

**STRUCTURE OF THE ARIZONA
PROPERTY TAX**

By
Patrick Derdenger
Partner, Steptoe & Johnson LLP
201 East Washington Street, 16th Floor
Phoenix, Arizona 85004-2382
(602) 257-5209
e-mail: pderdenger@steptoe.com

Prepared for
Arizona Property Tax Seminar
Thursday, February 10, 2005
Phoenix, Arizona
Lorman Education Services

STEPTOE & JOHNSON LLP

Washington, D.C.

Phoenix

Los Angeles

London

Brussels

New York

STRUCTURE OF THE ARIZONA PROPERTY TAX

By
Patrick Derdenger
Partner, Steptoe & Johnson LLP
201 East Washington Street, 16th Floor
Phoenix, Arizona 85004-2382
(602) 257-5209
e-mail: pderdenger@steptoe.com

STEPTOE & JOHNSON LLP

Washington, D.C.

Phoenix

Los Angeles

London

Brussels

New York

Copyright © 2005 by PATRICK DERDENGGER

A. **PROPERTY SUBJECT TO TAXATION.**

All Property Subject to Taxation Unless Exempted. All property in the state, whether real or personal, is subject to property taxation unless specifically exempted by the laws of the United States, the Arizona Constitution, or by law under the provisions of the Arizona Constitution.

1. *Article IX, § 2(6) Arizona Constitution.*

All property in the State not exempt under the laws of the United States or under this Constitution or exempt by law under the provisions of this section shall be subject to taxation to be ascertained as provided by law.

2. *A.R.S. § 42-11002.*

All property in this state shall be subject to taxation, except . . .

B. **EXEMPTIONS.**

The Constitution, as previously mentioned, provides that all property in the state must be subject to taxation, unless exempted by the Constitution (or by federal law). The only authority for exempting property is the Constitution. The Arizona legislature does not have the power, by itself, to exempt property. The Constitution does give authority to the legislation to enact specific exemptions dealing with the property of non-profit organizations. The Constitution indicates that such property “may” be exempt as “provided by law.” See Article IX, § 2(2). Pursuant to this language, the Arizona legislature has implemented this authority by enacting a number of exemptions for certain types of non-profit organizations and their property. Those exemptions are

laid out in A.R.S. § 42-11101 to 11128. It must be noted, though, although the Constitution has empowered the legislature to implement exemptions for non-profit organizations, all non-profit organizations have not been given such an exemption, but only those specified in the exemption statutes.

1. *Constitutional Exemptions.*

- *Government Property.*
- *Non-Profit Organizations -- Educational, Charitable and Religious Associations or Institutions.*
- *Public Debts.*
- *Household Goods.*
- *Inventory of a Retailer or Wholesaler.*
- *\$50,000 Exemption for Business Personal Property (per taxpayer and not by location).*
- *Veterans Exemption.*
- *Disabled Veterans -- Service Connected Disability.*
- *Disabled Veterans -- Nonservice Connected Disability.*
- *Widow Exemption.*
- *Widower Exemption.*
- *Disabled Persons.*
- *Manufacturers Inventory.*
- *Non-Commercial Watercraft.*
- *Aircraft Subject to License Tax.*

2. *Statutory Exemptions For Non-Profit Organizations.*

Article IX, § 2 of the Arizona Constitution provides that property of educational, charitable and religious associations or institutions not used or held for profit **may** be exempt from taxation by law. The Legislature has implemented this constitutional provision in A.R.S. §§ 42-11101 and following. Following is a listing of the statutory exemptions for non-profit organizations:

1. *Educational Institutions and Libraries.*
2. *Hospitals.*
3. *Health Care Institutions for the Handicapped and Aged.*
4. *Apartment Facilities for Handicapped and Aged.*
5. *Charitable Institutions for Relief of Indigent and Afflicted.*
6. *Agricultural Societies.*
7. *Churches.*
8. *Cemeteries.*
9. *Observatories.*
10. *Animal Shelters.*
11. *Parkland held by 501(e)(3) Organization to be transferred to state or political subdivision.*
12. *Property held to Protect of Scientific, Geological, Natural, or Archaeological Resources.*
13. *Property of Musical, Dramatic and Other Groups.*
14. *Property of Volunteer Fire Departments.*
15. *Property of Volunteer Nonprofit Organizations.*
16. *Property of Roadway Cleanup Organizations.*
17. *Veterans' Organizations.*
18. *Charitable Community Service Organizations.*
19. *Fraternal Societies.*

C. CLASSIFICATION SYSTEM.

1. Property Classes.

Arizona has adopted a property classification scheme in which property is generally classed according to its use. Different assessment ratios apply to the different classes of property. Following are the various classes and the assessment rates (*See* A.R.S. §§ 42-12001 and following and §§ 42-15001 and following):

1. *Class 1: mines, standing timber, utilities and commercial/industrial property – 25% (A.R.S. § 42-1201).* Class 1 is divided into the following subclasses.
 1. Producing mines and mining claims, personal property used on mines and mining claims, improvements to mines and mining claims and mills and

smelters operated in conjunction with mines and mining claims that are valued at full cash value pursuant to § 42-14058.

2. Standing timber that is valued at full cash value.
 3. Real and personal property of gas and electric utility companies that are valued at full cash value or pursuant to § 42-14151, as applicable.
 4. Real and personal property of airport fuel delivery companies that are valued pursuant to § 42-14503.
 5. Real and personal property that is used by producing oil, gas and geothermal resources interests that are valued at full cash value pursuant to § 42-14102.
 6. Real and personal property of water, sewer and wastewater utility companies that are valued at full cash value pursuant to § 42-14151.
 7. Real and personal property of pipeline companies that are valued at full cash value pursuant to § 42-14201.
 8. Real and personal property of shopping centers that are valued at full cash value or pursuant to § 42-13201 et seq., as applicable.
 9. Real and personal property of golf courses that are valued at full cash value or pursuant to § 42-13151.
 10. All property, both real and personal of manufacturers, assemblers or fabricators valued under the provisions of this title.
 11. Real and personal property that is used in communications or transmission facilities and that provides public telephone or telecommunications exchange or inter-exchange access for compensation to effect two-way communication to, from, through or within this state.
 12. Real property and improvements that are devoted to any other commercial or industrial use, other than property that is specifically included in another class described in this article, and that are valued at full cash value.
 13. Personal property that is devoted to any other commercial or industrial use, other than property that is specifically included in another class described in this article, and that is valued at full cash value.
2. *Class two: agricultural, range and vacant land, nonprofit property (not exempt) - 16%.*
 3. *Class three: owner-occupied residential - 10%.*
 4. *Class four: rental residential - 10% for 1994 and thereafter.*
 5. *Class five: railroads. private car companies and airlines – 22%.*
 6. *Class six: noncommercial historic property; foreign trade zone property; military re-use zone property; qualified manufacturing business property (enterprise zones) - 5%.*

7. *Class seven: class one commercial historic property (subclasses 12 and 13) - 25%, except that modifications intended to restore and rehabilitate the historic property have an assessment rate of 1% (note: modifications must be approved by state historic preservation officer).*
8. *Class eight: class four rental residential historic property. The ratio for class four (10%) except that modifications intended to restore and rehabilitate the historic property have an assessment rate of 1% (note: modifications must be approved by state historic preservation officer).*
9. *Class nine: possessory interests--improvements on public property owned by the lessee - 1%.*

1. The improvements must become property of government at end of lease and used as follows:

(a) primarily for athletic, recreational, entertainment, artistic, cultural or convention activities.

(b) used for or in connection with aviation (including hangars).

2. "contractor acquired property" or "government furnished property" leased to or acquired by government and used in government contract.

3. property of a corporation organized by state or political subdivision to construct/own improvement to be used for public purpose.

2. Partially Completed or Vacant Improvements.

Partially completed or vacant improvements are classed according to their intended use. See A.R.S. § 42-12051. See also *Golder v. Department of Revenue*, 123 Ariz. 260, 599 P.2d 216 (1979).

3. Assessed Value.

"Assessed value" for each parcel is determined by applying the appropriate assessment ratio, from the above listing, to the full cash value and limited property value for that parcel. A.R.S. § 42-11001.

4. Mixed Use.

Classification is based upon the use of the property, and where individual parcels may have several uses, a "mixed" ratio must be used. See A.R.S. § 42-15012.B. The Assessment Procedures Manual (pp. 3.2.2 to 3.2.7) provides the procedure for calculating the effective assessment ratio for mixed use parcels. It requires that the proportion of full cash value of property devoted to each use in the parcel be used to compute the effective assessment ratio. Land area or other measures may not be used for that calculation. Steps in the calculation procedure are:

1. Identify various property uses on the parcel and the legal class for each. Identify the uses for land and improvements separately.
2. Determine the full cash value for land only as applicable to use in each legal class in the parcel. Determine the percentage of the total parcel land value devoted to each use. This percentage is needed for input to the computer for

computer-generated ratios. Develop the assessed value of each legal class by multiplying the full cash value in each legal class by the assessment ratio for the class, then adding the results. This recognizes the mixed use of the land. Divide the total assessed value by the total full cash value to arrive at the land assessment ratio for this mixed use.

3. Determine the full cash value for improvements in each portion of the parcel devoted to use in each legal class in the same manner as in step 2. This will develop the assessment ratio for this mixed use as it applies to the improvements.
4. Add the full cash values and the assessed values for land and improvements for the parcel. Divide the sum of the assessed values by the sum of the full cash value to yield the overall assessment ratio for the parcel which recognizes the mixed use of the property.
5. The limited property value is multiplied by the overall assessment ratio to arrive at the assessed limited property value for the parcel.

EXAMPLE: Duplex with One Side Owner's Residence, the Other Side Rented Residential Property. To calculate the mixed ratio for the land:

- a. *Step 1.* A 5 acre parcel of land of which 1 acre is improved and 4 acres are undeveloped. The value of the undeveloped land is \$7,500 per acre while the developed land is valued at \$20,000 per acre. The duplex sits on the 1 acre of developed land and is valued at \$100,000 with each side identical. The total limited property value of the land and the duplex is \$125,000.

- b. *Step 2 - Land.* The land values and percentages would then be:

	<u>Full Cash Value</u>	<u>Percent¹ of Total</u>	<u>Assm't Ratio</u>	<u>Assessed Value</u>
One-half acre residential land	\$10,000	(20.00)	10%	\$1,000
One-half acre rental residential land	\$10,000	(20.00)	13%	1,300
Undeveloped land (4 x \$7,500)	<u>30,000</u>	<u>(60.00)</u>	16%	<u>4,800</u>
Total land value	\$50,000	(100.00)	14.20%	\$7,100

- c. *Step 3 - Improvements.* Improvements on the land are valued at:

	<u>Full Cash Value</u>	<u>Percent¹ of Total</u>	<u>Assm't Ratio</u>	<u>Assessed Value</u>
Owner-occupied residence	\$50,000	(50.00)	10%	\$5,000
Rental residence	<u>50,000</u>	<u>(50.00)</u>	13%	<u>6,000</u>
Total improvement value	\$100,000	(100.00)	11.50%	\$11,500

¹"Percent of Total" is used by the computer to generate the mixed use assessment ratio.

d. *Step 4 - Calculation of Total Real Property Assessment Ratio.*

	<u>F C V</u>	<u>Assessed Value</u>	<u>Mixed Ratio</u>
Land	\$ 50,000	\$7,100	.1420
Improvements	<u>100,000</u>	<u>11,500</u>	.1150
Total	\$150,000	\$18,600	.1240
Overall Assessment Ratio for Parcel			<u>12.40%</u>

e. *Step 5 - Calculation to Establish the Assessed Limited Property Value for Primary Tax Levies.*

Limited property value	\$125,000
Overall assessment ratio	x 0.1240
Assessed limited property value	<u>\$ 15,500</u>

D. VALUATION OF PROPERTY.

1. Two Statutory Values.

Two property values are used for the levy of property taxes in Arizona, full cash and limited property value.

- *Full Cash Value.* Full cash value is the basis for assessment of “secondary” property taxes. It is defined by A.R.S. § 42-11001:

“Full cash value” for property tax purposes is value determined as prescribed by statute. If no statutory method is prescribed, full cash value is synonymous with market value which means that estimate of value that is derived annually by the use of standard appraisal methods and techniques. Full cash value shall be used as a basis for the purpose of assessing, fixing, determining and levying secondary property taxes.

“Secondary property taxes” includes all ad valorem taxes or special property assessments used to pay the principal of and the interest and redemption charges on any bonded indebtedness or other lawful long-term obligation issued or incurred for a specific capital purpose by any municipality, county or taxing district, and amounts raised by ad valorem taxes or assessments levied by or for assessment districts and for limited districts other than school districts and community college districts and amounts levied pursuant to an election to exceed a budget, expenditure or tax limitation.

Full cash value is the value standard and, for most property, it is market value determined annually by standard appraisal methods and techniques. For various types of property, though, full cash value is determined according to statutory procedures. See the following section.

- *Limited Property Value.* Limited property value is the basis for assessment of “primary” property taxes such as general operating and maintenance expenses of taxing jurisdictions. It is defined by A.R.S. § 42-11001 to mean:

The value determined pursuant to § 42-13301. Limited property value is the basis for:

- (a) Computing levy limitations for counties, cities, towns and community college districts.
- (b) Assessing, fixing, determining and levying primary property taxes.

- *Existing Property (the “Rule A” Calculation).* Limited property value is determined by A.R.S. § 42-13301. The limited property value of a parcel of property is the limited property value of the property in the prior tax year plus the greater of either: (1) 10% of such value; or (2) 25% of the difference between the full cash value in the current year and the limited value of the parcel in the prior year. In no case can the current limited value of the parcel exceed the current full cash value.

- *New or Omitted Property (the “Rule B” Calculation).* For any land or improvements that were erroneously totally omitted from the property tax rolls in the prior year, for property for which a change in use has occurred since the prior year, for property that has been modified by construction, destruction or demolition since the prior tax year or for any property that has been split, subdivided or consolidated since the prior valuation year, the limited property value is established at a level or percentage of full cash value comparable to that of other properties of the same or similar use or classification. *See* A.R.S. § 42-13301.

2. *Appraisal Techniques.*

County assessors and the Department of Revenue employ standard appraisal methods and techniques to value all property which is not subject to valuation as provided by statute. There are some limitations, though, imposed by statute on the application of standard appraisal methods and techniques. Current use of the property, rather than its highest and best use must be considered. Also, when market data is used as an indicator of market value, the price paid for future anticipated value increments must be excluded. *See* A.R.S. § 42-11054.B.

The standard appraisal methods and techniques used by the various county assessors and the Department of Revenue include the cost, sales comparison and income approaches to value. *See Assessment Procedures Manual* (Part 2, Chapter 1).

- *Cost Approach.* A computerized construction cost system, developed by the Arizona Department of Revenue, is used by the various county assessors to apply the cost approach. It calculates a replacement cost for buildings and improvements. The replacement cost, with appropriate depreciation deducted, is then added to the value of the land determined the value of the total property. The cost approach is a primary indicator of value for most commercial and industrial property.

- *Sales Comparison Approach (“Market Approach”).* This approach uses comparable sales to determine market value and is the basis for the appraisal of most residential property and land in the state.

- *Income Approach.* The income approach or the capitalization of income, is used to value income producing property. It is the statutory procedure required for the valuation of agricultural land and shopping center properties, if the owner of the shopping center elects to have the income approach used.

3. *Statutory Valuation Methods.*

- *Electric and Gas Distribution Utilities.* A.R.S. §§ 42-14151-15154 prescribes the method for valuing electric and gas distribution utilities. That method is summarized:

Net cost of plant in service
+ Net cost of environmental protection facilities x 50%
+ Construction work in progress X 50%
+ Total cost of materials and supplies
+ Net cost of leased operating property
Full Cash Value

- *Pipelines.* A pipeline is defined in R15-4-502.25 as “any person, partnership, or corporation engaged in the business of producing, storing, selling or transporting through a pipeline system, oil, natural gas, processed gas, manufactured gas, petroleum products, coal, or other products, within, through, into, or from the state.”

A.R.S. §§ 42-14201-14204 prescribes its valuation methodology for pipelines. In general, a current year value change factor is applied to the prior year’s value. The value change factor is the average of the income change factor and the asset change factor.

The income change factor is computed by dividing the change in earnings by the change in the capitalization rate. The change in earnings is based upon the average earnings for the three years immediately preceding the current tax year, divided by the average earnings for the three years immediately preceding the previous tax year.

The asset change factor reflects the change in assets from the prior year to the current year.

After the value change factor is applied to the prior year’s value, construction work in progress, operating leased property, and materials and supplies are added to the adjusted prior year’s value to determine the current year’s full cash value.

- *Shopping Centers.* A.R.S. §§ 42-13201-13207 prescribes the method for valuing shopping center property. A shopping center is defined as “an area comprised of three or more commercial establishments, the purpose of which is primarily retail sales, which has a combined gross leasable area of at least twenty-seven thousand square feet, owned or managed as a unit and one or more the establishments having a gross leasable area of at least ten thousand square feet which is either owner-occupied or subject to a lease which was entered into with a minimum term of fifteen years. See A.R.S.§ 42-13201. The county assessors will value a shopping center using the replacement costs less depreciation method, as specifically provided by A.R.S. § 42-13203 and the *Assessment Procedures Manual* (Part 2, Chapter 2).

However, upon election by a taxpayer, A.R.S. § 42-13204 provides that a shopping center property shall be valued using the income method commonly known as the “straight line building residual method,” if the taxpayer submits all reasonably necessary income and expense information. The statute specifies the discount rate to be used, which shall not be less than 10%, the recapture rate, based on a thirty-five economic life, and the effective tax rate.

The Arizona Supreme Court in *Business Realty of Arizona v. Maricopa County*, 18, 1 Ariz. 551, 892 P.2d 1340 (1995), held that the other valuation factors, specifically including market data, could be used to increase the income approach value arrived at through the straight line building residual method. In other words, if that income method gave a value which was lower than sales and market data suggested, that value can be increased.

Laws 1996, Chapter 366 (HB 2066) changed the statutory valuation mechanism in response to the *Business Realty* case. The new legislation sets up a three-step valuation process:

(1) It first provides that a shopping center is to be valued by the county assessor utilizing the replacement cost less depreciation method.

(2) Upon review or appeal, at the election of the taxpayer, the income method commonly known as the “straight-line building residual method” shall be used to determine the value of a shopping center.

(3) On appeal of a valuation determined by the income method or an appeal where the taxpayer has elected the income method, the valuation of a shopping center shall be determined by whichever one of the following valuation methods most closely approximates fair market value:

(a) The income method commonly known as the straight-line building residual method;

(b) The replacement cost less depreciation method; or

(c) The market comparison method, if a comparable sale of the subject property occurred within two years before the date of valuation and no material change to the property, its lease terms, tenants, occupancy rates or other material fact has occurred since the sale. If the market comparison method is applicable, the reviewing body may consider information on sales of other properties that occurred within two years before the date of valuation and that are determined to be comparable to the subject property by clear and convincing evidence. *See* A.R.S. § 42-13205.

This legislation is retroactively effective to property tax years beginning from and after December 31, 1995.

- *Golf Courses.* A.R.S. §§ 42-13151-13154 prescribes the method of valuation of golf course property. A golf course “means substantially undeveloped land including amenities such as landscaping, irrigation systems, paths and golf greens and tees, which may be used for golfing or golfing practice by the public or by members or guests of a private club but not including commercial golf practice ranges operated exclusive of golf courses valued under this section, clubhouses, pro shops, restaurants or similar buildings associated with the golf course which are generally used by the public or members and guests entitled to use the golf course.”

The Department of Revenue *Assessment Procedures Manual* provides that the land comprising the golf course playing area, practice area and parking area will be valued at \$500 an acre. This \$500 per acre figure was put into § 42-1315.2.C. by Laws 1994, Chapter 156, SB 1083. Each hole of the golf course is considered an improvement and is valued at its estimated replacement cost, based on the course’s rating which is determined by the assessor under guidelines provided by the Department and the *Assessment Procedures Manual*. The 1994 legislation provides that the Department’s 1988 “per hole cost” will be used. The golf course clubhouse and other building improvements are valued on a replacement cost basis. To qualify this favorable treatment, the property owner must record a deed restriction with the county recorder and file a copy with the assessor, limiting the property to golf course use for at least 10 years from the property tax lien date in question.

- *Agricultural Land.* A.R.S. §§ 42-13101-13104 provides the valuation mechanism for agricultural land. This provision provides that agricultural use land will be valued based on the average of the last five years net rental income capitalized by a rate equaling one and one-half percentage points above the average interest charged by the federal land bank. A.R.S. §§

42-12151-12159 sets out the criteria that must be met for land to qualify as agricultural use land for valuation purposes.

- *Telecommunications Companies.* Telecommunications companies, both long distance and local, are valued according to a statutorily prescribed method. Real estate owned in Arizona is to be valued at its market value and personal property is to be valued on a unitary basis at its historical cost less depreciation. Depreciation is computed based on the tables adopted by the Department of Revenue in its personal property manual in effect on January 1, 1993, as follows: buildings-25 year life; cable-15 year life; telecommunications equipment-5 year life; other property-7 year life. See A.R.S. §§ 42-14401-14404.

- *Railroads.* Beginning in 1994, a step by step procedure was legislatively set out for valuing railroad property. Previously, the statute had instructed the Department of Revenue to determine the full cash value of the operating property of railroad companies. Now, railroads are to be valued using a statutory method which is essentially determining a base of value and making adjustments to that base value, each year, up or down. See A.R.S. §§ 42-14351-14358.

E. ADMINISTRATION OF THE PROPERTY TAX -- THE ROLE OF THE COUNTY ASSESSORS AND DEPARTMENT OF REVENUE.

1. The Valuation Role of County Assessors -- Locally Valued Property.

The county assessors are responsible for determining the value of all property in their county which is not valued by the Department of Revenue.

2. The Valuation Role of the Arizona Department of Revenue -- Centrally Valued Property.

The Department is responsible for valuing what is called “centrally valued properties.” These properties are “centrally valued” by the Department because they are usually located in more than one county and/or because they present unique appraisal problems. Industries which are centrally valued are:

Airlines (aircraft only)	A.R.S. §§ 42-14251-14257
Electric and gas distribution utilities (including electric generation and transmission cooperatives) and electric generation facilities	A.R.S. §§ 42-14151-14156
Gas transmission pipelines	A.R.S. §§ 42-14201-14204
Mines (producing and non-producing)	A.R.S. §§ 42-14051-14054
Private rail companies	A.R.S. §§ 42-14301-14309
Producing oil and gas interests	A.R.S. §§ 42-14101-14106
Railroads	A.R.S. §§ 42-14351-14358
Telecommunications companies	A.R.S. §§ 42-14401-14404
Water companies and sewer systems	A.R.S. §§ 42-14151-14156

The goal of central valuation is to insure that the properties are valued uniformly throughout the state.

3. The Supervisory Role of the Department of Revenue.

- *General Supervisory Authority Over County Assessors.* A.R.S. § 42-13002 gives the Department of Revenue general supervisory authority over county assessors “for the

purpose of insuring that all property is uniformly valued for state property tax purposes.” The Department prescribes the appraisal methods and develops the various manuals that the assessors and the Department use in valuing property.

The manuals that the Department of Revenue prepares for the guidance of the various county assessors includes the *Land Manual*, the *Construction Cost Manual*, the *Assessment Practices Manual*, the *Personal Property Manual* and the *Agricultural Property Manual*.

- *Equalization Authority.* The Department is also authorized by A.R.S. § 42-13251 to review valuations on a statewide basis and to equalize valuations between and within counties and classifications. *See also* A.R.S. §§ 42-13252-13257.

F. LEVY AND COLLECTION.

1. Levy of the Tax.

Property taxes are levied by the governing body of each county, community college district, school district, city and town. Property taxes are levied to provide the funds required to meet proposed expenditures after amounts from all other sources of revenue to the taxing jurisdiction are considered. *See* A.R.S. § 42-17151.

- *Tax Rate.* The required property tax levy is compared with the final assessed value determined for the taxing jurisdiction to compute the tax rate required to produce the amount levied. The County Board of Supervisors extends that tax rate to the tax roll prepared by the County Assessor. *See* A.R.S. § 42-17152.

The statewide average property tax rates for 2003 and 2004 follow:

	2003	2004
Primary Tax Rate	8.36%	8.09%
Secondary Tax Rate	3.82%	3.72%
TOTAL	12.18%	11.81%

- *Primary and Secondary Taxes.* Primary taxes, using the primary tax rate, are levied on the property’s limited property value and secondary taxes, using the secondary tax rate, are levied on its full cash value. Assessed value is determined by applying the appropriate assessment percentage for each property class to the value of the property. Separate assessed values are determined for limited and full cash values. The tax rates for primary and secondary taxes are then applied separately to those assessed values and the tax amounts are entered on the tax roll. This same mechanism is used to determine the tax bill for each parcel.

- *Tax Roll and Tax Statements.* The completed tax roll is delivered to the county treasurer for collection. Tax statements are issued by the county treasurer to individual property owners for each parcel of property. Those statements are mailed in September of each year.

- *Tax Calculation.* The following chart shows the tax calculation for a commercial property with a full cash value and limited values of one million dollars. Source: 2001 Property Tax Rates and Assessed Values, The Arizona Tax Research Foundation.

TAX CALCULATION

		ASSESSMENT RATIO	ASSESSED VALUE	TAX RATE (per \$100 of assessed value) 2004 AVERAGE RATE	TAX
Full Cash Value	\$1,000,000	25%	250,000	3.72%	\$ 9,300
Limited Value	\$1,000,000	25%	250,000	8.09%	\$20,225
TOTAL				11.81%	\$29,525

2. *Payment.*

Property taxes may be paid in two installments. The “first-half” tax installment is due on October 1 and is delinquent after November 1. The “second half” is due the next March 1 and delinquent after May 1. If the tax amount on the real property is less than \$100, the full amount is delinquent if not paid by November 1. *See* A.R.S. § 42-18052.

- *Interest on Delinquent Property Tax Payments.* A 16% interest penalty is imposed on delinquent property tax payments. Interest will not be imposed if the amount of the full year tax is paid by December 31 of the tax year. Thus, if the first-half payment, which is due by November 1, is not timely paid, interest on that delinquency will not be imposed if the full year’s tax (both the first-half and second-half payments) are made by December 31. *See* A.R.S. § 42-18053.

- *Tax Liens.* Property taxes upon real and secured personal property are a lien upon the property assessed. The lien for those taxes attaches to the property on January 1 and remains until all taxes, penalties and other charges are paid. Property taxes levied on real property are a lien on personal property and tax levied on personal property are a lien on real property. *See* A.R.S. § 42-17153.

- *Delinquent Taxes.* The county treasurer secures the payment of delinquent taxes through the sale of tax liens on the property to other parties. Delinquent tax liens for real property are published by the county treasurer by December 31 each year and sold at public auction in February in the following year. *See* A.R.S. §§ 42-18101-18126.

- *Sale of Property Tax Liens.* Property tax liens are sold to a person who pays the full amount of the delinquent taxes, interest, penalties and charges due, and who offers to accept the lowest interest rate on the amount paid to redeem the property. A.R.S. § 42-18114 provides that the interest rate may not exceed 16%.

- *Foreclosure of the Right to Redeem.* A property owner can redeem his or her property by paying the full amount of the delinquent taxes, interest, penalties and charges due. *See* A.R.S. §§ 42-18151-18155. However, after three years, the purchaser of the tax lien may bring a judicial action to foreclose the property owners right to redeem. *See* A.R.S. §§ 42-18201-18207 and following. If, after five years, the property owner has not redeemed, the lien purchaser may apply to the county treasurer for a treasurer’s deed to the property. *See* A.R.S. §§ 42-18251-18258.

NOTE: For tax liens sold after December 31, 1998, the only foreclosure action available to the purchaser is the judicial foreclosure procedure. The administrative foreclosure procedure is not available.

G. APPEAL PROCEDURES.

1. Notice of Valuation. A.R.S. § 42-13051 requires the county assessor to identify all property in the county by December 15 of each year, unless the property is statutorily required to be centrally valued by the Department of Revenue. The county assessor is required to notify every person in writing on or before March 1 of each year, at that person's last known mailing address, of the full case value of the property and the limited property value, if applicable, but only if such valuation is increased from the prior tax year or the classification given such property is changed from the prior tax year. The Director of the Department of Revenue, upon application by a county assessor, may extend the final date by 30 days beyond March 1 and only for delays caused by an act of God, flood, or fire. Such an extension must apply to all property valued by the assessor, and not just the affected parcels. The notice must state the current and prior years' full cash value, limited property value and classification. The notice must also include a form with instructions for appealing the valuation. For class three property (owner-occupied residential property), simplified instructions are required. *See* A.R.S. §§ 42-15101 and 15102.

After mailing date of the notice, an owner of property may inquire and be advised by the assessor as to the valuation of the property found by the assessor but the assessor shall not change the value unless in response to a timely and duly filed petition appealing the valuation. *See* A.R.S. § 42-15101.E.

2. Administrative and Judicial Appeals. When the owner receives the valuation notice, there are two avenues open for appeal. The owner may initiate the administrative appeal process by filing a petition with the county assessor. Or, the owner may appeal directly to the Arizona Tax Court, at any time before December 15.

3. Appeal to County Assessor. Any property owner who is dissatisfied with the county assessor's valuation or classification of his or her property, may appeal to the county assessor by filing a "Petition for Review of Real Property," DOR Form 82130. This petition must be filed within 60 days after the date of the assessor's notice. United States Postal Service postmarked dates are evidence of the date petitions were filed for purposes of timely filing. *See* A.R.S. §§ 42-16051-16052.

The petition may include more than one parcel of property if they are part of the same economic unit, or if they are owned by the same owner, they have the same use, or appealed on the same basis and are located in the same geographic area.

The owner must provide substantial information with the petition to justify the owner's opinion of value by stating the method or methods of valuation on which that opinion is based and:

1. A petition filed with the assessor and based upon the income approach to value must include income and expense data relating to the property for the most recent three consecutive fiscal years of the taxpayer ending on or before September 30 of the previous year. In the event that the income expense data required to be filed are not available to the owner, the owner shall file with the petition such income and expense data as are available. The Department may, by rule, establish additional information to be filed in the event that the required income and expense data are not available. An income and expense form may be obtained from the county assessor's office.

2. If the market approach is used, the full cash value of at least one comparable property in the same geographic area must be included.

3. If the cost approach is used, the cost to build or rebuild the property plus the land value must be included.

If a taxpayer files a petition using the income approach, the taxpayer, an officer of a corporate taxpayer, a general partner or a designated agent must file a sworn affidavit under penalty of perjury that the information contained in the petition is true and correct to the best of their knowledge.

If the petition is rejected because it fails to include substantial information, the petitioner may file an amended petition within fifteen days after the notice of the rejection is mailed by the county assessor, if it is mailed on or before March 1, or if it is mailed after March 1, the petitioner may appeal within fifteen days of the County Board of Equalization.

The assessor may hold informal hearings regarding petitions filed. The assessor must rule on every petition by April 1 of each year. If the petition is denied, in whole or in part, the assessor shall, on the date of the ruling, mail to the petitioner at the address shown on the petition notice of the grounds of the refusal to make the change requested together with a copy of the petition.

No property owner may appear before the county board or the state board of tax appeals without having first filed a petition with the county assessor.

Moreover, a property owner cannot raise any issue in a further administrative appeal if the issue was not included in the petition initially filed with the county assessor.

Meeting With Assessor. At the taxpayer's request the assessor must meet with the taxpayer to discuss the appeal. A.R.S. § 42-16054.

Assessor's Decision. The assessor must issue his decision by August 15 of each year. A.R.S. § 42-16055. If the petition is denied in whole or in part, the assessor must mail a notice to the petitioner stating the grounds for refusal to make the change requested. This notice may be a notation on the assessor's copy of the multi-part petition or may be in the form of a separate document.

4. Appeal to County Board of Equalization — For Counties Other Than Maricopa and Pima. If the property owner is dissatisfied with the county assessor's decision, the owner in all counties other than Maricopa and Pima may appeal the assessor's decision to the County Board of Supervisors, which sits as the County Board of Equalization. This appeal must be taken by filing with the Clerk of the County Board of Supervisors within 25 days of the date of the assessor's decision was made to the property owner, a copy of the petition filed with the county assessor, which as on it the assessor's written basis of its decision. The appeal petition is a preprinted form, composed of numerous copies.

The assessor will mail back the form with the assessor's basis for decision in the appropriate section of the form. That form then is, in turn, filed with the Clerk of the Board of Supervisors. See A.R.S. § 42-16056 and §§ 42-16101-16110.

The evidence permitted in an appeal to the County Board of Equalization based upon the income approach is limited to the income and expense data filed with the county assessor, the testimony of the property owner and any witness presented on the property owner's behalf, and evidence presented by the assessor and the department. See A.R.S. § 42-16107.

County Board's Decision. The County Board must either grant or refuse the petitioner's request, in whole or in part, within 10 days of the date of the hearing, but not later than October 15. Within 10 days of the Board's decision, a copy of the decision must be mailed to the petitioner. *See* A.R.S. § 42-16108.

5. Appeal to the State Board of Equalization — For Maricopa and Pima Counties. For taxpayers in Maricopa and Pima counties, the appeal from the assessor's decision is directly to the State Board of Equalization. *See* A.R.S. §§ 42-16056.C.2 and 42-16157.

Form of Petition. The form of petition is determined by the State Board. The forms (there are various types of forms depending upon the type of property) can be obtained from:

Arizona Board of Equalization
100 S. 15th Avenue, Suite 130
Phoenix, Arizona 85003
(602) 364-1102
Fax: (602) 364-1306

Administrative Rules of Practice. The State Board has its own set of administrative rules of practice.

Decision of the Board. The State Board will schedule a hearing, at which testimony and evidence can be presented. A.R.S. § 42-16161. The board must render its written decision at the conclusion of the hearing, but no later than October 31. *See* A.R.S. § 42-16164. All hearings must be completed and decisions issued by October 15th.

Board May Increase Value. The State Board may increase that value based upon the evidence presented at the hearing. However, this can be done only if notice is given by the government (the party requesting the increase) to the property owner at least seven days before the hearing. *See* A.R.S. § 42-16162.

6. Appeal to Arizona Tax Court.

Direct Appeal --Valuation and Classification Only. A property owner after he receives his notice of valuation may appeal directly to the Arizona Tax Court or the superior court for the county where the property is located, bypassing the administrative appeal through the county assessor's office, and the County Board of Equalization or the State Board. This direct appeal must be filed on or before December 15. *See* A.R.S. § 16201.

Curtailing Administrative Appeal. A property owner may, after receiving the decision of the county assessor curtail the administrative appeal, bypass the remaining step to the county or state board, and go directly to the Arizona Tax Court. A property owner must file its appeal with the Tax Court within 60 days of the date of mailing of the most recent administrative decision, but again in no event later than December 15. *See* A.R.S. § 42-16201.B.

Appealing State Board's Decision to Tax Court. If a property owner is not satisfied with the county or State Board decision, the property owner may appeal to the Arizona Tax Court or the Superior Court where the property is located within 60 days after the date of mailing of the State Board's decision or December 15, whichever is later. An appeal to the Tax Court is an appeal de novo. *See* A.R.S. §§ 42-16202 and 16203.

Notice of Appeal. An appeal is commenced in the Arizona Tax Court or superior court by filing what is called a "Notice of Appeal," whether it be a direct appeal, an appeal when the administrative appeals process was curtailed, or an appeal from the State Board. The notice of

appeal must contain a statement of the reasons why the valuation or classification is excessive or erroneous. *See* A.R.S. § 42-16207.

Parties to a Property Tax Appeal. The party taking the appeal must name as defendants:

1. In an appeal by the taxpayer involving property that is valued by the department, both the department and either this state or the county in which the property is located, whichever collects the tax.

2. In an appeal by the taxpayer involving property that is valued and assessed by a county, the county. The county is responsible for defending all defendants named in the appeal unless, in the opinion of the department, the appeal involves an issue of statewide importance, in which case the department and the attorney general's office are responsible for defending on the issue of statewide importance. The department may periodically advise the county of issues that the department deems to be of statewide importance. The county shall inform the department if any of these issues arise at any time during an appeal.

3. In an appeal by the department, the taxpayer.

4. In an appeal by a county or county assessor, the taxpayer. The department may periodically advise the county of issues that the department deems to be of statewide importance. The county shall inform the department if any of these issues arise at any time during an appeal. *See* A.R.S. § 42-16208.

Specific Requirements for Appeal. There are a number of particularized statutory requirements for perfecting a property tax appeal on valuation or classification issues to the tax court or superior court.

1. The notice of appeal must also be served on the defendants within ten days of filing the notice.

2. A copy of the notice of appeal must also be served on the Department of Revenue, if it is not a defendant, within ten days. In the case of the defendant counties, the notice of appeal is served along with a "summons," but in the case of the Department when it is not a named defendant, only a copy of the notice of appeal is required to be provided. *See* A.R.S. § 42-16209.

Payment of Taxes. All taxes that are levied and assessed against the property which is the subject of the appeal must be paid prior to becoming delinquent. A.R.S. § 42-16210. If the property taxes are not timely and fully paid, the appeal will be dismissed except when either of the following occur:

1. The full year tax of the year is paid on or before December 31 of the tax year pursuant to § 42-18053.

2. The remaining one-half tax that is unpaid is delinquent after the immediately following May 1st at 5:00 PM is paid by July 1st, including all interest due.

The saving provision was added by Laws 2002, Chapter 242, § 1. Prior to the saving provision, if the taxes were not paid by the delinquent date (November 1st for the first half payment and May 1st for the second half payment) the appeal was required to be dismissed. *See RCJ Corp. v. Department of Revenue, Maricopa County*, 168 Ariz. 328, 812 P.2d 1146 (1991 Tax Court).

Priority Trial Provisions. The property tax appeal on a valuation or classification issue must be heard by the court within 270 days after it was docketed, unless the parties file a waiver, extending the time. *See* A.R.S. § 16212.

Tax Court's Ability to Increase Value. The tax court can increase the value of the property in question. The county or department must request such an increase in its answer to the taxpayer's appeal. *See* A.R.S. §§ 42-16207 and 42-16213. Again, a property tax appeal is not a one-way street. A taxpayer risks having the valuation increased by taking an appeal to the tax court. This situation arises invariably when the Board of Tax Appeals has decreased the value, but not as low as the taxpayer would like. The taxpayer then appeals to the tax court. At that point, the department or the county must indicate in the answer that it requests a higher value and the basis for such a higher value. At trial, the government will put on evidence supporting a higher value. If there is sufficient evidence, the tax court can and will increase the value. So, a word of caution. When a taxpayer takes a property tax appeal to the tax court, the taxpayer should analyze the case fully to make sure that the property in question has truly been overvalued and there is a significant and substantial basis to make that claim.

Small Claims Cases for Tax Court. All appeals involving issues of valuation or classification of class three property (which is residential) and all other property where the full cash value does not exceed \$300,000 may be filed and tried under the small claims procedures. *See* A.R.S. § 12-172. The small claims procedure is not the same as the procedure for a regular case and the taxpayer does not need to be represented by an attorney. Additionally, a small claims decision may not be appealed and is not considered as precedent.

7. Appeal as to Legality of Tax. Up until now, the discussion has centered on appeals involving valuation and classification issues. However, there are other types of issues that may arise in a property tax setting, such as a challenge to the validity of the tax itself, an exemption claim, an equalization argument, a uniformity argument or an equal protection argument. Any time that a taxpayer attacks the validity of the property tax itself, the taxpayer may not go through the administrative appeals process and/or into tax court as previously described. The administrative appeal bodies do not have jurisdiction or the authority to entertain or hear or decide a property tax appeal involving any issue other than valuation or classification. Any such other issue, which contests the validity of the tax itself, must be appealed directly to the court pursuant to a special and specific statutory Format laid down in A.R.S. § 42-11005, which provides for a direct appeal within one year after payment of the first installment of the tax. It should also be noted that one may not use this action to bring a valuation or classification appeal. However, if for a particular property tax year, a valuation appeal is brought and a separate illegal tax action is brought, the two may be consolidated and heard together.

8. Notice of Change in Valuation in the Case of New Construction, Changes to Assessment Parcels and Changes in Use. For property that is valued by the assessor, in the case of new construction, additions to, deletions from or splits or consolidations of assessment parcels and changes in property use that occur after September 30 of the preceding year and before October 1 of the valuation year:

1. The assessor shall notify the owner of the property of any change in the valuation on or before September 30 of the valuation year.

2. Within 25 days after the date of the assessor's notice, the property owner may appeal the valuation to the state board of equalization if the property is located in Maricopa or Pima County or to the county board of equalization if the property is located in any other county. A.R.S. § 42-15105.

3. The state board of equalization and county board of equalization shall complete all hearings and issue all decisions with respect to changes in valuations on or before the third Friday in November. A.R.S. §§ 42-16108.B and 42-16105.

4. An appeal to superior court or tax court relating to changes in assessments pursuant to this subsection must be filed within 60 days after the date of the decision. *See* A.R.S. § 16205.

9. Notice of Claim and Notice of Error Procedures.

Introduction. Effective November 1, 1994, new procedures went into effect to provide for the correction of errors by either a taxpayer or the taxing authority.

Notice of Error--Increase of Taxes by Taxing Authority. If a taxing authority finds that real or personal property has been assessed improperly, the taxing authority may send a Notice of Error to the taxpayer explaining the nature of the error and the correction proposed. The taxpayer may either agree with the correction or file a written response within 30 days disputing the proposed correction. At the request of the taxpayer, the taxing authority must meet with the taxpayer. If the parties fail to agree, the taxing authority will serve notice on the taxpayer that the error will be corrected unless the taxpayer files a petition with the State Board of Equalization for property in Maricopa and Pima counties or the local county board for property in other counties, within 45 days. The Board must hold a hearing and, if the taxpayer disagrees with the result, the taxpayer may appeal to the Court. *See* A.R.S. § 42-16252.

Notice of Claim--Refund of Taxes to Taxpayer. If the taxpayer believes his property has been incorrectly assessed, by being overvalued, incorrectly classified, etc., he may file a Notice of Claim with the appropriate taxing authority. He must provide a copy of the notice to the Department of Revenue. Within 60 days after receiving a Notice of Claim, the taxing authority may file a written response to either consent to or dispute the claim. If the taxing authority fails to respond in the 60-day time period, such failure constitutes consent to the claim. If the taxing authority disputes the claim, it will schedule a meeting with the taxpayer. If there is still disagreement after the meeting, the taxpayer may appeal to the State or County Board, as applicable, within 150 days after the Notice of Claim is filed. The Board will hold a hearing within 30 days and issue its decision. If the taxpayer still disagrees with the result, the taxpayer may appeal to the Court. *See* A.R.S. § 42-16254.

Definition of Error. "Error" means any mistake in assessing or collecting property taxes resulting from:

(a) An imposition of an incorrect, erroneous or illegal tax rate that resulted in assessing or collecting excessive taxes.

(b) An incorrect designation or description of the use of property or its classification pursuant to chapter 12, article 1 of this title.

(c) Applying the incorrect assessment ratio percentages prescribed by chapter 15, article 1 of this title.

(d) Misreporting or failing to report property if a statutory duty exists to report the property.

(e) Subject to the requirements of section 42-16255, subsection B, a valuation that is based on an error that is exclusively factual in nature or due to a specific legal restriction that

affects the subject property and that is objectively verifiable without the exercise of discretion, opinion or judgment and that is demonstrated by clear and convincing evidence, such as:

- (i) A mistake in the description of the size, use or ownership of land, improvements or personal property.
- (ii) Clerical or typographical errors in reporting or entering data that was used directly to establish valuation.
- (iii) A failure to timely capture on the tax roll a change in value caused by new construction, the destruction or demolition of improvements, the splitting of one parcel of real property into two or more new parcels or the consolidating of two or more parcels of real property into one new parcel existing on the valuation date.
- (iv) The existence or nonexistence of the property on the valuation date.
- (v) Any other objectively verifiable error that does not require the exercise of discretion, opinion or judgment.

Error does not include a correction that results from a change in the law as a result of a final nonappealable ruling by a court of competent jurisdiction in a case that does not involve the property for which a correction is claimed. *See* A.R.S. § 42-16251.3.