

Santos Law Office, P.L.L.C.
Arizona State & Local Tax Law and Litigation

Positioning your Client to Benefit from Arizona's Agricultural Property Tax Incentive

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Agenda

- Special Guest Introductions
- Overview of Arizona's Agricultural Property Tax Incentive
- Preparing an Application for Agricultural Classification & Valuation
- Yearly Compliance Reviews and Best Practices
- Appealing a Denial of Agricultural Classification & Valuation
- Strategies When Your Client Fails to Timely Apply
- Questions & Discussion

Special Guest Introductions

- **Hon. Keith E. Russell, MAI, Maricopa County Assessor**
 - Mr. Russell's office administers the largest agricultural classification & valuation program in the state.
 - Mr. Russell is in his second term as Maricopa County Assessor.
 - Before being elected, Mr. Russell was a commercial appraiser and still holds the designation of MAI – Member of the Appraisal Institute.
- **Hon. Heather Carter, Arizona State Representative, LD-7**
 - Representative Carter represents Legislative District 7—the Cave Creek, Carefree, North Scottsdale and North Phoenix area.
 - Last session, Representative Carter introduced H.B. 2552, which was passed by the Legislature and signed by the Governor.
 - H.B. 2552 extends agricultural classification & valuation to commercial breeding, raising, boarding or training of equine.

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Overview of Arizona's Agricultural Property Tax Incentive

- **The Players**

- Property Owner: The property owner is seeking to lower property tax liability by applying for agricultural classification & valuation. The property owner is sometimes the agricultural operator.
- Agricultural Operator: The agricultural operator is seeking land to engage in an agricultural activity, such as farming or ranching.
- County Assessor's Office: The county assessor's office reviews and issues decisions on agricultural classification & valuation applications.

- **The Law**

- Statutory Law
 - Classification: A.R.S. §§ 42-12151 to 42-12159
 - Valuation: A.R.S. §§ 42-13101 to 42-13102

Overview of Arizona's Agricultural Property Tax Incentive

- **The Law (cont.)**
 - Administrative Law
 - Agricultural Property Manual (Jan. 1, 2004)
 - Maricopa County Agricultural Classification Policy (Feb. 2, 2010)
 - Maricopa County Rancher Directory (2012 Tax Year)
- **Defining Agricultural Real Property**
 - Not all agricultural uses qualify for agricultural classification and valuation.
 - A.R.S. § 42-12151 lists the qualifying agricultural uses.
 - Note: The Arizona Department of Revenue provides further guidance on the meaning of these qualifying agricultural uses in the Agricultural Property Manual.

Overview of Arizona's Agricultural Property Tax Incentive

- **Defining Agricultural Property**

Qualifying Use	A.R.S. Citation	Ag. Manual Citation
Cropland	A.R.S. § 42-12151(1)	1.6, 2.4
Permanent Cropland	A.R.S. § 42-12151(2)	1.6, 2.3
Grazing Land	A.R.S. § 42-12151(3)	1.8, 2.4-2.5
High Density	A.R.S. § 42-12151(4)	1.9, 2.5-2.6
Cotton Processing	A.R.S. § 42-12151(5)	2.7
Wine Grape Processing	A.R.S. § 42-12151(6)	2.7
Citrus Processing	A.R.S. § 42-12151(7)	2.8
Fruit & Veget. Processing	A.R.S. § 42-12151(8)	2.8
Milk Processing	A.R.S. § 42-12151(9)	2.9

Overview of Arizona's Agricultural Property Tax Incentive

- **Criteria for Agricultural Classification**

- Three Components

- Qualifying Use: A.R.S. § 42-12151
 - Statutory Criteria Satisfied: A.R.S. § 42-12152
 - Taxpayer Applies: A.R.S. § 42-12153

- Qualifying Use

- Discussed in previous slides.

- Statutory Criteria

- Primary use of the property is a qualifying use. A.R.S. § 42-12152 (A)(1).
 - The property has been in active agricultural production for 7 of the last 10 years. A.R.S. § 42-12152(A)(1).

Overview of Arizona's Agricultural Property Tax Incentive

- **Criteria for Agricultural Classification**

- Statutory Criteria (cont.)

- There is a reasonable expectation of operating profit, exclusive of land costs, from the agricultural use of the property. A.R.S. § 42-12152(A)(2).
 - Additional criterion if the property consists of non-contiguous parcels. A.R.S. § 42-12152(A)(3).
 - The noncontiguous parcels must be managed and operated on a unitary basis and each parcel must make a functional contribution to the agricultural use of the property.

- Authority to Approve Nonconforming Property

- The county assessor may approve an application that would otherwise fail to meet the statutory criteria in certain circumstances.

Overview of Arizona's Agricultural Property Tax Incentive

- **Criteria for Agricultural Classification**

- Authority to Approve Nonconforming Property (cont.)

- Three Reasons

- The land area of the property is less than the land area required for the qualifying agricultural use.
 - The agricultural operation will be operated with less than the minimum number of animal units required for the qualifying agricultural use.
 - The agricultural operation has been in commercial agricultural operation for less than seven of the last ten years.

Preparing an Application for Agricultural Classification & Valuation

- **Documents**

- Agricultural Land Use Application (ALUA) - Attached
- Statement of Agricultural Land Lease (SALL) - Attached
- Supporting Materials
 - Financial Information from the agricultural operator for the past three (3) years.
 - Records showing the sale or production of the agricultural commodity.
 - A narrative about the agricultural operation including planting and harvesting plans and schedules.
 - Proof of payment for the water source.
 - Aerial photographs of the property on the date of valuation.

Preparing an Application for Agricultural Classification & Valuation

- **Maricopa County Assessor's Agricultural Policy - Attached**
 - The Policy provides, in detail, the documents that the Maricopa County Assessor's Office is looking for in reviewing and approving agricultural classification & valuation applications.
 - Follow the Policy to minimize surprises and keep an open dialogue with the Maricopa County Assessor's Agricultural Division.

Yearly Compliance Reviews and Best Practices

- **Yearly Compliance Reviews**
 - Crop Schedule from Farmer
 - If your client is farming the property, obtain a crop schedule (planting/harvest) from the farmer.
 - Cause photographs to be taken during planting and harvesting.
 - Submit these photographs and the crop schedule to the county assessor yearly for the purpose of proving continued agricultural activity.
 - While not required, this step will minimize the risk of an accidental loss of agricultural classification & valuation – a costly exercise.
 - Ranching
 - Be sure to document when and how many cattle are being grazed on the property.

Yearly Compliance Reviews and Best Practices

- **Yearly Compliance Reviews**
 - Ranching (cont.)
 - Again, while not required, this step will minimize the risk of an accidental loss of agricultural classification & valuation – a costly exercise.
 - Also, be sure to review the rancher's other lease holdings. Often, your client will be relying upon the continued ranching of other acreage by the rancher to fulfill the minimum acreage requirement for the ranching classification.

Yearly Compliance Reviews and Best Practices

- **New Application Triggering Events**
 - Sale of the Property
 - New ALUA: Arizona law provides that “[i]f the ownership of a property changes, an agricultural use application form must be filed by the new owner within sixty days after the change in ownership to maintain the agricultural use status.” A.R.S. § 42-12153(B).
 - New SALL & Copy of Lease: If the sale of the property also results in a change in the lease or rental agreements (always will), a new SALL and a copy of the new lease or rental agreement must be filed “within three months after the change or before January 31, whichever is later.” A.R.S. § 42-13102(C).

Appealing a Denial of Agricultural Classification & Valuation

- **Process for Issuing Denial**

- A.R.S. § 42-12155(B) – “If the assessor disapproved the agricultural classification, the assessor shall notify the owner of the reason for disapproval within one hundred twenty days of the application.”
- Query: The Legislature did not provide for a consequence in the event the county assessor fails to disapprove the ALUA in 120 days. Constructive approval, perhaps?

- **Appealing a Denial**

- A.R.S. § 42-12155(B) – “The owner may appeal the decision of the assessor as prescribed by chapter 16, article 2 or 5 of this title.”
- Translation: Appeal to the assessor’s office (60 days from notice) or to the Tax Court (by Dec. 15th) from the notice of valuation indicating a non-agricultural value.

Strategies When Your Client Fails to Timely Apply

- **Failure to Apply & Appeal Rights**

- Your client may appeal the valuation and classification of their property and seek agricultural classification & valuation as a remedy regardless of whether the taxpayer filed an ALUA. A.R.S. § 42-12153(B).
- A.R.S. § 42-12153(B) – “The owner or agent may appeal the classification as prescribed by chapter 16, article 2 or 5 of this title regardless of whether the owner or agent filed an application form.”

- **Preparing the Appeal**

- Since your client didn't timely apply, include the ALUA, SALL, and all supporting documents in your appeal.
- The assessor's office will treat the appeal like a timely filed application and review the same.



Questions & Discussion