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LEGAL TIPS

Parking Tax Increase and Community Associations

My 2020 Resolution Was to Pay More Taxes?

By: Kris Kasten, Esq.

It's now 2020, and the start of new laws passed by our State legislators. Apparently, the General Assembly believed that we Illinoisans would all resolve to pay more taxes in 2020. To help us meet that perceived "resolution", the Parking Excise Tax Act (effective 1/1/2020) imposes a new statewide parking tax requiring operators of parking areas, spaces, and garages throughout Illinois to collect and pay an additional tax for the privilege of parking a vehicle in such parking areas, spaces, or garages.

The new tax is based on the purchase price paid for the use of the parking area, space, or garage. For those interested in specific details, the tax rate for a parking space paid for on an hourly, daily, or weekly basis is 6% of the purchase price. The tax rate for a parking space paid for on a monthly or annual basis is 9% of the purchase price.

Fortunately, the new tax provides an exemption for residential off-street parking for home or apartment tenants or condominium occupants and specifically applies to "a condominium agreement between the condominium association and the owner, occupant, or guest of a unit, whether the parking charge is payable to the landlord, condominium association, or to the operator of the parking spaces¹." **This means that condominium associations that charge fees (assessment or user charge) to unit owners for use of parking areas or garages are not required to collect the tax on that fee.** However, if the condominium association permits the general public to pay for and use its parking area or garage on an hourly, daily, weekly, monthly, or annual basis, **the association is required to pay the new parking tax.**

For condominium associations located in Chicago and Cook County, this type of parking tax is nothing new. For example, Cook County already has a similar parking tax, which also exempts condominium associations. However, the new Parking Excise Tax Act is statewide and applies to all Illinois associations to which such a type of parking tax may have never applied before.

Interestingly, the new parking tax statute does not expressly exempt common interest community associations ("CICAs") or master associations – only condominium associations. So what does this mean for such a CICA or master association that charges a fee for use of its parking area or garage? **Given the legally distinct definitions of "condominiums" and "CICAs" and "master associations", it is our opinion**

¹ 35 ILCS 525/10-20

that the law does not expressly exempt CICAs or master associations from the new State parking tax.

However, we note that if a CICA or master association provides parking to owners similar to how a condominium association does so (in such a manner that exempts the condominium association), then it stands to reason that such CICA or master associations should also be exempt from the parking tax. Given this oversight, the new parking tax statute may require some adjustments during the next legislative session.

In summary, condominium associations throughout the state should, if they have not already done so, review their parking arrangements with legal counsel to ensure they fall within the provided exemption and that there is no tax liability on the association under the new Illinois parking tax statute. Non-condominium associations (i.e. CICAs and master associations) should also review their parking arrangements with legal counsel to determine whether the new Illinois parking statute is applicable.

Contact [Altus Legal](#) with questions on this or other issues.