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Class Nine Property Classification for Property Leased to a Qualifying Charter School

Since 2008, Arizona law has provided an exemption from property tax for “[p]roperty and buildings, including land, improvements, furniture and equipment, that are owned by a nonprofit organization that is recognized under section 501(c)(3) of the internal revenue code and that operates as . . . [a] charter school pursuant to [A.R.S. §] 15-183 . . . if the property and buildings are used for education and are not used or held for profit.” A.R.S. § 42-11104(C)(1); 2008 Ariz. Legis. Serv. Ch. 252, § 1 (H.B. 2330). The property qualifies for the exemption “beginning on the date the nonprofit organization acquires ownership of [it].” A.R.S. § 42-11104(C)(1).

One year later in 2009, the Legislature provided class nine property classification to “[p]roperty, buildings and fixtures that are leased to a not for profit charter school and that are used for educational instruction in any grade or program through grade twelve.” A.R.S. § 42-11132(A); 2009 Ariz. Legis. Serv. Ch. 87, §§ 1, 3 (H.B. 2346). Section 42-11132(A) provides for partial class nine classification where “only part of a parcel of real property or improvements to real property is leased for operation of a charter school.” A.R.S. § 42-11132(A).

Class nine property classification is very advantageous for property owners and, in this case, charter school lessees, because the assessment ratio for class nine property is one percent, A.R.S. § 42-15009, versus the assessment ratios for other property types, which can be as high as twenty percent, see, e.g., A.R.S. § 42-15001(7). To qualify for class nine property classification pursuant to the charter school provision in A.R.S. § 42-11132(A), the property owner must “file an affidavit with the county assessor stating that the charter school shall be the sole beneficiary of the change in property tax classification pursuant to this section and that the lease rate that is charged to the charter school is consistent with the lease rates that are charged to other tenants of the property or a fair market rate.” A.R.S. § 42-12009(A)(5).

Domingos Santos of Santos Law Office, P.L.L.C. advises property owners on property tax issues and has represented property owners before local county assessors, the Arizona State Board of Equalization, the Arizona Tax Court, and the Arizona Supreme Court.