



DEPARTMENT OF REVENUE
Property Tax Division

GUIDELINE

TIMESHARE
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VALUATION

Issued: **September 15, 2005**

FOREWORD

The purpose of this Timeshare Interest Valuation guideline is to provide County Assessor personnel and other interested entities with general information on the identification and classification of timeshare properties. It also provides supplemental valuation information to what is specified in A.R.S. Title 42 (Taxation), Chapter 13 (Valuation of Locally Assessed Property), Article 10 (Timeshare Property), regarding the application of the statutory timeshare property valuation procedure.

This document is organized as follows:

- A brief background describing timeshare properties and the origin of the current statutory valuation procedure in Arizona.
- Definitions of specific terms that are derived from Title 32 and Title 42, together with descriptions of other appraisal terminology that applies to timeshare properties.
- Discussion of the identification of the various forms of timeshare interest ownership and certain important aspects of each form.
- Discussion of timeshare property legal classification considerations.
- A detailed discussion of timeshare interests valuation and market sales data analysis considerations.
- Required reporting form(s) and other sources of information.

Comments concerning this document may be referred directly to the Property Tax Division's Assessment Standards Unit at (602) 716-6821.



BACKGROUND

The basic concept of "timesharing" real estate (i.e., the application of a timeshare "plan") is simple. In a traditional timeshare property or project, the available time for the use of a single unit or "accommodation" during a calendar year is divided into fifty-two separate time periods, sometimes called "intervals" or "timeshare periods," which correspond to the fifty-two weeks in a calendar year. Each interval or timeshare period corresponds to a specific, individual week in the calendar year.

Usually, fifty or fifty-one of the fifty-two intervals are then sold to different individuals. Any needed repairs or refurbishing of any particular unit usually occurs during the time period(s) of the year when the unit is vacant. Every accommodation or unit in the project is similarly divided by time of use, and each one of these individual intervals is sold. A timeshare interest may provide for the use of a specific timeshare period each year or every other year (typically called "fixed use"), and perhaps even allows for the use of the same unit each time (a "fixed unit"). Alternatively, through a reservation program, the purchaser may be able to reserve different timeshare periods ("floating use") and a different unit (a "floating unit") in different years. The application of a timeshare plan to a resort, a condominium project, or to many other types of real property is often referred to as being an "overlay."

Timesharing is an increasingly popular use of real property, especially for resorts, hotels, and condominium projects. Typically, the most successful timeshare properties are located at or near popular vacation destinations. Timeshare products are often marketed and sold under many different names, such as vacation club, fractional ownership, holiday ownership, vacation ownership, group ownership, interval ownership and multi-ownership, to name a few. However, the name of the timeshare product may have very little to do with the legal structure of the timeshare plan or how the property subject to that plan is valued. The timeshare property's underlying documents (the declarations, the public report, etc.) are far more important.



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For example, the Appraisal Institute's publication "The Appraisal of Real Estate," 12th Edition, states, "Timesharing involves the sale of either limited ownership interests in or rights to use and occupy residential apartments or hotel rooms."

It further states, "There are two forms of timesharing, and it is imperative that the appraiser distinguish between them when appraising timeshare projects or analyzing timeshare comparables. In the first form, fee timesharing, the purchaser of a fee timeshare receives a deed that conveys title to a unit for a specific part of a year, thereby limiting the ownership. The purchaser has the right to sell, lease, or bequeath the timeshare. The interest can be mortgaged and title can be recorded. The second form of timesharing, non-fee timesharing, does not convey a legal title in the property. Typically a purchaser receives only the right to use a timeshare unit and related premises."

The basic distinction between fee and nonfee timesharing is a key consideration. Regardless of what a particular timeshare product is named, these are the two basic forms of timeshare interests. In Arizona, the operative terms are "timeshare estate" (fee) and "timeshare use" (nonfee). They are both timeshare interests under a timeshare plan.

The timeshare industry has, in recent years, promoted timeshares as being a "vacation ownership." The promotional concept presented to potential purchasers is that they are purchasing the future value of increasingly expensive vacations in present value dollars. That is, a timeshare purchase today makes tomorrow's vacation cheaper, because it is being paid for now, with today's dollars.

The economic feasibility test for this argument is also simple. The future costs of staying in a resort or hotel, etc., plus the cost of restaurant meals and other "retail" recreational expenditures, are estimated over a projected future time period. These costs are then compared to the price, in today's dollars, of the timeshare interest, its associated maintenance fees, savings on meals prepared in the accommodation and the use of the timeshare property's amenities over that same projected future time period.



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These comparisons can be oversimplified. However, they can also be a reasonable gauge of the feasibility and affordability of annual or regular vacations and their associated costs for a prospective timeshare interest purchaser, if all of the expenses have been estimated accurately. The vacation cost differential may also be presented as offering some protection against inflation when compared to the projected higher costs of typical "retail" vacations in future years. All of these various projections are predicated on the underlying presumption that the prospective purchaser will actually take a vacation on an annual or regular basis over the entire course of the projected future term.

Timeshare project developers are attracted to the potential number of purchasers for a timeshare property, compared to building a typical residential project and selling the individual units once, because a timeshared property provides them with increased sales, cash flow and profitability. However, the developers' costs are increased as well, including higher costs for marketing, salespeople, furnishings and amenities, and other similar items. Developers may also promote the assertion that building timeshared properties decreases the amount of local land used, and provides a lower overall density of structural improvements, while significantly increasing the number of people who are only visiting the area, thereby improving the local economy. Visitors will utilize the same physical infrastructure without a corresponding increase in the local areas' permanent population and the resulting negatives that are often associated with permanent population increases.

Most new timeshare projects built during the last five to ten years were purposely built to be timeshares. They may be built within planned unit developments, in master-planned communities that include single-family homes and other types of properties, such as hotels, condominiums and various recreational facilities, or they may be built as stand-alone timeshare resorts. Historically, most timeshare properties have been converted from another use (former hotels, condominiums, townhouses, etc.), but currently the general trend, both here in Arizona and nationally, has been toward these properties being specifically constructed for timeshare use.



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Timeshare properties have been regulated by the Arizona Department of Real Estate (ADRE) since 1982, with the intent of providing timeshare interest buyers with greater security in their purchases. This is accomplished through the registration of the timeshare plan with ADRE. Prospective purchasers must be given a copy of the timeshare's public report prior to signing a contract.

Timeshare inventory is reported to the ADRE during the public report application process. At that time, the developer describes the number and types of units or "accommodations" in the project, the type of timeshare plan, and the "timeshare interests" that will be offered for sale. Any material changes to the timeshare plan (for example, a new offering of biennial interests where only annual interests were available initially) must be reported to the ADRE in order to amend the public report. This must be done before offering these new timeshare interests for sale.

A.R.S. Title 32 (Professions and Occupations), Chapter 20 (Real Estate), Article 9 (Real Estate Timeshares) includes the ADRE's registration and other related requirements for timeshare plans in Arizona. It was extensively amended during the 2001 legislative session. These revisions include updated definitions and terminology that reflect the current timeshare industry's products and structure.

The amendment of A.R.S. § 42-12004 by Laws 2002, Chapter 201, Section 1 (Senate Bill 1224) classified residential use timeshare property as Legal Class Four, by adding new Subclass Eight. Section 2 of the bill created a statutory valuation methodology for timeshare properties. This bill was a cooperative piece of legislation proposed by the American Resort Development Association (ARDA) and certain County Assessor's representatives who worked with the industry to establish uniform information reporting and valuation procedures for properties subject to a timeshare plan.



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The statutory timeshare valuation procedure resulted, in part, from the London Bridge Resort, Inc. v. Mohave County court case (1 CA-TX 00-0013). This case involved a 122-unit condominium project with corresponding parcel numbers (it had formerly been a hotel) that was again converted, via the application of a timeshare plan overlay, into a timeshare development. Initial timeshare interests in the project were sold from 1991 through 1999. The Mohave County Assessor's Office had valued the condominium project using the cost approach during these years, but had also collected sales affidavits showing market sale prices of the individual timeshare interests.

For Tax Years 1999 and 2000, the County Assessor valued the project using the market sale prices to determine the most probable sale prices for the studio, one- and two-bedroom timeshare interests. The Assessor then multiplied those probable sale prices by the total number of each type of timeshare interest in the project, producing the gross market value for each of the 122 physical units. After discounting those values for items including marketing costs, unusual financing, excess initial sale commission costs, various intangibles, and personal property, the Assessor mailed a valuation notice to the owner of the 122 units, London Bridge Resort, Inc. The new valuation methodology was appealed to Tax Court and on to the Arizona Court of Appeals. Both courts upheld the Mohave County Assessor's valuation methodology. Elements of the court case were used as the basis for the statutory valuation procedure enacted by the legislature in 2002.

DEFINITIONS

To produce accurate timeshare property valuations, assessment personnel must understand the somewhat specialized terminology and the various legal classification and valuation considerations that apply specifically to properties that are subject to a timeshare plan. The definitions and explanations of terminology that follow are intended to assist assessment personnel with that understanding.



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- A. The following definitions are found in A.R.S. Title 42 (Taxation), Chapter 13 (Valuation of Locally Assessed Property), Article 10 (Timeshare Property). They were adopted directly from Title 32 (Professions and Occupations), Chapter 20 (Real Estate).

Pursuant to § 42-13451:

1. **"Accommodation"** means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room or other private or commercial structure containing toilet facilities that is designed and available for use and occupancy as a residence by one or more individuals and that is included in the offering of a timeshare plan.
2. **"Association"** means any organized body consisting of the purchasers of interests in a timeshare plan.
3. **"Developer"** means either of the following:
 - (a) Any person, corporation, partnership, limited liability company, trust or other entity, other than a sales agent, that creates a timeshare plan or is in the business of selling timeshare interests or employs sales agents to sell timeshare interests.
 - (b) Any person or entity that succeeds to the interest of the developer by sale, lease, assignment, mortgage or other transfer if the person offers at least twelve timeshare interests in a particular timeshare plan and the person is in the business of selling timeshare interests or employs sales agents to sell timeshare interests.
4. **"Managing entity"** means the association or other person that undertakes the duties, responsibilities and obligations of the management of a timeshare plan.

Note: See also Laws 2005, Chapter 132 (H.B. 2255), regarding the recently enacted "Timeshare Owners Association and Management Act," which delineates the duties and responsibilities of timeshare plan "managing entities" and "owners associations" under Title 33 (Property).



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5. "**Promotion**" means a plan or device, including one involving the possibility of a prospective purchaser receiving a vacation, discount vacation, gift or prize, used by a developer or the developer's employee, or on the developer's behalf by an agent or the agent's employee, an independent contractor or the independent contractor's employee in connection with the offering and sale of timeshare interests in a timeshare plan.
 6. "**Timeshare interest**" includes either a timeshare estate or a timeshare use.
 7. "**Timeshare property**" means one or more accommodations subject to the same timeshare instrument, together with any other property or rights to property appurtenant to those accommodations.
 8. "**Transient occupant**" means any person who occupies an accommodation in a timeshare property and provides rental income to the developer or association to occupy the accommodation. Transient occupant does not include any person who uses an accommodation as a promotion, timeshare interest or exchange program.
- B.** The following definitions (which have not been adopted into Title 42) are found in A.R.S. Title 32 (Professions and Occupations), Chapter 20 (Real Estate), Article 9 (Real Estate Timeshares). These definitions are also useful in understanding timeshare terminology.

Pursuant to § 32-2197:

5. "**Component site**" means a specific geographic location where accommodations that are part of a multisite timeshare plan are located. Separate phases of a single timeshare property in a specific geographic location and under common management are a single component site.



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9. **"Exchange program"** means any method, arrangement or procedure for the voluntary exchange of timeshare interests or other property interests. Exchange program does not include an assignment of the right to use and occupy accommodations and facilities to purchasers or owners of timeshare interests within a single site timeshare plan.

Note: As of the issue date of this guideline, Resort Condominiums International, Inc. (R.C.I.) and Interval International, Inc. (I.I.) are the two largest timeshare exchange program companies.

11. **"Multisite timeshare plan"** includes a specific timeshare interest or a nonspecific timeshare interest.
12. **"Nonspecific timeshare interest"** means the right to use accommodations at more than one component site created by or acquired through the timeshare plan's reservation system, but not including a specific right to use any particular accommodations.
17. **"Purchaser"** means any person, other than a developer, who, by means of a voluntary transfer, acquires a legal or equitable interest in a timeshare plan other than a security for an obligation.
18. **"Purchase agreement"** means a document that legally obligates a person to sell or buy a timeshare interest.
20. **"Reservation system"** means the method, arrangement or procedure in which a purchaser, in order to reserve the use or occupancy of any accommodation of a multisite timeshare plan for one or more timeshare periods, is required to compete with other purchasers in the same multisite timeshare plan for the right to use accommodations, regardless of whether the reservation system is operated and maintained by the multisite timeshare plan managing entity, an exchange company or any other person. If a purchaser is required to use an exchange program as the purchaser's principal means of obtaining the right to use and



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occupy accommodations, that arrangement is a reservation system. Reservation system does not include the use by an exchange company of a mechanism for the exchange or use of timeshare periods among members of an exchange program.

22. **"Single site timeshare plan"** means the right to use accommodations at a single timeshare property.
23. **"Specific timeshare interest"** means the right to use accommodations at a specific timeshare property, together with use rights in accommodations at one or more other component sites created by or acquired through the timeshare plan's reservation system.
24. **"Timeshare estate"** means the right of occupancy in a timeshare property that is coupled with an estate in real property.
27. **"Timeshare period"** means the period of time when the purchaser of a timeshare plan is afforded the opportunity to use the accommodations of a timeshare plan.
28. **"Timeshare plan"** means any arrangement, plan or similar device, other than an exchange program, whether by membership agreement, sale, lease, deed, license or right-to-use agreement or by any other means, in which a purchaser, in exchange for consideration, receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year, but not necessarily for consecutive years. A timeshare plan may be a single site timeshare plan or a multisite timeshare plan.
30. **"Timeshare use"** is the right to occupy a timeshare property that is not coupled with an estate in real property.



- C. The following terms and concepts have not been specifically defined under either A.R.S. Title 42 or Title 32. However, these terms are also applicable to timeshare plans and are provided here in the context of how they relate to properties that are subject to a timeshare plan. Note that in other contexts, or with other property uses, different definitions, meanings or interpretations may apply to some of these terms, while others may have no application to any other type of property use.

Appurtenant amenities. Any amenities that are outside of the accommodations or units, with either the purchaser having an ownership interest in the amenities that are included as a part of the timeshare interest purchased, or with the purchaser having the right to use these amenities as part of their right to use an accommodation. In either event, these amenities are considered to be "appurtenant" to the accommodation, and their use is an integral part of the timeshare interest agreement that has been purchased. Appurtenant amenities can include the property's grounds and landscaping, parking lots, and pools, spas, or exercise facilities. Many other types of amenities can also be designated as being "appurtenant" to an accommodation in a timeshare plan.

Because those things that may constitute appurtenant amenities can vary so widely from property to property, each timeshare property or project must be reviewed individually to determine exactly what real or personal property constitutes its appurtenant amenities. The public report, the declarations, the developer, or the owner's association may have a list of all of the appurtenant amenities that are included in the purchase of each individual timeshare interest or that are included with the right to use an accommodation.



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Bonus Time. Bonus time is the use of a timeshare accommodation in any of a variety of ways that are not considered to be “transient occupancy” under the provisions of A.R.S. § 42-12004(A)(8), and that can be considered to be separate from a timeshare owner’s basic use rights included in a timeshare purchase. Some of the more typical uses of a timeshare accommodation that may be considered to be “bonus time” include:

- The use of an accommodation as a sales promotion (which consists of time made available by the developer as an incentive to purchase a timeshare) or to upgrade a sold timeshare interest. For example, the developer may provide a “purchase incentive” to a prospective purchaser of a timeshare interest, consisting of a one-time or a short-term extra use right (which, generally, is only available in the first year or two). In other cases, the developer may provide use rights to prospective purchasers as an incentive to visit a resort and consider buying.
- The use of an accommodation as extra (i.e., bonus) time made available to a purchaser as a right of ownership under the timeshare plan declaration or other instruments which are beyond the purchaser’s basic use rights purchased. For example, many timeshare plans allow purchasers to reserve and use otherwise unused timeshare periods on a space available basis for a favorable rental rate, or for the payment of a cleaning fee or some other minimal payment, without that use depleting the purchaser’s basic use rights that are included in the timeshare interest purchased.
- The use of an accommodation as part of an exchange program would include use rights made available to timeshare purchasers through an exchange company. In addition, owners of timeshare interests that are in high-demand locations sometimes receive bonus time as an incentive to deposit their timeshare periods with an exchange company.



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Declarations. Pursuant to A.R.S. § 32-2197.02(B), a timeshare's public report "...must contain certain documents and information..." including, under subsection (B)12: "The recorded declaration of dedication of the timeshare property or other timeshare instruments or contracts incorporating all covenants of the grantor or lessor and creating the timeshare interests and the provisions of the plan, if any, to include organization of an association."

Interval. The specified period of time of use that has been purchased for the occupancy of an accommodation or unit, also sometimes called the "timeshare period." The industry standard for the amount of time that is usually sold as an interval in a timeshare property is one week. Fractions, or multiples, of one-week intervals (i.e., six or less days, or two or more weeks) are also sometimes available. Interval use may also be divided into two or more portions, which is often referred to as "split week" use.

Luxury Fractionals. These accommodations are, generally, higher value custom-built single-family homes or similar use properties, such as mountain cabins, beachfront villas, etc. which are developed as a luxury or true second home product. Although sometimes referred to as "private membership clubs," "private residence clubs," or by other terms, these programs are typically structured as fee ownership plans, and they should not be confused with right-to-use vacation clubs. These plans may contain as few as four fractional interests per unit (called "quartershares") or as many as thirteen or more. These properties may fall within the statutory definition of a timeshare plan.

It is not uncommon for each fractional interest to be offered for sale in the \$250,000 to \$500,000 price range, although some are more moderately priced, while many are priced much higher. Generally, the developer prefers to market these properties under the names "limited or luxury fractional interests" or "private residence clubs" to differentiate them from traditional timeshare properties. Fractional interest plans with less than twelve intervals are not required to be registered as timeshares by the ADRE, but they may be required to be registered with the ADRE as subdivisions.



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To be valued using the statutory valuation procedure under A.R.S. Title 42, Chapter 13, Article 10, a property must have had a timeshare plan filed with the ADRE. If the Assessor is valuing private residence clubs, or luxury fractionals, using the statutory timeshare valuation procedure, the individual circumstances regarding these luxury properties must be carefully considered, because the "presumed" sixty-five percent reduction to the initial (or original) sale prices will generally not be applicable.

Note: See the discussion of the "presumed deduction" under A.R.S. § 42-13452(A) and (C) on page 22.

Lock-out. Certain accommodations or units are physically constructed in a manner that allows a part of the unit to be separated, or "locked-out," from the rest of the unit. Both parts may then be used independently as separate accommodations. For example, a three-bedroom, two-bath unit or suite may be physically divisible into a two-bedroom, one-bath unit and a one-bedroom, one-bath unit. Each of them can then be utilized independently. This flexibility provides for a wider variety of accommodations or unit types and sizes that can be made available for sale and use.

Personal property. Pursuant to A.R.S. § 32-2197.02(B), a timeshare's public report "...must contain certain documents and information..." including, under subsection (B)15: "A true statement as to title to personal property within the units or timeshare property incident to a purchaser's use and how purchasers will receive assured use of personal property during the term offered." The personal property items found in timeshare accommodations usually consist of such items as furnishings, kitchen appliances, artwork and other decorations, and may also include cooking utensils, dishes, bedding and linens, etc.

Perpetuity. "In perpetuity" is a legal term which is distinct from, and not equal to, the normal meaning of "perpetual," which means "forever." "In perpetuity" in a timeshare plan generally means a defined period of time, which will be specified in each timeshare plan's public report or the declarations.



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Points. In many timeshare plans, a purchaser buys only "points" (which may also be called "credits" or "rights") which are simply a symbolic unit of value, or a medium of exchange, that has been specified by the developer. These points are applied to the use of an accommodation that is owned by an owners association, a trustee, the developer, or that are a part of a resort network. Their value to the purchaser depends on the number of points purchased, which timeshare property (or properties) they can be used for, the type or size of the accommodation that is desired, the length of the stay in the accommodation, and the season or time of year when the points are to be used. In some timeshare estate plans, they may be used to acquire additional time in the purchaser's own unit, or for the use of another owner's unit. Points may be overlaid on both timeshare estate plans and timeshare use plans, so points do not, by themselves, indicate the type of timeshare interest conveyed.

Points may also be purchased to upgrade accommodations or exchange privileges associated with the purchaser's ownership. In addition, some timeshare properties may also sell points that allow "day use" of a timeshare's facilities, such as pools, clubhouses and other on-site recreational amenities.

Public report. A description of the timeshare plan, and of the timeshare property, as approved by the Arizona Department of Real Estate. The issuance of the public report authorizes the sale or lease of timeshare interests in Arizona, pursuant to A.R.S. § 32-2197.08. Information listed in the public report includes the name of the developer (or declarant), what type of timeshare plan is being offered, a description of all accommodations and appurtenant amenities that are subject to the timeshare plan, the current annual budget of the timeshare plan, all liens on the real and personal property subject to the timeshare plan, and any other relevant disclosures.

Room nights. The total number of accommodations available, multiplied by the number of nights each accommodation was available during a given period of time. Usually, this time period is one year.



Travel clubs. Travel clubs are simply reservation systems that obtain and market the unsold inventory of accommodations from timeshare and other vacation-oriented properties, which can include hotels and resorts, and may even include rooms on cruise ships, or other similar accommodations. Members of these clubs have only a contract that enables them to try to make a reservation, through the club's reservation system, for an accommodation offered by the club. The types of accommodations available can change as the inventory changes. Although it may be possible for a travel club to be considered a timeshare plan under Arizona's Real Estate Timeshares statutes (A.R.S. Title 32, Chapter 20, Article 9), they generally do not own real estate, nor is there any recorded documentation that would affect any specific real estate. Because of these provisions, travel clubs should not be considered for valuation under the statutory timeshare valuation procedure. Travel clubs are to be considered reservation systems or marketing systems only. Further, travel clubs operating as of the issue date of this guideline tended to be of a limited term (i.e., usually about three years and generally less than ten years).

IDENTIFICATION

Accurately identifying which parcels and improvements (or which portions of a total property) qualify for the statutory timeshare valuation procedure, and determining the correct legal classification (or classification mix) for that timeshare property, are very important aspects of the valuation process.

The following is a simplified outline based on the Appraisal Institute's text (see page 3):

- **Fee Timesharing (Timeshare Estates):**
 - The purchaser receives a deed conveying title to an accommodation for a specific part of a year, or an undivided interest in the accommodation or in the entire timeshare property. This creates an interest in the timeshare property.



- The purchaser has the right to sell, lease, or bequeath his or her interest in the timeshare property.
- The purchaser's interest in the timeshare property can be mortgaged.
- The purchaser's interest in the timeshare property can be recorded and insured.
- **Nonfee Timesharing (Timeshare Use or Right-to-Use):**
 - Does not convey a legal title in the timeshare property (although some timeshare plans place legal title with a trustee for the benefit of the purchasers).
 - The purchaser receives only the right to use an accommodation at a specific timeshare property (a "specific" or "fixed" timeshare interest) and its related premises (see "appurtenant amenities").
 - Or, the purchaser receives the right to use any accommodation and its related amenities (a "nonspecific" or "floating" timeshare interest) in the timeshare plan (i.e., in the subject property, and possibly at different timeshare properties).

Timeshare uses may also go by the following names (these are generally used in some of the older timeshare plans).

- **Leasehold Interest.** The developer maintains title to the timeshare property. The purchaser buys only a prepaid lease or the right-to-use an accommodation on an annual or biennial basis.
- **Vacation License.** The developer transfers a license to the purchaser who obtains the right to use a given type of accommodation for a specified time period over the life of the vacation license contract.



- **Club Membership.** Also called Vacation Club Membership (but some timeshare estates are referred to as vacation clubs, too, so a careful review of the declarations is important to “get below the labels”). The purchaser receives a membership, for a specified number of years, in a club that owns, leases, or operates the timeshare property. The purchaser has the right to use a particular type of an accommodation (not a specific accommodation or unit) for a specified period during their membership.

CLASSIFICATION

Pursuant to A.R.S. § 42-12004(8), Legal Class Four includes "Real and personal property that is defined as timeshare property by section 32-2197 and valued pursuant to chapter 13, article 10 of this title [A.R.S. §§ 42-13451 through 42-13454], except for any property used for commercial, industrial or transient occupancy purposes and included in class one to the extent of that use."

The County Assessor must carefully study the public report and the published declarations for each timeshare plan to determine whether or not (or to what extent) the property can be classified as Legal Class Four, Subclass Eight, and if applicable, to determine how to properly apply the statutory valuation procedure. Every timeshare plan can be, and often is, different from any other. A timeshare plan may also change over time. Therefore, the County Assessor must carefully study each individual timeshare plan when making the initial property classification and valuation determinations, and must review the annually filed forms and any modifications that may be made to the property's timeshare plan to monitor any subsequent changes that may occur.

If the transient occupancy use of the timeshare property's accommodations is less than ten percent of all available nights for all accommodations during the reporting period, the timeshare property shall be treated as if no transient occupancy use occurred on the property, pursuant to A.R.S. § 42-13453(D). The following points must also be addressed:



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- Properties which have both nontimeshare uses and timeshare uses should have a mixed-use legal classification and assessment ratio calculated following the procedures in the Assessment Procedures Manual.
- If transient occupancy represents ten percent or more of the total occupancy of the timeshare portion of the property, that portion should be classified in Legal Class One or in another appropriate legal class.

Questions that must be answered are: Does the entire property qualify as a timeshare? If not, exactly how much of the property is considered to be subject to the timeshare plan, and therefore, what portion of the value is to be assessed as Legal Class Four? How much of the property will be considered Legal Class One, or as some other appropriate legal class? These issues require a careful study of the public report, the declarations, and the timeshare plan, and that analysis can be aided by the information reported by the managing entity in the timeshare use report and addendum, in any other supporting documentation they may provide the Assessor, and by an on-site inspection of the property.

A developer may also phase-in a timeshare plan over time. In some instances, certain accommodations will never be subject to the timeshare plan. As examples, a timeshare plan may only be applied to specified units or buildings in an apartment or condominium complex, while the remaining units or buildings are available for typical private ownership or long-term rental. A resort or a hotel may retain most of its rooms or units for normal commercial usage (i.e., they are only rented to guests overnight, or for a few days) and will have only a limited number of units that will be subject to timeshare use.

Special care must also be taken to determine exactly what amenities (e.g., pools, spas, tennis courts, etc.) are specified as being appurtenant to the accommodations or that are a part of the timeshare interests purchased, and whether or not those same amenities are also available for use by nonowners. Many timeshare developments may have a major portion of their amenities available for use by nontimeshare owners, or by the general public.



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Those amenities, or the portion of the amenities that are available for use by nontimeshare owners, should be classified under Legal Class One or in another appropriate legal class. Again, refer to the Assessment Procedures Manual, Part 3, Chapter 2, for the full process of computing a mixed-use assessment ratio.

The Department of Real Estate makes no distinction in its reporting requirements between traditional site-built timeshare properties such as condominiums, resorts, apartments, etc. and timeshare properties which utilize mobile homes, park models or manufactured housing units for their accommodations. If these units are not being assessed as real property, through the filing of Affidavits of Affixture, they are titled by the Arizona Department of Transportation's Motor Vehicle Division (MVD) and are to be assessed as personal property by the County Assessor. The values of these units should then be listed on the personal property tax roll. (See additional discussion of this subject on page 29.)

VALUATION PROCEDURE

The public report, the timeshare plan, and especially the declarations, will contain most of the information the County Assessor will need to determine whether or not a timeshare development or project (or some portion of it) should be classified as timeshare property and valued using the statutory valuation procedure. The public report will often provide little more than an overview of the plan, as it is designed to be a summary disclosure document for purchasers. The declarations will usually contain the most comprehensive, detailed information on the timeshare plan. They legally establish and control the plan. The property tax valuation and assessment process for timeshare property requires an analysis and review of these documents.

The statutory valuation procedure that is applicable in Arizona to qualifying timeshare properties provides for the use of sales of timeshare interests to establish the value of the real property that is subject to a timeshare plan. The statutory procedure does not distinguish between fee and nonfee ownership. However, it is important for the appraiser to recognize the specific form of ownership applicable to the subject timeshare property when



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developing and considering comparable sales for use in the valuation of that property. The appraiser should analyze the real and personal property involved, the property or the rights that are conveyed to the purchaser, if any, and the duration of the timeshare interest or the rights involved in each purchase or use agreement, to assist in finding the most comparable sales.

The public report may (and the declarations will) have a section on the "Project," the "Property," or the "Development" which provides a description of the real property involved. It will sometimes state, "real property comprised of approximately ____ acres..." or similar wording, or will provide a legal description. Any text stating "a membership does not include any title or direct interest in the property by any individual member of the club" or similar language indicates that the purchaser is buying only vacation points, credits or some other form of a timeshare right-to-use agreement.

When establishing the value of a timeshare property, it is important to determine if all or if only a portion of the entire property is subject to the timeshare plan. Only that portion of a property that is subject to a timeshare plan overlay should be valued using the statutory valuation procedure established for timeshare properties. Any portions of a property that are not subject to a timeshare plan overlay should be valued using the applicable standard appraisal methods and techniques.

The valuation process should be performed in conjunction with determining the property's legal classification. Generally, the portions of the property qualifying for Legal Class Four, Subclass Eight status should be the same portions of the property that qualify for the statutory valuation procedure. The most significant exception would be those portions of a timeshare property that are used for "transient" occupancy. Those portions of a property subject to a timeshare plan which have an annual transient occupancy use that equates to ten percent or more of the total room nights available for the occupancy of the timeshare accommodations would still be valued under the statutory formula. However, that portion of the timeshare property, by itself, would require a mixed-use assessment ratio to reflect the



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percentage of transient occupancy and timeshare use. This percentage of use ratio may vary from year to year as well, and should be based on the information reported on the timeshare use reporting form, further necessitating an annual analysis of the property.

Along with the timeshare use reporting form (DOR Form 82453) and its addendum, and any available Affidavits of Property Value, the County Assessor may also ask for or accept other related market sales data. Many managing entities maintain their timeshare interest sales information in database formats. The Assessor can use this data to analyze the sales of timeshare interval interests in the property, and can compare them to sales in competing projects. Any timeshare sale transactions that are not verifiably arm's-length market sale transactions should be excluded from the sales used to determine the subject's value.

Pursuant to A.R.S. § 42-13452(A), when using the **original gross sale prices** of timeshare interests, the County Assessor is to deduct a "presumed" sixty-five percent from the original gross sale price of each interest sold. This deduction is intended to exclude such items as extraordinary initial marketing costs, the "going concern" value of the business, excess sales commission costs, or any unusual financing or closing costs from the sale price.

Also excluded by the presumed sixty-five percent deduction are those costs that are associated to nontypical developer risks, extended marketing time, and the value of any personal property that is included in the accommodations. Additionally, the cost of any other nonrealty components, including items such as any vacation conveniences and services that may be available at the timeshare property, or through club membership or exchange programs, are considered to be excluded by the presumed deduction. The remainder of the sale price should approximate the resale market value for a qualifying timeshare interest.

Pursuant to A.R.S. § 42-13452(C), either the County Assessor or the managing entity may submit evidence that the presumed sixty-five percent deduction is not appropriate, and that a different adjustment should be made. However, if the Assessor makes any adjustment other than the specified sixty-five percent, the managing entity of the timeshare development must be notified of the reason for the different adjustment and the methodology used in making



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the different adjustment before the notice of valuation is mailed to the managing entity. If the managing entity and the Assessor do not agree on the adjusted percentage figure, the managing entity's recourse would then be to file an administrative appeal.

The use of **resale prices** of timeshare interests for determining the value of timeshare property is also discussed in A.R.S. § 42-13452(B): "If the value of the timeshare interests can be appropriately determined by using resale prices of the timeshare interests for the timeshare property, the county assessor shall determine the value of the timeshare property based on the resale prices of the timeshare interests. If there are insufficient resale prices, the county assessor may use resale prices of comparable timeshare interests.

When using the resale price, the county assessor shall deduct from the resale price the nonrealty components, including:

1. Atypical costs associated with the resale, including marketing costs, holding costs, commissions and financing costs.
2. The value of any personal property and rights associated with the timeshare interest being resold."

Resales of timeshare interests must be even more carefully analyzed, because many resales may not represent arm's-length transactions. These sales may include gift transfers, foreclosures, or transactions involving quitclaim deeds, to name a few examples. Nontypical resale costs would include only those costs that differ from what are typical for the local resale market as determined by the County Assessor. As an example, if typical timeshare interest resale commissions are twenty percent in the local market, an adjustment would be necessary if timeshare resale activity in the subject property shows that sellers are paying a twenty-five percent commission to agents representing them in the sales of their timeshare interests. However, the "presumed" sixty-five percent deduction for initial sales (i.e., original gross sale prices) should not be deducted from resale transaction sale prices.



Transitioning from initial sales to resales of timeshare intervals

Because of the unique character of each timeshare project, there is no reliable way to identify a typical or a standard point in the progression of timeshare interest sales at which the County Assessor should begin to rely less on original gross sale prices and start focusing more heavily on the timeshare interest resale market activity. Because of all the variables that can be involved, the Assessor must monitor the market sales activity of each property and determine which type of timeshare interest sales are the most appropriate indicator of market value for each timeshare property in their jurisdiction.

Timeshare Valuation Process

As discussed above, the individual circumstances that are applicable to each timeshare property will determine which type of timeshare interest market sales should be used for the annual sales analysis. Regardless of which type of sales are utilized, the market sales analysis process should follow these basic steps:

- Identify the type of property rights that are being sold (fee or nonfee).
- Identify the sources of sales information that are available for these properties. Sources include any Affidavits of Property Value (DOR form 82162) that were recorded, the Timeshare Use Report (DOR form 82453) and its addendum that have been submitted, timeshare sales reports or inventory reports that have been provided by the managing entity, etc.
 - Original timeshare interest sales must be reported by the managing entity on the Timeshare Use Report form. These sales may also be reported on an Affidavit of Property Value.

Note: Not all timeshare interest sales are reported on an Affidavit of Property Value.



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- The managing entity may not have the sales price information on all resale transactions available. However, the managing entity should have information on the ownership of each timeshare interest. Changes in ownership may indicate that a sale has occurred, and that further investigation is required.
- Review all of the available sales transaction information for the timeshare interests.
 - Keep in mind that the industry standard for timeshare use is a one-week interval.
 - Determine if the sales are for an annual, biennial (every other year), or some other specified period of use. Segregate them into separate groups, if necessary.
 - Determine if the sales represent original sales of timeshare interests or if they are resales of the timeshare interests. Segregate these two types of sales into separate groups, as well.
 - After verifying that the sales are arm's-length sales transactions, determine which group best represents the market sales activity for the timeshare interests being sold.
 - If there are an insufficient number of original or resale timeshare interest sales in the subject property, the Assessor may need to determine the comparability of other, similar timeshare projects and include the sales of comparable original or resale timeshare interests from them in the analysis. It is also important that the appraiser recognize and segregate those sales by the different types of timeshare interests (fee or nonfee) applicable to those competing timeshare properties when analyzing comparable sales for use in the valuation process. Timeshare plans sometimes have a limitation on the number of years they will operate, such as twenty, thirty or forty years (see the definition of "perpetuity," page14). The length of time that is allocated for the timeshare use of these properties should also be a major item of comparability of sales data when considering which other timeshare projects to use for determining a value for a subject timeshare project.



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- Determine if the sales data that has been reported on the subject contains adequate detail for the appraiser to be able to estimate a value for the timeshare interests and the timeshare property (or for that portion of the property subject to the timeshare plan, if the entire property is not subject to it) using the statutory valuation procedure.
 - The analysis should include sufficient information to identify and consider any distinguishing characteristics that influence value differences among timeshare interests in the property and that are reflected in the sales prices. These include items such as an accommodation's location within the property, the view, floor level, unit size, the number of bedrooms and bathrooms, whether it has a full, partial, or no kitchen, if the ability to lock-out parts of the units exists, etc. Distinguishing characteristics also include seasonal variations and the specified appurtenant amenities of the accommodations.
- Segregate the timeshare interest sales data into separate groups so that each represents all of the various distinguishing characteristics, including forms of ownership, for each type of timeshare interest being sold.
 - Determine basic statistical information for each group of sales. Primarily, these will be the range of sales prices and the median, average and weighted average sales prices. From this data, estimate the most probable sale price for each type of timeshare interest being sold.
 - If sufficient information is not available from the subject property, the County Assessor may have to consider the sales of comparable timeshare interests from comparable projects. The data analysis for these comparable properties must be performed in the same manner, and with the same detail, as has been done for the subject property. It is important for the appraiser to consider the property rights that are conveyed when developing comparable sales to use in valuing the subject property.



Personal Property

Personal property can exist in timeshare properties in several areas:

- The residential furnishings, decorations, linens, appliances and equipment, etc. for each accommodation.
- Common area furniture and appliances, such as those typically found in a clubhouse or recreation building, or any pool and patio furniture, exercise equipment, etc. that may be specified as “appurtenant amenities” of the timeshare accommodations.

Personal property that is used for any commercial operations cannot be subject to the timeshare plan. Examples of common commercial uses include:

- Restaurants
- Snack Bars
- Cocktail or sports lounges
- Convenience stores
- Gift or curio shops, or any other retail sales operations
- Personal care facilities, such as barber shops, hair salons or health spas
- Meeting or conference rooms
- Business or sales offices

The statutory valuation formula for property that is subject to a timeshare plan (see A.R.S. § 42-13452) specifically adjusts the sale prices of the timeshare interests to remove the value of personal property that is in, or that is appurtenant to, the accommodations. The adjusted purchase prices are then used in the valuation process to determine a value for the real property that is subject to the timeshare plan. However, because the personal property in timeshares is not exempted from taxation under the Arizona Constitution, the personal property of the timeshare accommodations are subject to taxation.



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The Department has determined that the valuation of personal property that is in, or that is appurtenant to, timeshare accommodations can be accomplished by using either one of the following two methodologies:

1. Personal property that is located in, or that is appurtenant to, the accommodations comprising a timeshare property can be reported annually by the managing entity to the local County Assessor using DOR Form 82520. Personal property costs may be allocated by legal classification (for the purpose of determining the value of the personal property) by using the allocation percentages developed for the real property. Any personal property that is allocated to Legal Class One is eligible to receive additional depreciation pursuant to § 42-13054, is subject to the reduced minimum valuation pursuant to § 42-13055, and is eligible for the (annually adjusted) \$50,000 business use personal property tax exemption pursuant to § 42-11127. Using the timeshare's real property legal classification allocations for the personal property that is used in conjunction with the timeshare plan, and using the nontimeshare real property allocations for personal property used with nontimeshare real property, should simplify both the personal property's tax assessment and the managing entity's record keeping.
2. The second method of valuing timeshare personal property is to simply adjust the "presumed sixty-five percent deduction" downward by a percentage determined to be appropriate by the County Assessor based on the quality, quantity and value of the personal property located in the accommodations (the furnishings, etc.), as well as any other items that are appurtenant to them. The Department believes this method will adequately "offset" or "add back" that part of the "presumed" sixty-five percent deduction attributed to personal property, and effectively "accounts" for its valuation.

This second method also avoids the necessity of a timeshare property's managing entity having to annually file a personal property reporting form for all personal property and separately identifying the timeshare personal property on it, or of filing separate reporting forms for timeshare and for nontimeshare personal property.



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All of the personal property that is not a part of, or appurtenant to, the timeshare accommodations (such as the personal property in restaurants, shops, spas, etc.), should be classified as Legal Class One, Legal Class Two (P)(e), or whatever other legal class may be appropriate. The County Assessor may want the assistance of the managing entity (at least while initially valuing the property) when identifying the appropriate legal classification for any personal property that is not subject to the timeshare plan. All personal property that is not subject to the timeshare plan must be reported by the managing entity to the local County Assessor using DOR Form 82520.

Mobile Homes and Manufactured Housing Units

The Department of Real Estate makes no distinction in its reporting requirements between timeshare properties that use traditional site-built accommodations and timeshare properties which may utilize mobile homes, park models, or manufactured housing units for their individual accommodations. For those timeshare properties using mobile homes, park models or manufactured housing as accommodations, the first consideration is determining whether or not these units have been “affixed” and are being assessed as real property.

If Affidavits of Affixture have been filed for these units, they are valued using the same valuation procedures that are used for site-built improvements comprising timeshare accommodations. However, if these units have **not** been affixed, they are to be titled by the Department of Transportation’s Motor Vehicle Division (MVD), and should be taxed as personal property. The following procedure may be followed to reflect the values of these units if it is determined that they should be listed on the personal property tax roll:

1. Establish the statutory value of the entire timeshare property by using the appropriate type of sales (original gross prices or resale prices) of the timeshare interests, etc., as described above.
2. Value the mobile homes, park models or manufactured housing units using the methods and techniques described in the Personal Property Manual.



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3. Deduct their values from the statutory value established in step 1 above and list their valuations on the personal property tax roll. The remainder of the value should be listed and assessed on the real property tax roll.

TIMESHARE USE FORM

Pursuant to A.R.S. § 42-13453, a timeshare use form (DOR Form 82453, and if required, its addendum, DOR Form 82453A) is to be filed each year with the County Assessor of the county in which the timeshare property is located in order for the property to be valued using the statutory valuation procedure.

The information reported on these forms is to include:

1. The name and mailing address of the timeshare's managing entity.
2. The total number of accommodations included within the managing entity's timeshare property and the total number of available room nights for all accommodations.
3. The total number of room nights for all accommodations that are used by transient occupants during the reporting year.
4. The estimated original gross sales prices of any timeshare interest sales not subject to the filing of an Affidavit of Property Value (i.e., those sale transactions exempted from the reporting requirements, pursuant to A.R.S. § 11-1134). The estimated original gross sales price shall be determined by equating the actual sales price for a timeshare interest to an estimated sales price for the timeshare interest on a weekly basis.

The County Assessor's parcel numbers for the real property and the real property ownership information are also to be specified on the timeshare use reporting form. The Assessor is required to mail the reporting form to the last known mailing address of the managing entity by August 1 of each year. The managing entity is then required to complete and return the form to the County Assessor no later than September 30 of that year. However, if the form is not filed, the managing entity retains the right to appeal, pursuant to Title 42, Chapter 16.