Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 87

HOUSE BILL 2346

AN ACT

AMENDING SECTIONS 42-11132, 42-11153, 42-12001 AND 42-12009, ARIZONA REVISED STATUTES; RELATING TO PROPERTY TAX CLASSIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 42-11132, Arizona Revised Statutes, is amended to read:

42-11132. Property leased to an educational institution

A. Property, buildings and fixtures that are ~~owned by an educational, a religious or a charitable organization, institution or association and~~ leased to a not for profit ~~educational organization, institution or association are exempt from taxation if the property is~~ CHARTER SCHOOL AND THAT ARE used for educational instruction in any grade or program through grade twelve SHALL BE CLASSIFIED AS CLASS NINE PROPERTY PURSUANT TO SECTION 42-12009. IF ONLY PART OF A PARCEL OF REAL PROPERTY OR IMPROVEMENTS TO REAL PROPERTY IS LEASED FOR OPERATION OF A CHARTER SCHOOL, ONLY THE PORTION SO LEASED QUALIFIES AS CLASS NINE PROPERTY.

B. PROPERTY, BUILDINGS AND FIXTURES THAT ARE OWNED BY AN EDUCATIONAL, A RELIGIOUS OR A CHARITABLE ORGANIZATION, INSTITUTION OR ASSOCIATION AND LEASED TO A NOT FOR PROFIT EDUCATIONAL ORGANIZATION, INSTITUTION OR ASSOCIATION ARE EXEMPT FROM TAXATION IF THE PROPERTY IS USED FOR EDUCATIONAL INSTRUCTION IN ANY GRADE OR PROGRAM THROUGH GRADE TWELVE.

~~B.~~ C. If the educational, religious or charitable organization, institution or association that owns the property files with the assessor evidence of the organization's tax exempt status under section 501(c)(3) of the internal revenue code and an affidavit by the educational organization, institution or association that it uses the property for educational instruction as described in subsection ~~A~~ B of this section, the property qualifies for the tax exemption under this section and is exempt from the requirement of filing subsequent affidavits under section 42-11152 until all or part of the property is conveyed to a new owner or is no longer used for educational purposes. At that time the religious or charitable organization, institution or association must notify the assessor of the change in writing.

Sec. 2. Section 42-11153, Arizona Revised Statutes, is amended to read:

42-11153. Deadline for filing affidavit

A. Except as provided in section 42-11104, subsection E, section 42-11109, subsection B, section 42-11110, subsection B, section 42-11111, subsection H, section 42-11131, subsection C and section 42-11132, subsection ~~B~~ C, a failure by a taxpayer who is entitled to an exemption to make an affidavit or furnish evidence required by this article between the first Monday in January and March 1 of each year constitutes a waiver of the exemption.

B. If a widow, widower or disabled person whose property is exempt from tax under section 42-11111, or an organization that is exempt from federal income tax under section 501(c) of the internal revenue code and is exempt from property tax under article 3 of this chapter, submits a petition after the deadlines prescribed by subsection A of this section, the person or organization may have the waiver redeemed by the county board of supervisors

at any regular meeting, except that no taxes that were due and payable before the petition was submitted may be refunded or abated.

Sec. 3. Section 42-12001, Arizona Revised Statutes, is amended to read:

42-12001. Class one property

For purposes of taxation, class one is established consisting of the following subclasses:

1. Producing mines and mining claims, personal property used on mines and mining claims, improvements to mines and mining claims and mills and smelters operated in conjunction with mines and mining claims that are valued at full cash value pursuant to section 42-14053.

2. Standing timber that is valued at full cash value.

3. Real and personal property of gas distribution companies, electric transmission companies, electric distribution companies, combination gas and electric transmission and distribution companies, companies engaged in the generation of electricity and electric cooperatives that are valued at full cash value pursuant to section 42-14151.

4. Real and personal property of airport fuel delivery companies that are valued pursuant to section 42-14503.

5. Real and personal property that is used by producing oil, gas and geothermal resource interests that are valued at full cash value pursuant to section 42-14102.

6. Real and personal property of water, sewer and wastewater utility companies that are valued at full cash value pursuant to section 42-14151.

7. Real and personal property of pipeline companies that are valued at full cash value pursuant to section 42-14201.

8. Real and personal property of shopping centers that are valued at full cash value or pursuant to chapter 13, article 5 of this title, as applicable, OTHER THAN PROPERTY THAT IS INCLUDED IN CLASS NINE.

9. Real and personal property of golf courses that are valued at full cash value or pursuant to chapter 13, article 4 of this title.

10. All property, both real and personal, of manufacturers, assemblers or fabricators valued under ~~the provisions of~~ this title.

11. Real and personal property that is used in communications transmission facilities and that provides public telephone or telecommunications exchange or interexchange access for compensation to effect two-way communication to, from, through or within this state.

12. Real property and improvements that are devoted to any other commercial or industrial use, other than property that is specifically included in another class described in this article, and that are valued at full cash value.

13. Personal property that is devoted to any other commercial or industrial use, other than property that is specifically included in another class described in this article, and that is valued at full cash value.

Sec. 4. Section 42-12009, Arizona Revised Statutes, is amended to read:

42-12009. Class nine property

A. For purposes of taxation, class nine is established consisting of:

1. Improvements that are located on federal, state, county or municipal property and owned by the lessee of the property if:

(a) The improvements become the property of the federal, state, county or municipal owner of the property on termination of the leasehold interest in the property.

(b) Both the improvements and the property are used primarily for athletic, recreational, entertainment, artistic, cultural or convention activities.

2. Improvements that are located on federal, state, county or municipal property and owned by the lessee of the property if:

(a) The improvements become the property of the federal, state, county or municipal owner of the property on termination of the leasehold interest in the property.

(b) Both the improvements and the property are:

(i) Used for or in connection with aviation, including hangars, tie-downs, aircraft maintenance, sales of aviation related items, charter and rental activities, parking facilities and restaurants, stores and other services located in a terminal.

(ii) Located on a state, county, city or town airport or a public airport operating pursuant to sections 28-8423, 28-8424 and 28-8425.

3. Property that is defined as "contractor-acquired property" or "government-furnished property" in the federal acquisition regulations (48 Code of Federal Regulations section 45.101) and that is leased to or acquired by the government and used to perform a government contract.

4. Property of a corporation that is organized by or at the direction of this state or a county, city or town to develop, construct, improve, repair, replace or own any property, improvement, building or other facility to be used for public purposes that the state, county, city or town pledges to lease or lease-purchase with state, county or municipal special or general revenues and that is not otherwise exempt under chapter 11, article 3 of this title.

5. REAL PROPERTY AND IMPROVEMENTS, INCLUDING LAND, BUILDINGS, FURNITURE AND EQUIPMENT, REGARDLESS OF OWNERSHIP, THAT ARE LEASED FOR THE ENTIRE VALUATION YEAR TO, AND USED EXCLUSIVELY BY, A NONPROFIT ORGANIZATION THAT IS RECOGNIZED UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE AND THAT OPERATES ON THE PREMISES AS A CHARTER SCHOOL PURSUANT TO SECTION 15-183. IF ONLY PART OF A PARCEL OF REAL PROPERTY OR IMPROVEMENTS TO REAL PROPERTY IS LEASED FOR OPERATION OF A CHARTER SCHOOL AS PROVIDED BY THIS PARAGRAPH, ONLY THE PORTION SO LEASED QUALIFIES FOR CLASSIFICATION UNDER THIS SECTION. A PROPERTY OWNER WHO LEASES PROPERTY TO A CHARTER SCHOOL SHALL FILE AN AFFIDAVIT WITH THE COUNTY ASSESSOR STATING THAT THE CHARTER SCHOOL SHALL BE

1 THE SOLE BENEFICIARY OF THE CHANGE IN PROPERTY TAX CLASSIFICATION PURSUANT TO
2 THIS SECTION AND THAT THE LEASE RATE THAT IS CHARGED TO THE CHARTER SCHOOL IS
3 CONSISTENT WITH THE LEASE RATES THAT ARE CHARGED TO OTHER TENANTS OF THE
4 PROPERTY OR A FAIR MARKET RATE.
5 B. Improvements that are located in an area defined as a research park
6 pursuant to section 35-701 may not be classified under this section.
7 C. All property classified as class nine is subject to valuation at
8 full cash value.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.