REFERENCE TITLE: low-income housing; property tax

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2382

Introduced by
Representative Olson

AN ACT

AMENDING SECTION 42-12004, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 13, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 12; RELATING TO PROPERTY TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 42-12004, Arizona Revised Statutes, is amended to read:

42-12004. Class four property

A. For purposes of taxation, class four is established consisting of:

1. Real and personal property and improvements to the property that are used for residential purposes, including residential property that is owned in foreclosure by a financial institution, that is not otherwise included in another classification and that is valued at full cash value. The homesite that is included in class four may include:

(a) Up to ten acres on a single parcel of real property on which the residential improvement is located.

(b) More than ten, but not more than forty, acres on a single parcel of real property on which the residential improvement is located if it is zoned exclusively for residential purposes or contains legal restrictions or physical conditions that prevent the division of the parcel. For the purposes of this subdivision, "physical conditions" means topography, mountains, washes, rivers, roads or any other configuration that limits the residential usable land area.

2. Real and personal property and improvements to the property that are used solely as leased or rented property for residential purposes, that are not included in class one, two, three, six, seven or eight and that are valued at full cash value.

3. Child care facilities that are licensed under title 36, chapter 7.1 and that are valued at full cash value.

4. Real and personal property and improvements to property that are used to operate nonprofit residential housing facilities that are structured to house or care for persons with disabilities or who are sixty-two years of age or older and that are valued at full cash value.

5. Real and personal property and improvements that are used to operate licensed residential care institutions or licensed nursing care institutions that provide medical services, nursing services or health related services and that are structured to house or care for persons with disabilities or who are sixty-two years of age or older and that are valued at full cash value.

6. Real and personal property consisting of no more than eight rooms of residential property that are leased or rented to transient lodgers, together with furnishing no more than a breakfast meal, by the owner who resides on the property and that is valued at full cash value.

7. Real and personal property consisting of residential dwellings that are maintained for occupancy by agricultural employees as a condition of employment or as a convenience to the employer, that is not included in class three and that is valued at full cash value. The land associated with these dwellings shall be valued as agricultural land pursuant to chapter 13, article 3 of this title.

8. Real property and improvements to property constituting common areas that are valued pursuant to chapter 13, article 9 of this title.

9. Real and personal property that is defined as timeshare property by section 32-2197 and valued pursuant to chapter 13, article 10 of this title, except for any property used for commercial, industrial or transient occupancy purposes and included in class one to the extent of that use.

10. LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTIES THAT ARE VALUED PURSUANT TO CHAPTER 13, ARTICLE 12 OF THIS TITLE.

B. Subsection A, paragraphs 4 and 5 of this section shall not be construed to limit eligibility for exemption from taxation under chapter 11, article 3 of this title.

Sec. 2. Title 42, chapter 13, Arizona Revised Statutes, is amended by adding article 12, to read:

ARTICLE 12. VALUATION OF LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY

42-13551. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "LOW-INCOME HOUSING TAX CREDIT PROGRAM" MEANS THE FEDERAL LOW-INCOME HOUSING TAX CREDIT PROGRAM ESTABLISHED BY THE TAX REFORM ACT OF 1986, CODIFIED IN SECTION 42 OF THE INTERNAL REVENUE CODE AND ADMINISTERED BY THE ARIZONA DEPARTMENT OF HOUSING PURSUANT TO SECTION 35-728 TO ENCOURAGE CONSTRUCTION AND REHABILITATION OF LOW-INCOME RENTAL HOUSING.

2. "LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY" MEANS MULTIFAMILY RESIDENTIAL PROPERTY TO WHICH ALL OF THE FOLLOWING APPLY:

(a) THE OWNERSHIP ENTITY RECEIVED FEDERAL INCOME TAX CREDITS PURSUANT TO SECTION 42 OF THE INTERNAL REVENUE CODE THROUGH THE LOW-INCOME HOUSING TAX CREDIT PROGRAM.

(b) THE PROPERTY REMAINS BOTH INCOME AND RENT RESTRICTED CONSISTENT WITH SECTION 42 OF THE INTERNAL REVENUE CODE AND THE PROVISIONS OF THE DECLARATION OF AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS AGREEMENT RECORDED ON THE PROPERTY. THE REQUIREMENT OF THIS SUBDIVISION IS MET IF AN AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS AGREEMENT IS NOT YET RECORDED ON THE PROPERTY BUT THE PROPERTY IS OTHERWISE SUBJECT TO BOTH INCOME AND RENT RESTRICTIONS UNDER SECTION 42 OF THE INTERNAL REVENUE CODE.

(c) A FEDERAL, STATE OR TRIBAL COURT HAS NOT ENTERED A JUDGMENT OR ORDER BASED ON A FINDING THAT AN ACT OR OMISSION OF AN OWNER OR OPERATOR OF THE PROPERTY CONSTITUTES A BREACH OR VIOLATION OF EITHER:

(i) THE DECLARATION OF AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS AGREEMENT RECORDED ON THE PROPERTY.

(ii) RESTRICTIONS UNDER SECTION 42 OF THE INTERNAL REVENUE CODE IMPOSED ON THE PROPERTY BUT NOT CONTAINED IN AN AFFIRMATIVE LAND USE RESTRICTIVE COVENANTS AGREEMENT.

42-13552. Identifying low-income multifamily residential rental property

PROPERTY THAT IS SUBJECT TO VALUATION BY THE COUNTY ASSESSOR UNDER THIS ARTICLE CONSISTS OF LAND, BUILDINGS AND PERSONAL PROPERTY OF LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY.

42-13553. Valuation of low-income multifamily residential rental property; confidentiality; definitions

A. SUBJECT TO SECTION 42-13554, THIS ARTICLE ALLOWS THE OWNER OF LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY TO ELECT A STATUTORY INCOME METHOD FOR VALUING LOW INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY.

B. ON TIMELY ELECTION BY THE OWNER OF LOW-INCOME MULTIFAMILY RESIDENTIAL PROPERTY, THE ASSESSOR SHALL VALUE PROPERTY UNDER THIS ARTICLE BASED ON THE INCOME APPROACH TO VALUE USING THE ACTUAL ANNUAL INCOME AND ACTUAL ANNUAL EXPENSES OF THE PROPERTY AND USING A CAPITALIZATION RATE OF TWELVE AND ONE-HALF PERCENT PLUS THE EFFECTIVE TAX RATE.

C. THE OWNER OF LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY MAY ELECT TO HAVE THE VALUATION OF THE PROPERTY DETERMINED BY THE INCOME APPROACH TO VALUE BY SUBMITTING ALL REASONABLY NECESSARY INCOME AND EXPENSE INFORMATION FOR THE OWNER'S MOST RECENT FISCAL YEAR TO THE COUNTY ASSESSOR BEFORE SEPTEMBER 1 OF THE YEAR IMMEDIATELY PRECEDING THE YEAR FOR WHICH THE PROPERTY WILL BE VALUED. IF THE OWNER DOES NOT HAVE AN ENTIRE YEAR OF HISTORICAL INCOME AND EXPENSE DATA, THE OWNER MAY SUBMIT AND THE ASSESSOR SHALL USE FOR VALUATION PURPOSES THE PRO FORMA INCOME AND EXPENSE DATA THAT WAS PROVIDED TO THE ARIZONA DEPARTMENT OF HOUSING AT THE TIME A PROJECT IS APPROVED.

D. THE DEPARTMENT OF REVENUE SHALL PRESCRIBE A FORM FOR AN OWNER OF A LOW-INCOME MULTIFAMILY RESIDENTIAL HOUSING TAX CREDIT PROJECT TO MAKE AN ELECTION TO VALUE THE PROPERTY PURSUANT TO THIS ARTICLE AND REQUIRE THE OWNER TO SUBMIT THE NECESSARY INCOME AND EXPENSE INFORMATION.

E. ALL INFORMATION THAT A TAXPAYER SUBMITS TO THE ASSESSOR PURSUANT TO THIS ARTICLE IS CONFIDENTIAL PURSUANT TO CHAPTER 2, ARTICLE 1 OF THIS TITLE.

F. FOR THE PURPOSES OF THIS SECTION:

1. "ACTUAL ANNUAL EXPENSES" MEANS ALL OPERATING EXPENSES, INCLUDING MAINTENANCE, ADMINISTRATIVE SALARIES AND EXPENSES, UTILITIES, SECURITY EXPENSES, INSURANCE AND TAXES, EXCEPT PROPERTY TAXES ESTABLISHED PURSUANT TO SUBSECTION B OF THIS SECTION. FOR PROPERTIES FOR WHICH THE TENANTS PAY THEIR OWN UTILITY COSTS AND UTILITY COSTS FOR COMMON AREAS AND VACANT UNITS, THOSE EXPENSES ARE INCLUDED IN THE OWNER'S OPERATING EXPENSES.

2. "ACTUAL ANNUAL INCOME" MEANS ALL OPERATING INCOME GENERATED FROM THE RENTAL OF REAL PROPERTY, INCLUDING RENTS, APPLICATION AND LATE FEES AND FORFEITED SECURITY DEPOSITS. ACTUAL ANNUAL INCOME DOES NOT INCLUDE THE FEDERAL INCOME TAX CREDITS OR INVESTMENT PROCEEDS RESULTING FROM THE FEDERAL INCOME TAX CREDITS THAT ARE ALLOCATED TO THE PROPERTY.

42-13554. Evidentiary requirements

AS A CONDITION OF VALUATION UNDER THIS ARTICLE, AN OWNER OR OPERATOR OF LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY SHALL PROVIDE WRITTEN DOCUMENTATION TO THE ASSESSOR CONFIRMING THAT THE PROPERTY HAS BEEN PLACED IN SERVICE AS LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY CONSISTENT WITH SECTION 42 OF THE INTERNAL REVENUE CODE.

42-13555. Appeals

A. AN OWNER OR OPERATOR OF LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY WHO OPTS INTO THE VALUATION METHOD SET FORTH IN THIS ARTICLE MAY APPEAL THE VALUE OF THE PROPERTY PURSUANT TO CHAPTER 16 OF THIS TITLE. ON APPEAL, THE OWNER OR OPERATOR MAY SUBMIT MORE RECENT INCOME AND EXPENSE DATA FROM THE YEAR PRECEDING JANUARY 1 OF THE VALUATION YEAR TO BE USED IN CALCULATING THE VALUE OF THE PROPERTY BY THE VALUATION METHOD SET FORTH IN THIS ARTICLE.

B. AN OWNER OR OPERATOR OF LOW-INCOME MULTIFAMILY RESIDENTIAL RENTAL PROPERTY WHO DOES NOT OPT INTO THE VALUATION METHOD SET FORTH IN THIS ARTICLE MAY APPEAL THE VALUE OF THE PROPERTY PURSUANT TO CHAPTER 16 OF THIS TITLE.