

**STATE OF ARIZONA**  
**OFFICE OF THE ATTORNEY GENERAL**

ATTORNEY GENERAL OPINION  by  TERRY GODDARD ATTORNEY GENERAL  December 15, 2003	No. I03-010 (R03-029)  Re: Clarification of the rollover provision in A.R.S. § 42-16002
------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------

To: Elliott Hibbs, Director  
Arizona Department of Revenue

**Questions Presented**

You have asked the following questions concerning Arizona Revised Statutes § 42-16002:

1. Does A.R.S. § 42-16002(B), the "rollover provision," apply to decisions made by assessors under the administrative valuation review process prescribed in A.R.S. § 42-16051? If so, does it apply to "no change" as well as "change decisions" made by the assessors?<sup>1</sup>
2. Does A.R.S. § 42-16002(B) apply to decisions made by the county or state board of equalization if the taxpayer's appeal is wholly denied?
3. In the year subsequent to an appeal is the full cash value of a property (with no new

---

<sup>1</sup>"No change" decision denotes that no change was made to the original valuation after review by the assessor pursuant to A.R.S. § 42-16051. "Change decision" denotes that the original valuation was changed after review by the assessor pursuant to A.R.S. § 42-16051.

construction, structural change, or change in use) the value that was determined at the highest level of appeal in the preceding year in accordance with A.R.S. § 42-16002(B) or is the prior year's appeal decision subject to further appeal in accordance with A.R.S. § 42-16002(C)?

4. Does A.R.S. § 42-16002(C) allow taxpayers to appeal values determined in the prior year at the highest level of appeal year after year, thereby preventing assessors from revaluing property based on current market conditions?

### **Summary Answers**

1. The rollover provisions of A.R.S. § 42-16002 apply to decisions made by assessors under the administrative valuation review process. However, only decisions that have changed the value must be rolled over.

2. Similar to appeals at the assessor level, A.R.S. § 42-16002(B) applies to decisions at the county boards or at the State Board of Equalization level only where the value was changed.

3. In the year subsequent to an appeal where the valuation was changed, the full cash value of property is the value determined at the highest level of appeal. However, A.R.S. § 42-16002(C) gives the taxpayer an opportunity to appeal the rollover valuation.

4. Although taxpayers are not precluded from appealing the valuations of their property each year, only those appeals where the valuation of property was changed require a rollover value. Therefore, the assessor would not be precluded from revaluing property each year based on current market conditions where the property was not successfully appealed during the previous year.

## Background

Arizona Revised Statute § 42-16002(B) (hereinafter referred to as "the rollover statute") was amended in 2002 to read as follows:

A. The county assessor or county treasurer, whichever is appropriate, shall make the necessary changes in the tax roll and records to reflect the determinations on appeal under this chapter.

**B. In the year subsequent to an appeal, the valuation or classification of property is the valuation or classification that was determined in the preceding year at the highest level of appeal unless there is new construction, a structural change or a change of use on the property.**

C. This section does not limit the right of a property owner to appeal the valuation or classification of the property.

Amended by 2002 Ariz. Sess. Laws ch. 278, § 1. (emphasis added to subsection B.) Prior to the amendment, A.R.S. § 42-16002(B) read as follows:

B. In the year subsequent to an appeal, the valuation or classification of property is the valuation or classification that was determined in the preceding year at the highest level of appeal unless the assessor reviews the current facts that apply to a revaluation or change in the classification and determines that an adjustment in the valuation or change in the classification is appropriate.

The predecessor statute, A.R.S. § 42-247, later renumbered § 42-16003 and then § 42-16002, was added by 1991 Ariz. Sess. Laws ch. 203, § 7 and contained only two subsections:

A. In the year subsequent to an appeal, the valuation or classification of property shall be the valuation or classification that was determined in the prior year at the highest level of appeal unless the assessor reviews the current facts which apply to a revaluation or a change in the classification and determines that an adjustment in the valuation or a change in the classification is appropriate.

B. Nothing in this section shall limit the right of a property owner to appeal the valuation or classification of his property.

### **Analysis**

In interpreting the statutory language of A.R.S. § 42-16002(B) and (C), the primary goal is to find and give effect to legislative intent. *Mail Boxes v. Industrial Comm'n of Arizona*, 181 Ariz. 119, 121, 888 P.2d 777, 779 (1995). Words have their ordinary meaning unless the context of the statute requires otherwise. *Carrow Co. v. Lusby*, 167 Ariz. 18, 20, 804 P.2d 747, 749 (1990). The clear language of a statute is given its usual meaning unless impossible or absurd consequences would result. *In re Marriage of Gray*, 144 Ariz. 89, 91, 695 P.2d 1127, 1129 (1985).

The questions concerning A.R.S. § 42-16002 result not only from the statutory changes in 2002, but have existed since the adoption of the original predecessor rollover statute in 1991. The questions will be analyzed in order.

### **Questions Presented**

1. Does A.R.S. § 42-16002(B), the "rollover provision," apply to decisions made by assessors under the administrative valuation review process prescribed in A.R.S. § 42-16051? If so, does it apply to "no change" as well as "change decisions" made by the assessors?

The answer to this question depends on whether the term "appeal" includes the assessor's review of a petition filed pursuant to A.R.S. § 42-16051. Each of the rollover statutes since 1991 has used the word "appeal." A taxpayer initiates administrative review of the valuation or classification of his/her property by filing a petition with the assessor pursuant to A.R.S. § 42-16051. If the taxpayer's request to reduce valuation is denied, the taxpayer may further appeal to either the county board of equalization or the State Board of Equalization depending on the county, or to Tax Court or Superior Court. A.R.S. § 42-16056. Although the rollover provision itself does not use

the term "appeal," the chapter heading that proceeds A.R.S. § 42-16051, "Property Tax Appeals and Reviews," supports the conclusion that the assessor's review constitutes the first level of appeal. *State v. Eagle*, 196 Ariz. 188, 190, 994 P.2d 395, 397 (2000) (although title and section headings are not law, courts may look to them guidance in interpreting statutes and determining legislative intent).

This conclusion finds further support in the legislative history of A.R.S. § 42-16002. When the legislature compressed the levels of property tax appeals from three to two in 1994, the legislative history referred to the assessor as a level of appeal. Senate Bill 1362, in 1994, reduced the available administrative levels of property tax appeals from three to two:

Maricopa and Pima county property owners will no longer have three levels of appeals (assessor, County Board of Equalization, State Board of Tax Appeals). Instead, these counties will have two levels, first to the assessor and then to a new "hybrid" State Board of Equalization.

Ariz. House Representatives, Bill Summary for SB 1362; 41st Leg., 2d Reg. Sess. (1994).

Courts generally defer to the interpretation of administrative agencies charged with implementation of a statute unless inconsistent with the Legislature's intent. *Foster v. Anable*, 199 Ariz. 489, 491, 19 P.3d 630, 632 (App. 2001); *Capitol Castings, Inc. v. Ariz. Dep't of Econ. Sec.*, 171 Ariz. 57, 60, 8 P.2d 781, 784 (App. 1992). The Arizona Department of Revenue, as well as Maricopa and Pima Counties, refer in various publications to the ability of their taxpayers to seek review of valuation with the assessor as an appeal. For example, the Assessment Procedures Manual published by the Arizona Department of Revenue, describes administrative appeals as having two levels:

Such appeals are commenced by filing a petition for review of valuation or reclassification with the County Assessor (Level 1). Further administrative appeals (Level 2) may be taken to the State Board of Equalization . . . .

Arizona Dep't of Revenue, *Assessment Procedures Manual* 1.1.12 (2002).

The Personal Property Manual published by the Department of Revenue similarly states that "the administrative appeals process for personal property valued by the County Assessor is originated when a property owner, or their agent, files a Petition for Review . . . with the County Assessor in the county where the property is located." *Personal Property Manual*, 8.4 (2003).

The Maricopa County Assessor publishes "Appeals Information" on its website. *See*, [http://www.maricopa.gov/assessor/appeals\\_info.asp](http://www.maricopa.gov/assessor/appeals_info.asp). It states: "If the taxpayer chooses to appeal either the Full Cash Value or classification of their property, they may do so by filing an administrative appeal with their County Assessor . . . ." The Pima County Assessor publishes a brochure entitled "Understanding Your Assessment." *See* Understanding Your Assessment, *available at*: <http://www.asr.co.pima.az.us/ASRT/HTML/pSERVICE/pSERVICE.htm>. The brochure differentiates between "formal review" and "assessor review," which is the first step in the appeals process. "The first step in the appeals process is to file a 'Petition for Review of Valuation' with the assessor's office." *Id.*

Similarly, The Arizona Tax Court also has described the process in terms of "appeal":

For persons whose property is subject to a tax assessment, Arizona has chosen to provide a series of administrative appeals. For property assessed by a county assessor, the first level of appeal is to the assessor himself. Subsequent administrative appeals are to the County Board of Equalization and, from there, to the State Board of Tax Appeals.

*Berge Ford, Inc. v. Maricopa County*, 172 Ariz. 483, 485, 838 P.2d 822, 824 (Ariz. Tax Ct., 1992) (internal citations omitted).

Thus, the initial review of the property valuation by the assessor upon the filing of a petition by a taxpayer pursuant to A.R.S. § 42-16051 constitutes an appeal, and assessors therefore must rollover changes to the valuation or classification of property arising out of an "appeal" to the assessor.

Because a petition for review to the assessor constitutes an appeal under the rollover statute, the next question is whether the valuation determined by the assessor is rolled over to the subsequent year even if the assessor did not change the value. The rollover statute provides that the valuation or classification as determined at the highest level of appeal shall be rolled over to the subsequent year. A.R.S. § 42-16002(B). Although the statute does not differentiate between a change in value and a determination that the assessor's valuation was correct, common sense would dictate that only a change in value must be rolled over. This conclusion is supported by both the general rules of statutory construction and the legislative history of the rollover statute.

As discussed above, the clear language of a statute is given its usual meaning unless impossible or absurd consequences would result. *In re Marriage of Gray*, 144 Ariz. at 91, 695 P.2d at 1129. If a "no change" determination were rolled over, the result would be that property valuations potentially could be frozen indefinitely, without regard to whether the taxpayer won or lost an appeal, simply by appealing the valuation every year. If that were the case, the assessor would be precluded from ever revaluing property based on current market conditions. This interpretation would result in an absurd consequence.

The legislative history of the rollover statute demonstrates that this was not the result

intended by the legislature. The Senate Revised Fact Sheet for House Bill 2596, which amended A.R.S. § 42-16002(B), states: "[f]or valuations that have been successfully appealed, the assessor is required to make the following year's valuations based on the appeal decision." 45th Leg., 2d Reg. Sess. (2002)(emphasis added). Thus, the rollover statute does not apply to "no change" determinations and does not require the assessor to rollover a value unless the taxpayer successfully challenged the valuation on appeal.

2. Does A.R.S. § 42-16002(B) apply to decisions made by the county or State Board of Equalization if the taxpayer's appeal is wholly denied?

Although the rollover statute applies to appeals to a county board or to the State Board of Equalization, the statute does not apply to decisions made if the taxpayer's appeal is wholly denied for the same reasons that the statute did not apply to appeals to the assessor unless the taxpayer prevailed. Accordingly, "No change" determinations at the county or State Board of Equalization level do not have to be rolled over.

3. In the year subsequent to an appeal is the full cash value of a property (with no new construction, structural change, or change in use) the value that was determined at the highest level of appeal in the preceding year in accordance with A.R.S. § 42-16002(B) or is the prior year's appeal decision subject to further appeal in accordance with A.R.S. § 42-16002(C)?

Since the predecessor statute to A.R.S. § 42-16002 was adopted in 1991, the statute has contained a provision stating that nothing in the rollover statute limited the right of a property owner to appeal the valuation or classification of property. This provision is clear on its face. The 2003 amendment did not change that provision. Although the assessor must rollover the value determined at the highest level of appeal, if the taxpayer's appeal was successful, the Legislature has not limited

the right of a taxpayer to appeal the value in the second year.

4. Does A.R.S. § 42-16002(C) allow taxpayers to appeal values determined in the prior year at the highest level of appeal year after year, thereby preventing assessors from revaluing property based on current market conditions?

Although taxpayers are not precluded from appealing the valuations of their property each year, only those appeals where the valuation of property was changed require a rollover value. Therefore, the assessor would not be precluded from revaluing property each year based on current market conditions where the property was not successfully appealed during the previous year. However, the assessor must use the rollover value each year subsequent to that where a taxpayer appeals and prevails.

### **Conclusion**

The rollover provisions of A.R.S. § 42-16002 apply to decisions made by the assessor pursuant to A.R.S. § 42-16051, as well as decisions of the county or State Board of Equalization pursuant to A.R.S. § 42-16056. In the year subsequent to an appeal, the full cash value of property is the value determined at the highest level of appeal. A.R.S. § 42-16002 requires a rollover value only where the valuation of property was changed as the result of an appeal. Although taxpayers are not precluded from appealing the valuation of their property each year, including the rollover

...

valuation, the assessor is not precluded from revaluing property each year based on current market conditions where the property was not successfully appealed during the prior year.

Terry Goddard  
Attorney General

407757