbitrary undervaluation of these properties.