



Proposition 117 and the Valuation Appeal Process

Jodi Bain • published in the January 2014 issue

What It Is. Owners and managers know that property tax is habitually a component of overhead expense. As a result, a property's valuation—a component in computing property taxes — remains under the microscope more than ever as property owners and managers continue to seek ways to control, anticipate and reduce expenses. Proposition 117 will change how Arizona property taxes are calculated on a property's valuation.

In November 2012, Arizona voters approved a constitutional amendment known as 'Proposition 117'. Starting in calendar year 2014 (for the 2015 tax year), Prop 117 is set to impose a 5% increase cap on a key component of the tax valuation for most properties (as implemented by statute). This affects the 2015 tax year valuations and property taxes.

Exceptions and Pitfalls. Prop 117 does not mean that your actual property taxes are limited to a 5% increase. First, Prop 117 exceptions do exist and should be closely monitored. For example Prop 117 does not apply to properties that have changes in use, new construction, tenant improvements, demolition, parcel splits, combinations and a handful of other matters. Secondly, Prop 117 did not limit tax rate escalations. It merely limited the increase in a component of property valuation. The various taxing districts are able to set higher tax rates each year based on their budgets and voter-approved bonds and over-rides. Consulting a knowledgeable property tax adviser can save property owners and managers costs as a result of these changes in the law.

Prop 117's implementation. Prop 117's implementation begins in calendar year 2014, when the 2015 tax year valuations for property tax purposes are released. Valuations are customarily mailed by the county assessor to the taxpayer/owner. In Pima County, mailings have historically occurred in late January or early February. Beginning with the 2015 tax year, a property's noticed market valuation (also known as the Full Cash Value or FCV) will no longer be used in the calculation of property taxes.

Properties should continue to receive a noticed market valuation (FCV). However, property taxes are now expected to be calculated on what is known as the Limited Property Value (LPV). A well-versed property tax adviser can assist owners and property managers with avoiding the pitfalls of property tax technicalities and Prop 117 implementation matters going forward.

In light of the unknowns of Prop 117 implementation, owners remain fortunate that Arizona has a tax valuation appeal system. The system allows property owners or their agents to file an appeal petition for review of a property's valuation and the lowering property tax.

It is noteworthy that under the new law, an appeal filed in calendar year 2014 for the 2015 tax year may result in limiting the increases in the LPV for the 2016 tax year! This means successfully appealing a valuation for tax year 2015 now, may provide potential savings over a two year period.

How the Appeal Process Works. The tax valuation appeal filing deadline is 60 days from the date the 2015 tax year Notices of Value for real property are mailed by the local assessor to property owners. Again, this mailing generally occurs late January to early February.

If no petition for review is filed with this 60-day window, the valuation noticed by the assessor is used to establish the tax bill for that property parcel(s) for the following year. As the Notice of Value occurs one year prior to the tax year in which property taxes are billed and due, the notices sent out early 2014 are the notices for taxes actually due beginning in calendar year 2015.

If a petition for review is filed with the Assessor, it must be based on the income, market or cost approach. A meeting with the Assessor may be requested by the appeal petitioner or their agent to present why the property is overvalued and provide the Assessor with evidence in support of the owner's position.

Following the receipt of the Assessor's written decision, the owner may choose to either accept the Assessor's meeting decision or to appeal the matter to the State Board of Equalization ("SBOE"). If the petition is appealed, the SBOE will schedule a hearing for both the Assessor and the owner/agent to present their evidence. At the hearing, the Assessor and the owner/agent offer testimony regarding the appropriateness of the tax valuation.

Depending on the amount of the tax valuation, the SBOE consists of either a single hearing officer or a three-member panel. Each party has approximately ten to twenty minutes to make their presentation and submit data evidence such as maps, photographs, sales data, income/expense data, etc. in support of its position. The SBOE then deliberates and makes a ruling at the hearing.

If either party is dissatisfied with the SBOE's decision, they may elect to file a lawsuit with the Arizona Tax Court appealing the SBOE's decision. The lawsuit must be filed within 60 days of the mailing date of the SBOE's decision. However, due to the intricacies and costs of tax litigation, only a small percentage of tax appeal cases are filed with the Tax Court.

Take Aways. Prop 117 implementation introduces a new methodology to property taxation in Arizona as of January 1, 2014. Significant exceptions and pitfalls do exist. In today's marketplace, property tax advisers often work on a blended fee and contingency basis. As a result, there is usually little "down side" in having a property's tax valuation evaluated to determine if it falls into a new exception area. Or, if an appeal is merited.

Remember, Prop 117 does not limit your actual property taxes to a 5% increase. A well-informed property tax adviser may assist in the planning process and anticipating exception implications. Meanwhile, a reduction in property valuation can noticeably reduce overall taxes and a key expense burden. Often, the result is reducing or maintaining your bottom-line.

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