

REFERENCE TITLE: **property tax roll; corrections**

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SB 1352

Introduced by
Senators Worsley: Driggs, Farley, McComish, Shooter, Yarbrough

AN ACT

AMENDING SECTIONS 42-15101, 42-15157, 42-16051, 42-16251, 42-16252, 42-16253, 42-16254, 42-16255, 42-16256, 42-16257 AND 42-16258, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 16, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-16259; RELATING TO PROPERTY TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-15101, Arizona Revised Statutes, is amended to
3 read:

4 42-15101. Annual notice of full cash value; amended notice of
5 valuation

6 A. Except as provided by section 42-13254, on any date before March 1
7 of each year the county assessor shall notify each owner of record, or
8 purchaser under a deed of trust or an agreement of sale, of property that is
9 valued by the assessor as to the property's full cash value and the limited
10 property value, if applicable, to be used for assessment purposes.

11 B. The notice under this section shall be in writing and shall be
12 mailed, delivered by common carrier, or ~~upon~~ON request of the taxpayer
13 transmitted electronically to the person's last known mailing, delivery or
14 electronic address. With respect to any property transferred by a
15 beneficiary deed pursuant to section 33-405, until the county assessor is
16 notified by the beneficiary in writing, accompanied by a certified copy of
17 the last surviving owner's death certificate and the change of address,
18 mailing of the notice to the last known address of the deceased owner is
19 deemed a mailing to the beneficiary's last known mailing, delivery or
20 electronic address as required by this section.

21 C. On the same date each year the assessor shall certify to the board
22 of supervisors and the department the date on which all notices under this
23 section were mailed.

24 D. The director may extend the final date for mailing notices beyond
25 March 1 for a period of not more than thirty days for delays caused by an act
26 of God, flood or fire. If the director extends the mailing date, the
27 extension applies to all property valued by the assessor.

28 E. within sixty days after the mailing of the notice of valuation
29 pursuant to this section, if the assessor discovers that property
30 characteristic data applicable to a grouping of properties delineated by
31 neighborhood or classification resulted in an incorrect opinion of value, the
32 assessor may amend the notice of valuation and if amended, must notify the
33 property owner of the amended value pursuant to subsection b of this section.
34 the assessor must certify the amended notices of valuation pursuant to
35 subsection c of this section.

36 ~~E.~~ F. After the mailing date of the notice, any person who owns,
37 claims, possesses or controls property that is valued by the assessor may
38 inquire of and be advised by the assessor as to the valuation of the property
39 determined by the assessor, but the assessor shall not change the roll except
40 as provided by chapter 16, article 2 of this title or as otherwise provided
41 by law.

1 the notice of valuation **OR THE AMENDED NOTICE OF VALUATION** under section
2 42-15101. United States postal service postmark dates are evidence of the
3 date petitions were filed for purposes of this subsection.

4 E. The petition for review form for property that is listed as class
5 three pursuant to section 42-12003 shall contain simplified instructions and
6 shall be separate from the petition forms used for other classes of property.

7 Sec. 4. Section 42-16251, Arizona Revised Statutes, is amended to
8 read:

9 **42-16251. Definitions**

10 In this article, unless the context otherwise requires:

11 1. "Board" means the county board of equalization or the state board
12 of equalization, as appropriate.

13 2. "Court" means either the superior court or tax court.

14 3. "Error" means any mistake in assessing or collecting property taxes
15 resulting from:

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

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

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

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

25 (e) Subject to the requirements of section 42-16255, subsection B, a
26 valuation or legal classification that is based on an error that is
27 exclusively factual in nature or due to a specific legal restriction that
28 affects the subject property and that is objectively verifiable without the
29 exercise of discretion, opinion or judgment and that is demonstrated by clear
30 and convincing evidence, such as:

31 (i) A mistake in the description of the size, use or ownership of
32 land, improvements or personal property.

33 (ii) Clerical or typographical errors in reporting or entering data
34 that was used directly to establish valuation.

35 (iii) A failure to timely capture on the tax roll a change in value or
36 legal classification caused by new construction, the destruction or
37 demolition of improvements, the splitting of one parcel of real property into
38 two or more new parcels or the consolidating of two or more parcels of real
39 property into one new parcel existing on the valuation date.

40 (iv) The existence or nonexistence of the property on the valuation
41 date.

42 **(v) PROPERTY THAT IS DESTROYED AFTER THE LIEN DATE.**

43 ~~(v)~~ (vi) Any other objectively verifiable error that does not require
44 the exercise of discretion, opinion or judgment.

45 Error does not include a correction that results from a change in the law as
46 a result of a final nonappealable ruling by a court of competent jurisdiction

1 in a case that does not involve the property for which a correction is
2 claimed.

3 4. "TAX OFFICER" MEANS THE DEPARTMENT, COUNTY ASSESSOR OR COUNTY
4 TREASURER, AS APPLICABLE.

5 ~~4-~~ 5. "Taxpayer" means the owner of real or personal property that is
6 liable for tax.

7 Sec. 5. Section 42-16252, Arizona Revised Statutes, is amended to
8 read:

9 42-16252. Notice of proposed correction; response; petition for
10 review; appeal

11 A. Subject to the limitations and conditions prescribed by this
12 article, if a ~~county assessor or the department~~ TAX OFFICER determines that
13 any real or personal property has been assessed improperly as a result of a
14 property tax error, the ~~county assessor or department~~ TAX OFFICER shall send
15 the taxpayer a notice of ~~error~~ PROPOSED CORRECTION at the taxpayer's last
16 known address by:

17 1. Certified mail, return receipt requested, if correction of the
18 error results in an increase in the FULL CASH VALUE OR ASSESSED valuation of
19 the property.

20 2. First class mail or, at the taxpayer's written request, delivery by
21 common carrier or electronic transmittal, if correction of the error does not
22 result in an increase in the valuation of the property.

23 B. The notice shall:

24 1. Be in a form prescribed by the department.

25 2. Clearly identify the subject property by tax parcel number or tax
26 roll number and the year or years for which the correction is proposed.

27 3. Explain the error, the reasons for the error and the proposed
28 correction of the error.

29 4. Inform the taxpayer of the procedure and deadlines for appealing
30 all or part of the proposed determination before the tax roll is corrected.

31 C. Within thirty days after receiving a notice of ~~error~~ PROPOSED
32 CORRECTION, the taxpayer may file a written response to the ~~taxing authority~~
33 TAX OFFICER that sent the notice to either consent to or dispute the proposed
34 correction of the error and to state the grounds for disputing the
35 correction. A failure to file a written response within thirty days
36 constitutes consent to the proposed correction ~~unless~~. A TAXPAYER MAY FILE a
37 request for an extension of time ~~is made~~ within thirty days after receiving
38 the notice of ~~error~~ PROPOSED CORRECTION. THE EXTENSION OF TIME MAY NOT
39 EXCEED THIRTY DAYS. If an extension is granted, any response that is not
40 filed within the extended due date constitutes consent to the proposed
41 correction.

42 D. THE TAXPAYER MAY APPEAL ANY VALUATION OR LEGAL CLASSIFICATION ISSUE
43 THAT ARISES FROM THE PROPOSED CORRECTION AS PROVIDED IN THIS SECTION.

44 ~~D-~~ E. If ~~an owner of real property~~ THE TAXPAYER consents to the
45 proposed correction, or consents to the PROPOSED correction but disputes the
46 proposed valuation or legal classification as provided on the form prescribed

1 by the department, the tax roll shall be promptly corrected to allow property
2 taxes to be levied and collected in all subsequent tax years, but no
3 additional tax, interest or penalty may be imposed for the current tax year
4 or any tax year preceding the date of the notice of ~~error~~ PROPOSED
5 CORRECTION.

6 ~~F. If an owner of real property~~ THE TAXPAYER disputes the proposed
7 correction ~~and a court determines, after an appeal pursuant to subsection G,~~
8 ~~that an error occurred, any taxes that are assessed pursuant to this~~
9 ~~subsection, including all cases involving personal property, are delinquent~~
10 ~~if not paid within sixty days after the date the supplemental billing is~~
11 ~~mailed to the taxpayer. If taxes have been overpaid, they shall be refunded~~
12 ~~with interest at the rate determined pursuant to section 42-1123 within~~
13 ~~ninety days after the roll is corrected. The owner may appeal valuation or~~
14 ~~legal classification issues that arise from the correction as provided in~~
15 ~~this section.~~

16 ~~E. If requested, the assessor or department~~ OR THE PROPOSED VALUATION
17 OR LEGAL CLASSIFICATION, THE TAX OFFICER shall meet with the taxpayer or the
18 taxpayer's representative in any case in which the taxpayer has timely filed
19 a written response ~~disputing the proposed correction~~ TO DISCUSS THE PROPOSED
20 CORRECTION. IF AFTER THE MEETING THE TAX OFFICER AND THE TAXPAYER REACH AN
21 AGREEMENT ON ALL OR PART OF THE PROPOSED CORRECTION, THE TAX OFFICER AND THE
22 TAXPAYER SHALL EACH SIGN AN AGREEMENT AND THE TAX ROLL MUST BE PROMPTLY
23 CORRECTED TO THE EXTENT AGREED ON.

24 ~~F.~~ G. If AFTER THE MEETING the parties fail to agree on all or part
25 of the proposed correction, the ~~department or assessor~~ TAX OFFICER shall
26 serve a notice on the taxpayer by certified mail WITHIN THIRTY DAYS AFTER THE
27 MEETING DATE advising the taxpayer that the ~~error~~ TAX ROLL will be corrected
28 ~~within forty five day unless~~ TO THE EXTENT AGREED ON. The taxpayer files MAY
29 FILE a petition on a form prescribed by the department with the ~~county~~ board
30 of equalization, ~~if one is established in the county, or, if one is not~~
31 ~~established in the county, with the state board of equalization. The~~
32 ~~department or assessor shall include a petition form with the notice and an~~
33 ~~explanation of the appeals procedure. The petition must be filed with the~~
34 ~~county board or the state board~~ within thirty days after THE DATE OF the
35 notice ~~prescribed by this subsection is mailed,~~ or it is barred. On
36 receiving the petition, the board shall hold a hearing on the DISPUTED ISSUES
37 IN THE proposed correction within thirty days and shall issue a written
38 decision pursuant to the board's rules.

39 ~~G.~~ H. A party that is dissatisfied with the decision of the ~~county~~
40 ~~board or state~~ board may appeal the decision to court within sixty days after
41 the date the board's decision is mailed, but any additional taxes that are
42 determined to be due must be timely paid before delinquency for the court to
43 retain jurisdiction of the matter.

1 E. If, after the meeting, the parties agree on all or part of the
 2 ~~proposed correction~~ NOTICE OF CLAIM, ~~the board of supervisors shall direct~~
 3 ~~the county treasurer to correct~~ the tax roll MUST BE CORRECTED PROMPTLY to
 4 the extent agreed, ~~ON~~ and any taxes that have been overpaid shall be
 5 refunded ~~with interest at the rate determined~~ pursuant to section 42-1123
 6 42-16259. ~~within ninety days after the roll is corrected or pursuant to~~
 7 ~~section 42-16214, subsection A. The county treasurer shall pay the legal~~
 8 ~~rate on the day the payment is rendered. If the taxpayer owes additional~~
 9 ~~taxes, they shall be assessed by supplemental billing to the taxpayer plus~~
 10 ~~interest as provided by law. Any taxes assessed pursuant to this subsection~~
 11 ~~are delinquent if not paid within sixty days after the date the supplemental~~
 12 ~~billing is mailed to the taxpayer. For the purposes of this subsection,~~
 13 ~~"legal rate" means the interest rate set by the department.~~

14 F. If the parties fail to agree on all or part of the ~~proposed~~
 15 ~~correction~~ NOTICE OF CLAIM, the taxpayer may file a petition with the ~~county~~
 16 ~~board of equalization, if one is established in the county, or, if one is not~~
 17 ~~established in the county, with the state~~ board of equalization on a form
 18 prescribed by the department and shall send a copy to the tax officer by
 19 certified mail. The petition must be filed with the ~~county board or state~~
 20 board within ~~one hundred fifty~~ THIRTY days after the ~~notice of claim is filed~~
 21 DATE OF THE MEETING or it is barred. On receiving the petition, the
 22 ~~appropriate~~ board shall hold a hearing on the ~~proposed correction~~ DISPUTED
 23 ISSUES IN THE NOTICE OF CLAIM within thirty days and shall issue a written
 24 decision pursuant to the board's rules.

25 G. A party that is dissatisfied with the decision of the ~~county board~~
 26 ~~or state~~ board may appeal the decision to court within sixty days after the
 27 date the board's decision is mailed, but any additional taxes that are
 28 determined to be due must be timely paid before delinquency for the court to
 29 retain jurisdiction of the matter. In addition, in order for a taxpayer to
 30 recover a refund for taxes paid in a preceding tax year as a result of an
 31 error, all taxes that were levied and assessed against the property for the
 32 tax year must be paid before delinquency in order for the court to retain
 33 jurisdiction of the matter.

34 ~~H. For the purposes of this section, "tax officer" means the~~
 35 ~~department, county assessor or county board of supervisors, whichever is~~
 36 ~~appropriate under the circumstances described in subsection A, paragraph 1, 2~~
 37 ~~or 3 of this section.~~

38 Sec. 8. Section 42-16255, Arizona Revised Statutes, is amended to
 39 read:

40 42-16255. Evidence that may be considered at hearings; pending
 41 administrative and judicial appeals

42 A. In any hearing before the county board, state board or court under
 43 this article, either party may present any evidence regarding property tax
 44 errors regardless of whether ~~a~~ THE EVIDENCE WAS PRESENTED WHEN THE notice of
 45 ~~error~~ PROPOSED CORRECTION or notice of claim was filed. The board or court
 46 has jurisdiction to make any such correction.

1 B. ~~This article does not authorize an independent review of the~~
2 ~~overall valuation or legal classification of property that could have been~~
3 ~~appealed pursuant to article 2, 3, 4 or 5 of this chapter or chapter 19,~~
4 ~~article 2 of this title.~~ If an administrative or judicial appeal is pending
5 regarding the subject property, the alleged error shall be adjudicated as
6 part of the administrative or judicial appeal for the affected tax year. If
7 a specific error of fact, not previously known, was not addressed in a prior
8 appeal, an appeal may be brought pursuant to this section.

9 Sec. 9. Section 42-16256, Arizona Revised Statutes, is amended to
10 read:

11 42-16256. Limitations

12 A. In the case of real or personal property, THE correction of errors
13 under this article is limited to the period during which the current owner of
14 record held title to the property, if the owner is a purchaser in good faith
15 and without notice of any error that could have caused proceedings to be
16 initiated to correct the tax roll when the owner purchased the property.

17 B. Except as provided in subsection C of this section, and subject to
18 ~~the provisions of~~ section 42-16252, subsection ~~D~~ E, a notice of ~~error~~
19 PROPOSED CORRECTION or notice of claim FILED under this article is limited to
20 the current tax year in which the notice of ~~error~~ PROPOSED CORRECTION or
21 notice of claim is filed and the three immediately preceding tax years.

22 C. If a specific error involving a particular property is established
23 by a final nonappealable ruling by a court of competent jurisdiction in favor
24 of the party who brought the action, the error may be corrected as of the
25 date the action was filed or as of the date a notice of claim or notice of
26 ~~error~~ PROPOSED CORRECTION was filed pursuant to this article, whichever is
27 earlier, but no additional assessment or refund for any period before that
28 date is permitted.

29 D. THIS ARTICLE DOES NOT AUTHORIZE AN INDEPENDENT REVIEW OF THE
30 OVERALL VALUATION OR LEGAL CLASSIFICATION OF PROPERTY THAT COULD HAVE BEEN
31 APPEALED PURSUANT TO ARTICLE 2, 3, 4 OR 5 OF THIS CHAPTER OR CHAPTER 19,
32 ARTICLE 2 OF THIS TITLE.

33 E. THE CORRECTION OF ERRORS UNDER THIS ARTICLE IS LIMITED TO REAL
34 PROPERTY THAT HAS NOT BEEN ISSUED A CERTIFICATE OF PURCHASE PURSUANT TO
35 CHAPTER 18, ARTICLE 3 OF THIS TITLE.

36 Sec. 10. Section 42-16257, Arizona Revised Statutes, is amended to
37 read:

38 42-16257. Valuation of property

39 In valuing any property pursuant to this article, the ~~assessor,~~
40 ~~department or reviewing body~~ TAX OFFICER shall use the valuation and legal
41 classification criteria that were in effect on the valuation date FOR THE TAX
42 YEAR OF THE CORRECTION.

1 Sec. 11. Section 42-16258, Arizona Revised Statutes, is amended to
2 read:

3 42-16258. Correcting tax roll by county treasurer

4 A. After receiving the tax roll, if the county treasurer determines
5 that any property is omitted from the roll, or has reason to believe that any
6 personal property that is omitted from the roll has not been taxed in any
7 other county for that year, the treasurer shall ~~immediately list and~~ request
8 the assessor to determine the valuation of the property.

9 B. The treasurer shall enter the valuation on the roll following the
10 levies made and delivered by the county board of supervisors. The entries
11 shall be designated as additional valuations, and the taxes so computed by
12 the county treasurer are valid for all purposes.

13 C. If there is an error on the roll in the name of the ~~person~~ TAXPAYER
14 WHO SHOULD BE assessed or taxed, the county treasurer may change the name and
15 collect the tax from the ~~person who should be taxed, if that person is liable~~
16 ~~for the tax and can be identified by the treasurer~~ CORRECT TAXPAYER.

17 D. IF AN ERROR OR OMISSION IS DETERMINED UNDER THIS SECTION, THE
18 TAXPAYER SHALL BE NOTIFIED OF THE PROPOSED CORRECTION AND THE TAXPAYER MAY
19 APPEAL THE PROPOSED CORRECTION PURSUANT TO SECTION 42-16252.

20 Sec. 12. Title 42, chapter 16, article 6, Arizona Revised Statutes, is
21 amended by adding section 42-16259, to read:

22 42-16259. Transmittal of corrected billing to taxpayer;
23 delinquency; refunds; interest

24 A. THE COUNTY TREASURER SHALL MAIL A CORRECTED BILLING TO THE TAXPAYER
25 ON THE OCCURRENCE OF ANY OF THE FOLLOWING:

- 26 1. THE CONSENT OF THE TAXPAYER TO A TAX ROLL CORRECTION.
27 2. THE CONSENT OF THE TAX OFFICER TO THE NOTICE OF CLAIM.
28 3. THE DECISION OF THE BOARD OF EQUALIZATION.
29 4. THE FINAL NONAPPEALABLE RULING BY A COURT OF COMPETENT
30 JURISDICTION.

31 B. ANY TAXES THAT ARE ASSESSED PURSUANT TO THIS ARTICLE ARE DELINQUENT
32 IF NOT PAID WITHIN NINETY DAYS AFTER THE DATE THE CORRECTED BILLING IS MAILED
33 TO THE TAXPAYER.

34 C. IF TAXES HAVE BEEN OVERPAID, THE AMOUNT OF TAXES OVERPAID SHALL BE
35 REFUNDED WITH INTEREST AT THE LEGAL RATE PRESCRIBED IN SECTION 44-1201,
36 SUBSECTION B WITHIN NINETY DAYS AFTER THE TAX ROLL IS CORRECTED. FOR THE
37 PURPOSE OF COMPUTING INTEREST UNDER THIS SUBSECTION, IF THE TAX WAS PAID IN
38 INSTALLMENTS, A PRO RATA SHARE OF THE TOTAL OVERPAYMENT IS CONSIDERED TO BE
39 ATTRIBUTABLE TO EACH INSTALLMENT.