

Correcting Property Tax Errors



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Correcting Property Tax Errors

Legislation was adopted in 1994 to provide a simple and expedient procedure to correct errors occurring in either assessing or collecting property taxes. Such corrections are to be performed whether to the owner's or to the taxing authority's benefit. Prior legislation did not provide satisfactory procedures, resulting in conflicting court interpretations of the law.

The purpose of the legislation was to provide a mechanism that would be acceptable to both property owners and taxing authorities. As a practical matter, any error correction has certain limitations. A time limit is prescribed within which claims may be asserted and after which any error correction would be prohibited. The statutes governing property tax assessment or collection error correction procedures are A.R.S. [42-16251](#) through [42-16258](#).

This assessment and collection error correction procedure is **not** a substitute for the appeals process. The appeals process is used when the owner disagrees with the Assessor's or the Department's opinion of a property's value or its legal classification (or if the Assessor or Department disagree with a decision issued by either a County Board of Equalization or the State Board of Equalization). Property value and classification determinations require the use of discretion and judgment, and are matters of opinion on the part of the local County Assessor or the Department. Disagreements regarding value and classification should not be treated as errors, but should be appealed pursuant to Title 42, Chapter 16, Articles 2, 3, 4 or 5, or Chapter 19, Article 2.

An assessment or collection error, in comparison, must be exclusively factual in nature, must be objectively verifiable without the exercise of discretion, opinion or judgment, and must be demonstrated by clear and convincing evidence. However, if an administrative or judicial appeal is pending, pursuant to A.R.S. [42-16255\(B\)](#), an alleged error shall be adjudicated as part of the administrative or judicial appeal. The County Assessor, the Department, or any reviewing body must use the valuation criteria that were in effect on the valuation date, when valuing any property with respect to

correcting property tax assessment or collection errors, pursuant to Title 42, Chapter 16, Article 6. A.R.S. [42-16257](#).

A.R.S. [42-16251\(3\)](#) defines a property tax assessment or collection error as follows:

“Error” means any mistake in assessing or collecting property taxes resulting from:

- a) An imposition of an incorrect, erroneous or illegal tax rate that resulted in assessing or collecting excessive taxes.
- b) An incorrect designation or description of the use of property or its classification pursuant to chapter 12, article 1 of this title.
- c) Applying the incorrect assessment ratio percentages prescribed by chapter 15, article 1 of this title.
- d) Misreporting or failing to report property if a statutory duty exists to report the property.
- e) Subject to the requirements of section [42-16255\(B\)](#), a valuation that is based on an error that is exclusively factual in nature or due to a specific legal restriction that affects the subject property and that is objectively verifiable without the exercise of discretion, opinion or judgment and that is demonstrated by clear and convincing evidence, such as:
 - i) A mistake in the description of the size, use or ownership of land, improvements or personal property.
 - ii) Clerical or typographical errors in reporting or entering data that was used directly to establish valuation.
 - iii) A failure to timely capture on the tax roll a change in value caused by new construction, destruction, demolition or splitting or consolidating interests in real property existing on the valuation date.
 - iv) The existence or nonexistence of the property on the valuation date.
 - v) Any other objectively verifiable error that does not require the exercise of discretion, opinion or judgment.”

The following examples are **not** included in the meaning of the term “error”:

- a) Typical valuation and classification issues which involve the application of discretion, opinion or judgment. These require an independent review of the overall valuation of the property and are handled by the appeals process.
- b) Corrections that result from a change in the law as a result of a final nonappealable ruling by a court of competent jurisdiction in a case that does not involve the property for which a correction is claimed.
- c) A failure to file the forms in a timely manner as required by statute which provide the owner with a more favorable tax status, such as qualified agricultural status, or to achieve a tax exempt status.

Notice of Proposed Correction

The Notice of Proposed Correction is a notification provided by the County Assessor or the Department to a property owner in cases where any real or personal property has been improperly assessed because of a property tax error. It must be on a form prescribed by the Department (DOR 82179A for single parcels and DOR 82179AA for multiple parcels for real property, and DOR 82179P for personal property) and sent to the owner's last known mailing address.

The notice is to be sent by certified mail, return receipt requested, if correction of the error results in an increase in the valuation of the property. It may be sent by regular mail if correction of the error does not result in an increase in the valuation. This procedure is specified in A.R.S. [42-16252](#).

This Notice of Proposed Correction must:

- a) Clearly identify the subject property by tax parcel number or tax roll number and the year or years for which the error correction is proposed.
- b) Explain the error, the reasons for the error and the proposed correction of the error.
- c) Inform the owner of the procedure and deadlines for appealing all or part of the proposed determination before the tax roll is corrected.

The owner may file a written response with the taxing authority that sent the notice to either consent to or dispute the proposed correction and state the grounds for disputing the correction. If the owner of real property consents to the proposed correction in part and disputes the valuation issue(s) arising from the correction, the response must state the method(s) of valuation on which the owner bases the determination of value. If the appeal is based on:

1. The market approach, the response shall include the full cash value for at least one (1) comparable property within the same geographic area as the property in question or the sale of the property in question.
2. The cost approach, the response shall include all costs (including architectural fees, construction finance costs, builder's profit, etc.) to build or rebuild the improvement(s), plus the land value.
3. The income approach, the response shall include a completed and notarized Income and Expense Statement (DOR [82300](#)).

Failure to file a written response within thirty days of receipt of the notice constitutes consent to the proposed correction unless the owner requests an extension of time within the same thirty days after receipt of the notice. If the extension is granted by the taxing authority, any owner response not filed within the extended due date constitutes owner consent to the proposed correction.

If an owner of real property consents to the proposed correction, the tax roll shall be promptly corrected to allow property taxes to be levied and collected, but no tax, interest or penalty may be imposed for any tax year preceding the date of the Notice of Proposed Correction. If requested by the owner, the County Assessor or the Department, whichever sent the notice, shall meet with the owner or owner's representative in any case in which the owner has timely filed a written response disputing the proposed correction.

If the parties fail to agree on all or part of the proposed correction, the County Assessor or the Department shall serve a notice on the owner by certified mail advising the owner that the error will be corrected within forty-five days unless the owner files an

appeal with the County Board of Equalization, if one is established in the county, or, should no County Board of Equalization be established in that county, with the State Board of Equalization. If the owner fails to file the petition with the County Board or the State Board of Equalization, whichever appropriate, within thirty days after the notice is mailed, the appeal is barred.

Any taxes assessed are delinquent if not paid within sixty days after the date the supplemental billing is mailed to the owner. If taxes were overpaid, these taxes shall be refunded with interest as provided by law within ninety days after correction of the tax roll. The County Assessor or the Department must include an appeals petition form with any such notice and an explanation of the appeals process. Petition for Review of Proposed Correction (DOR [82179C](#)) is the appeal form the owner should use. Pursuant to A.R.S. [42-16252](#), the owner may appeal valuation issues that arise from the proposed correction.

The County Board or State Board of Equalization must hold a hearing on the proposed correction within thirty days and issue a written decision pursuant to the Board's rules. Any party dissatisfied with the decision of the County Board or State Board of Equalization may appeal that decision to the Court within sixty days after the date the County Board of Equalization mails its decision, or within sixty days after the date of the State Board of Equalization's written decision. Any additional taxes that were determined to be due must be paid in a timely manner before they become delinquent in order for the Court to have jurisdiction over the matter.

Self-Reporting of Personal Property Tax Error

If an owner whose personal property taxes have been assessed in error reports the error to the taxing authority prior to receipt of a Notice of Proposed Correction, no penalty may be applied. The tax roll shall be corrected in order to levy and collect the property taxes due for the period affected by the error. A.R.S. [42-16253](#).

Taxpayer Notice of Claim

The Taxpayer Notice of Claim is a notification supplied by the owner to the appropriate tax officer in cases where the owner feels the property has been assessed improperly due to a property tax error. This notice of claim shall be filed as follows:

1. If the alleged error concerns the valuation or classification of the property by the County Assessor, the notice shall be filed with the County Assessor.
2. If the alleged error concerns the valuation or classification of the property by the Department, the notice shall be filed with the Department.
3. If the alleged error concerns the imposition of any tax rate, the notice shall be filed with the County Board of Supervisors.

This notice must be on a form prescribed by the Department (DOR [82179B](#) for single parcels and DOR [82179BB](#) for multiple parcels for real property, and DOR [82179PT](#) for personal property) and must be filed in person or by certified mail. This procedure is specified in A.R.S. [42-16254](#). The notice of claim must:

- a) Clearly identify the subject property tax parcel number or tax roll number and the year or years for which the correction is proposed.
- b) State the claim and the evidence to support the claim for error correction.

The tax officer may file a written response to the owner within sixty days of receipt of the Taxpayer Notice of Claim, either consenting to or disputing the error. The grounds for disputing the error must be stated. Failure to file a written response to the owner within sixty days constitutes consent to the claim and the County Board of Supervisors shall direct the County Treasurer to correct the tax roll on the owner's written demand. This written demand must be accompanied by proof of the date of the Taxpayer Notice of Claim and show that the tax officer failed to dispute the claim of error within the sixty day time period that is specified.

If the tax officer disputes the error, the tax officer shall notify the owner of the time and date for a meeting between a representative of the tax officer and either the owner or a representative of the owner. If, after the meeting, the parties agree on all or part of the

proposed correction, the Board of Supervisors shall direct the County Treasurer to correct the tax roll to the extent agreed, and any taxes that have been overpaid shall be refunded with interest as provided by law within ninety days after the tax roll is corrected or pursuant to A.R.S. [42-16214](#). Any additional taxes owed by the owner shall be assessed by supplemental billing plus interest as provided by law and such taxes are delinquent if not paid with sixty days after the date the supplemental billing is mailed to the owner.

If the parties fail to agree to all or part of the proposed correction, the owner may file a Petition for Review of Taxpayer Notice of Claim (DOR [82179C-1](#) or [82179CP-1](#)) with the County Board or State Board of Equalization, whichever is appropriate, and shall send a copy to the tax officer by certified mail. This petition must be filed within one-hundred-fifty days after the notice of claim was filed or it is barred. On receiving the petition the County Board or the State Board of Equalization must hold a hearing on the proposed correction within thirty days and issue a written decision pursuant to the County or State Board's rules. Any party that is dissatisfied with the County Board of Equalization's decision may appeal to the Court within sixty days after the County Board's decision is mailed. Any party dissatisfied with the State Board of Equalization's decision may appeal to the Court within sixty days after the date of the Board's written decision. Any additional taxes determined by the County or State Board to be due must be paid before becoming delinquent. In addition, in order for an owner to recover a refund for taxes paid in a preceding tax year as a result of the error, all taxes levied and assessed against the property for the tax year must be paid before delinquency in order for the Court to retain jurisdiction over the matter.

Evidence That May be Considered at Hearings

At any hearing before the County Board or State Board of Equalization, or the Court, any of the parties may present any evidence regarding property tax errors regardless of whether a Notice of Proposed Correction or Taxpayer Notice of Claim was filed. The County and State Boards of Equalization or the Court has jurisdiction to make any such correction. The Arizona Revised Statutes relating to correction of property tax errors do

not authorize an independent review of the overall valuation or classification of property that could have been appealed pursuant to A.R.S. [42-14005](#), [42-16051](#), [42-16052](#), [42-16158](#) or [42-16204](#). However, if an administrative or judicial appeal is pending regarding the subject property, the alleged error in assessment or collection shall be adjudicated as part of the administrative or judicial appeal for the affected tax year.

Time Limitations – Real and Personal Property

There are limitations on the time period for which corrections of property tax assessment or collection errors can be made. These limitations are specified in A.R.S. [42-16256](#). These are as follows:

- a) In the case of real or personal property, corrections of errors are limited to the period during which the current owner of record held title, so long as the owner is a good faith purchaser and is without notice of any assessment or collection error when purchasing the property that would have enabled correction proceedings to have been initiated when the owner purchased the property.
- b) Except as provided for in subsection (c), no Notice of Proposed Correction or Taxpayer Notice of Claim may be filed to correct an error that occurred more than three tax years before the Notice of Proposed Correction or Taxpayer Notice Claim is mailed or filed. To determine this three year period:
 1. If the notice is mailed or filed after the third Monday in August, the three year period is the current tax year and the two immediately preceding tax years.
 2. If the notice is mailed or filed on or before the third Monday in August, the three year period is the three immediately preceding tax years.
- c) If a specific assessment or collection error involving a particular property is established by a final nonappealable ruling by a court of competent jurisdiction in favor of the party bringing the action, the error may be corrected as of the date the action was filed or as of the date a Notice of Proposed Correction or Taxpayer Notice of Claim was filed, whichever is earlier. No additional assessment or refund for any time period before that date is permitted.