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## What is that extra charge for "Special Districts" on my property tax bill?

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When managers and board members receive the property tax bills related to an association's common areas, they usually expect to see a minimal bill that can be paid with pocket change. As many of you know, A.R.S. 42-13403 allows community associations to receive preferential property tax treatment for association-owned common areas, which typically results in a tax bill that is less than \$5. However, many community associations have recently received substantial tax bills, even after submitting the common area tracts for revaluation and combination with the County Assessor's office. Many have asked, "Why are these bills so high?" The answer to that question is often, "irrigation districts."

Pursuant to A.R.S. 48-2901, irrigation districts are organized as municipal corporations, and as such, are political subdivisions of the State of Arizona and are treated like governmental entities. Irrigation districts are governed by an elected Board of Directors that represents the members of the irrigation district. Many of these irrigation districts are nearly a century old, and were originally formed by farmers and other land-owners who sought reduced irrigation rates for their lands. As many of you likely know, much of the farmland that existed a century ago is now occupied by housing developments and commercial property. However, regardless of the current use of the property, these special irrigation districts still exist and have the power to levy taxes upon the lands included in the particular irrigation district. Most importantly, pursuant to A.R.S. 48-3159, these taxes represent a first lien on the property taxed.

Taxes levied by irrigation districts often appear at the end of the tax statement (at least in Maricopa County) and are substantially higher than the taxes attributable to all other items included in the tax statement. Unlike the other items included on the property tax bill, the taxes relating to irrigation districts are not based upon the valuation of the property. The Assessor values common areas at \$500, which results in a few dollars or less of taxes attributable to schools, fire departments, health care, etc. However, the taxes imposed by irrigation districts are based on the number of acres owned by the land owner, regardless of the valuation of the land itself. Thus, the provisions in A.R.S. 42-13403 related to common area valuation do not affect the taxes levied by the irrigation districts on such common areas.

At first glance (and second and third...), the taxes imposed by the irrigation districts seem "unfair" to say the least. After all, most of the associations being

taxed likely do not use irrigation water provided by the irrigation district that is levying taxes. Many of the associations receive water from the cities or towns in which they are located. Regardless of the association's use (or lack thereof) of the irrigation district's water, the association is still required to pay the taxes levied if the association owns lands located within the irrigation district.

A.R.S. 48-2945 allows land owners to file a "petition for the purpose of excluding lands from the district." In order for the district to exclude any of the lands, the district must be persuaded that the lands are either "not susceptible of irrigation from the irrigation works" or that "the lands must be non-irrigable in character." After the petition is filed by the land owner, the irrigation district's board of directors will schedule a hearing to determine if the district should exclude the lands from the district. Pursuant to A.R.S. 48-2947, in order for the district's board of directors to exclude the lands, the board must "deem it in the best interest of the district to grant the petition." As you can plainly see, it will rarely, if ever, be in the best interest of the district to exclude lands from the district, as the district is collecting significant tax revenues from the lands without providing any verifiable service to the land owners. Additionally, the association is asking the board of directors of the same irrigation district (not an unbiased agency or Court) to determine if the district should exclude the lands from the district. This is not to say that seeking exclusion is impossible, but it will be a long, hard journey, which will probably require an appeal to the Superior Court.

While seeking exclusion *could* be a viable alternative to paying the property taxes levied by an irrigation district, there are other potential avenues by which to pursue relief from the district. If your association is subject to a tax levied by an irrigation district, the association has the right to request the number of acres used to determine the amount of tax levied upon the association's lands in order to ensure that the taxes levied are correct. This information can typically be obtained from the County Assessor's office. Additionally, the association has a right to vote for the district's board of directors that sets the tax rates (after the association requests a ballot and follows the necessary steps as provided by the applicable statutes). Finally, the association can speak with its elected state representatives and seek legislation that will exempt association-owned common areas from the taxes of irrigation districts.

Please contact us if you have any questions.