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Senate Engrossed House Bill

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FILED

Jane Dee Hull
Secretary of State

CHAPTER 366

HOUSE BILL 2066

AN ACT

AMENDING SECTION 42-147, ARIZONA REVISED STATUTES; RELATING TO PROPERTY TAX VALUATION OF SHOPPING CENTERS.

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

Section 1. Legislative intent

The legislature finds that the conditions stated in Laws 1982, chapter 232, section 1 remain in effect. The legislature intends to prescribe the exclusive means of valuation of shopping centers as provided by this act. The legislature intends to prevent unstable and unfair taxation of shopping centers by providing for a limited use, on appeal only, of the market comparison method of valuation. This limited use of the market comparison method is intended to minimize the inherent problems of applying the method to shopping centers. The legislature intends to provide for specific, limited use of market data in determining the valuation of shopping center property. The legislature intends to permit a recent sale of a shopping center property to be used to support a potential valuation of that property, on appeal, by the market comparison method.

Sec. 2. Section 42-147, Arizona Revised Statutes, is amended to read:

42-147. Valuation of shopping center property; valuation technical advisory committee; definition

A. A SHOPPING CENTER THAT IS SUBJECT TO VALUATION FOR PURPOSES OF PROPERTY TAX SHALL BE VALUED PURSUANT TO THIS SECTION. THIS SECTION ESTABLISHES THE EXCLUSIVE VALUATION METHODS AND PROCEDURE FOR DETERMINING THE VALUATION OF A SHOPPING CENTER.

~~A.~~ B. The valuation of a shopping center shall be determined by county assessors utilizing the replacement cost less depreciation method, except as provided in subsections ~~B~~ C and ~~C~~ D of this section. The method shall utilize base rates in existence on January 1, 1982 subject to any changes necessary to reflect changes in costs of construction. The base rates shall be based on average costs which are relative to this state as reported in professional cost manuals and publications which are approved by the department. The depreciation schedule used UNDER THE REPLACEMENT COST LESS DEPRECIATION METHOD, including any adjustment for obsolescence, shall be the schedule in existence on January 1, 1982 and utilized by the county assessor, unless modified pursuant to subsection ~~E~~ G, paragraph 2, subdivision (a) of this section~~, for the purpose of determining value under the replacement cost less depreciation method~~.

~~B.~~ C. Upon a review or appeal, at the election of a taxpayer, the income method commonly known as the straight line building residual method shall ~~be used in~~ DETERMINE the valuation of a shopping center, subject to the provisions of subsection ~~D~~ E OF THIS SECTION, if the taxpayer submits all reasonably necessary income and expense information. The reviewing body shall utilize the information submitted by the taxpayer and may also utilize any other information customarily analyzed under this method. The capitalization rate used in such method shall be comprised of the following:

1. For the 1983 property tax year a discount rate of ten and one-half per cent, which shall be adjusted each year thereafter based on the percentage change in the weighted average cost of funds derived from interest paid on savings accounts, federal home loan bank advances and other borrowed money as reported by the federal home loan bank of San Francisco for this state for the most recent twelve month period ending June 30. The discount rate shall not be less than ten per cent.

2. A recapture rate based on a thirty-five year economic life.

3. The effective tax rate for the property for the most recent property tax year.

~~C.~~ D. Upon election by a taxpayer, ~~a property may be valued~~ THE VALUATION OF A SHOPPING CENTER SHALL BE DETERMINED by the method prescribed by subsection ~~B~~ C of this section if the taxpayer submits all reasonably necessary income and expense information to the county assessor before September 1 of the year immediately preceding the year for which the property will be valued. ~~All information submitted by a taxpayer pursuant to this subsection is confidential pursuant to section 42-108.~~

~~D.~~ E. Upon appeal of a valuation determined by the income method or an appeal where the taxpayer has elected the income method pursuant to subsection ~~B,~~ C OF THIS SECTION, THE VALUATION OF A SHOPPING CENTER SHALL BE DETERMINED BY WHICHEVER ONE OF THE FOLLOWING VALUATION METHODS MOST CLOSELY APPROXIMATES FAIR MARKET VALUE:

1. THE INCOME METHOD COMMONLY KNOWN AS THE STRAIGHT LINE BUILDING RESIDUAL METHOD PURSUANT TO SUBSECTION C OF THIS SECTION. If ~~after computing the value by the income method~~ the reviewing body finds that other ~~valuation factors~~ INFORMATION THAT IS CUSTOMARILY ANALYZED UNDER THE INCOME METHOD must be ~~applied to determine the value of~~ USED TO PROPERLY APPLY THE INCOME METHOD TO the property, it may utilize such other ~~factors as it finds necessary;~~ INFORMATION TO SUPPLEMENT INFORMATION PROVIDED BY THE TAXPAYER, provided that ~~it~~:

(a) THE CREDIBLE AND ACCURATE INFORMATION PROVIDED BY THE TAXPAYER REMAINS THE PRIMARY BASIS FOR THE VALUATION UNDER THE INCOME METHOD.

(b) THE INFORMATION IS CREDIBLE, IS DERIVED FROM PROPERTIES OR CIRCUMSTANCES THAT ARE SUBSTANTIALLY COMPARABLE TO THE PROPERTY AND IS VALID UNDER THE INCOME METHOD.

(c) THE REVIEWING BODY shall specify in its written order what other ~~factors were~~ INFORMATION WAS considered, the manner in which ~~they were~~ IT WAS applied, and the change in the ~~final value~~ VALUATION UNDER THE INCOME METHOD, if any, resulting from the use of such other ~~factors~~ INFORMATION.

2. THE REPLACEMENT COST LESS DEPRECIATION METHOD PURSUANT TO SUBSECTION B OF THIS SECTION.

3. 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.

F. ALL INFORMATION THAT A TAXPAYER SUBMITS PURSUANT TO THIS SECTION IS CONFIDENTIAL PURSUANT TO SECTION 42-108.

~~E.~~ G. A valuation technical advisory committee is established to meet at the call of the director of the department in August, 1982 and every third August thereafter. The committee is organized and shall operate as follows:

1. The committee consists of the following five members:

(a) One member from the department selected by the director.

(b) The assessor or ~~his~~ THE ASSESSOR'S representative from each county with a population exceeding five hundred thousand persons according to the 1980 United States decennial census.

(c) An assessor from a county not included in subdivision (b) of this paragraph selected by the director.

(d) A member of the legislature selected for each triennial meeting alternatively by the speaker of the house of representatives and the president of the senate. ~~The first member shall be from the house of representatives.~~

2. The committee shall:

(a) Determine average differences in valuations for similar size and age shopping centers which result from the two valuation methods prescribed in subsections ~~A~~ B and ~~B~~ C of this section from which the committee shall develop a schedule of obsolescence factors which can be added to the depreciation schedule used in the valuation method prescribed in subsection ~~A~~ B of this section. County assessors shall incorporate the obsolescence factors into the depreciation schedule.

(b) Develop the obsolescence factors prescribed by subdivision (a) of this paragraph based on statistical research in order to, on average, equalize the valuations resulting from the two valuation methods prescribed by subsections ~~A~~ B and ~~B~~ C of this section. The committee may use data from state sources, nationally recognized publications and journals and other related research. The committee may also hear testimony from interested individuals and taxpayers. No taxpayer may be compelled to provide information to the committee but may do so voluntarily.

(c) ~~Beginning with the 1984 meeting,~~ Review the valuation procedures used pursuant to this section and the resulting valuations and propose recommended changes to the governor and the legislature by the following January 15.

~~F.~~ H. For the purpose of this section:

1. Any part of the land of the shopping center which is limited by a zoning requirement or contractual covenant to parking or common area use shall be valued on the assumption that no other use is possible.

2. "Shopping center" means 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 of 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.

~~G.~~ I. The director may prescribe rules~~, regulations~~ and forms necessary to implement this section.

Sec. 3. Retroactivity

Section 42-147, Arizona Revised Statutes, as amended by this act, applies retroactively to taxable years beginning from and after December 31, 1995.

APPROVED BY THE GOVERNOR MAY 2,1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2,1996