



## Club Cascadas de Baja

### **Considerations Before Conducting Private Timeshare Transactions in Mexico**

Club Cascadas de Baja (Cascadas de Baja Association), through its wholly owned subsidiary Cascadas Vacations, Inc. (CVI), seeks to facilitate transactions in which a member wants to sell or rent his/her membership. By bringing together the member and a client, the member is assured that the transaction complies with Mexican laws and that the member or guest will not lose money by dealing with a fraudulent or defaulting party. For sales, CVI holds the buyer's money and only instructs the transfer of the membership when the buyer has completed its payment obligation. On Rentals, CVI verifies the availability of the unit and ensures the person giving authorization to rent has the right to do so. CVI collects all funds, advises management of the guest name staying in the villa and ensures the guest is given access to the villa before rental funds are paid to the member. Of course, CVI receives a commission for its services.

Private transactions for timeshare interests are certainly permitted under Mexican law. The parties should be aware of the following when entering into a private transaction on their own:

#### FOR SALES/PURCHASES

1. Mexico levies a 16 percent value-added tax (called IVA) on the amount of the net selling price. Under Mexican law, the seller is responsible for reporting the transaction and paying the tax to the Mexican government. CVI has no responsibility to collect and remit any tax payments in a private transaction in which it is not involved.
2. The sale/purchase transaction is not complete until the seller/member reports the transaction to Trading Places International (TPI) and complies with all requirements in the Association's Governing Documents. TPI does not collect and remit the IVA tax on behalf of the member.
3. Private transactions are also be subject to Personal Income Tax. We recommend consulting tax agents in both Mexico and in the member's home country.
4. In transactions in which the selling member does not know the buyer, an issue of trust may arise. This occurs when the buyer must pay the member before the member instructs TPI to transfer the membership to the buyer. This issue must be worked out between the two parties.
5. Please review the following considerations for private transfers at Club Cascadas de Baja as stated in the Bylaws "10.4 Notification of Sale of Membership."

Mail the following information to the TPI office no later than 30 days prior to the private sale of any Membership:

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- o The name and address of the transferee and transferor.
- o The date on which such sale or transfer is to be consummated.
- o The purchase price to be paid by the transferee for such Membership.
- o A statement, executed by the transferee, that the transferee has received, and acknowledges receipt of, from the Member, a copy of the Governing Instruments and a Statement of Status.
- o A statement, executed by the transferee, that the transferee has received a copy of the Club current annual budget.
- o A statement, executed by the transferee, that the transferee agrees to be bound by all of the provisions of the Governing Instruments.

This information can be provided by completing a “Notification of Sale and Estoppel Form” available from Trading Places or download from [clubcascadasdebaja.com/owners-corner](http://clubcascadasdebaja.com/owners-corner)

### FOR RENTALS

Mexico levies a 16 percent value-added tax (called IVA) on the amount of the rental price. Under Mexican law, the member renting his/her villa is responsible for reporting the transaction and paying the tax to the Mexican government. CVI has no responsibility to collect and remit any tax payments in a private transaction in which it is not involved; and Club Cascadas de Baja has no responsibility for any rentals not being honored.

Private transactions are subject to Personal Income Tax in both Mexico and the country of residence of the member. We recommend consulting tax agents in both Mexico and in the member’s home country.

In private rental transactions, in which the member renting does not know the other party, an issue of trust may arise. This occurs when the renter must pay the member before the member instructs TPI to notify the guest name update. This issue must be worked out between the two parties. And the member is still responsible for any charges or damages caused to the villa or the resort by the renter.

The Club’s by-laws “2.2 Occupancy” state *“Any Member may permit his Villa to be occupied by other persons (...), but such member shall be responsible for any loss, damage, destruction or violation of this Declaration, or the Rules and Regulations (except of the part of an Exchange User) which occurs during such occupancy as if such Member were occupying the Villa.”*

Your Club has created a viable sales and rental program to benefit all members. The programs maintain value for all members by adhering to set pricing schedules. When members start advertising their unit for whatever they can get, inevitable the value goes down. Someone may always be willing to accept less.

All sales and rental agents contracted by the sales entity are independent contractors. These agents bring value to the Club and are paid from the transactions they complete for members and guests, under Club guidelines. The Club has had a very strong financial position as of 2020, allowing to renovate the villas without a special assessment, to pay full salary to all employees during the COVID shutdown, and to allow all members that could not use their week to reserve a no cost week in 2020 or 2021 subject to availability. The revenue from the Club’s sales and rental program are a vital part of making Club Cascadas the special place we all know and love.