

SUBSTANTIVE POLICY STATEMENT  
NUMBER SBOE-24-001  
EFFECTIVE DATE JULY 22, 2024

THIS SUBSTANTIVE POLICY STATEMENT IS ADVISORY ONLY. A SUBSTANTIVE POLICY STATEMENT DOES NOT INCLUDE INTERNAL PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF THE AGENCY AND DOES NOT IMPOSE ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES OR INCLUDE CONFIDENTIAL INFORMATION OR RULES MADE IN ACCORDANCE WITH THE ARIZONA ADMINISTRATIVE PROCEDURE ACT. IF YOU BELIEVE THAT THIS SUBSTANTIVE POLICY STATEMENT DOES IMPOSE ADDITIONAL REQUIREMENTS OR PENALTIES ON REGULATED PARTIES YOU MAY PETITION THE AGENCY UNDER SECTION 41-1033, ARIZONA REVISED STATUTES, FOR A REVIEW OF THE STATEMENT.

Short Title: SBOE Jurisdiction Over the Appeal

The authority of the State Board of Equalization ("SBOE") to hear an appeal is dependent upon the petitioner complying with all statutory requirements for filing the appeal. The policy of the SBOE is to review each petition when received for statutory compliance. Following is a summary of policies regarding a petition filed with the SBOE in order for the SBOE to have jurisdiction.

1. The petition is filled out with all essential information and timely filed as required by statute.
2. The correct petition and supplemental forms, if required, are filed.
3. The petitioner has standing to appeal.
4. The parcel number(s) or account number on the petition filed with the SBOE are consistent with those in the petition filed with the assessor.
5. At least one Basis for Petition is checked and substantial information justifying the opinion of value is included with the petition when filed with the SBOE.
6. If the petition was not rejected by the assessor, a complete copy of the assessor's decision is included with the petition; except, in the case of a Supplemental / Amended (Notice of Change) appeal, a copy of the assessor's notice of change is included.
7. If the petition was rejected by the assessor, a complete copy of the rejection letter or letters and the rejected petition are included with the petition filed with the SBOE. Please refer to Substantive Policy Statement SBOE-04-008 regarding assessor rejections in A.R.S. § 42-16053.

8. If a property tax agent files the petition on behalf of the taxpayer, a completed Agency Authorization form is included with the petition.

The SBOE lacks jurisdiction for petitions that are incomplete as to the requirements shown in A.R.S. § 42-16051 or are not filed within the statutory limits, as applicable.

A summary of the reasoning and analysis used by the SBOE to create this policy is contained in the memorandum to board members dated June 4, 2024.

## MEMORANDUM

To: All Board Members  
CC: All Hearing Officers and Staff  
From: George R. Shook, Interim Chair  
Date: June 4, 2024  
RE: SBOE Jurisdiction

### BACKGROUND

The State Board of Equalization ("SBOE") receives taxpayer petitions for review of assessor's valuation and legal-classification decisions. In order for the SBOE to hear these appeals, taxpayers must comply with all statutory requirements. Petitions received by the SBOE are reviewed by staff prior to a hearing being scheduled. Any assessor rejections, exceeded time limits, or missing items must be addressed by the taxpayer.

### DISCUSSION

This memorandum reviews certain jurisdictional issues concerning appeals of the assessor's valuation and legal classification decisions for real property. When statutory requirements are not met by the petitioner, the SBOE is deprived of subject-matter jurisdiction over the appeal of an assessor decision. *Riley v. State*, 49 Ariz. 123, 126, 65 P.2d 32, 33 (1932), *overruled* on other grounds by *State v. Vallejos*, 87 Ariz. 119, 348 P.2d 554 (1960). A challenge to the SBOE's subject-matter jurisdiction may be raised at any time during the proceeding. *Health for Life Brands, Inc. v. Powley*, 203 Ariz. 536, 538 ¶¶ 11-13, 57 P.3d 726, 728-29 (App. 2002).

Following are jurisdictional issues reviewed by SBOE staff prior to an appeal being noticed for a hearing.

1. The petition is filled out with all essential information and timely filed as required by statute.

The SBOE receives taxpayer petitions under five appeal types:

- a. Valuation and legal classification of real property appeals. A.R.S. § 42-16056(C).
- b. Valuation and legal classification of personal property appeals. A.R.S. § 42-19052(A)(2).
- c. Supplemental Notice / Amended Notice appeals regarding real property. A.R.S. § 42-15105(2).

- d. Notice of Proposed Correction appeals regarding real or personal property. A.R.S. § 42-16252(G).
- e. Notice of Claim appeals regarding real or personal property. A.R.S. § 42-16254(F).

Valuation and legal classification of real property petitions must be filed with the SBOE within 25 days after the assessor's decision is mailed. A.R.S. § 42-16056(C). If the assessor's decision is a rejection of the petition mailed after June 15, the corrected petition must be filed with the SBOE within 15 days of the assessor's rejection notice being mailed. A.R.S. § 42-16053(2).

Valuation and legal classification of personal property petitions must be filed with the SBOE within 20 days after the assessor's decision is mailed. A.R.S. § 42-19052(C).

Supplemental Notice petitions, also known as a September Notice, must be filed with the SBOE within 25 days after the notice date on the assessor's Supplemental Notice. A.R.S. § 42-15105(2).

Notice of Proposed Correction petitions must be filed with the SBOE within 30 days of the date on the notice of the assessor's decision. A.R.S. § 42-16252(G).

Notice of Claim petitions must be filed with the SBOE within 90 days following the date of the meeting. A.R.S. § 42-16254(F).

The SBOE policy is to strictly enforce the statutory time limits in which to file the appeal. Once the completed petition with all required information and attachments is timely filed, the appeal is perfected and the SBOE will schedule the hearing. *Edwards v. Young*, 107 Ariz. 283, 284, 486 P.2d 181, 182 (1971) (finding the timely filing of an appeal is required for the court to take jurisdiction).

The essential information required for each petition form cited above is described in the instructions included with each form. If a defect is discovered in the petition submitted to the SBOE, it must be corrected prior to the time limit in order for the SBOE to have jurisdiction. Thus, these time limits are important for petitioners to address the issues discussed in Sections 2 through 7 below.

## 2. The correct petition and supplemental forms, if required, are filed.

Petitioners are required to use the correct form created by the Arizona Department of Revenue ("ADOR"). Following are the forms shown for each type of appeal and supplement along with the statute directing the ADOR to create each form.

- a. For valuation and legal classification of real property appeals, ADOR form 82130 is required for all real property, except for properties listed as Legal Class 3. For properties listed as Legal Class 3, ADOR form 82130R is required. A.R.S. § 42-16051(A) and (E).

- b. For valuation and legal classification of personal property appeals, ADOR form 82530 is required for all personal property. A.R.S. § 42-19051(A) (requiring an ADOR prescribed form for an appeal made to the assessor).
- c. For supplemental notice appeals, ADOR form 82130NC is required.
- d. For notice of proposed correction appeals. ADOR form 82179C is required for real property and ADOR form 82179CP is required for personal property. A.R.S. § 42-16252(G).
- e. For notice of claim appeals, ADOR form 82179C-1 is required for real property and ADOR form 82179PT is required for personal property. A.R.S. § 42-16254(F).

The ADOR publishes supplemental forms intended to accompany petitions in certain circumstances. When the petitioner selects Income Approach as a basis, specific forms are required. These will be discussed in Section 5 below. For taxpayers who hire a tax agent to represent them before the assessor and the SBOE, an agency authorization (form 82130AA) is required. A.R.S. § 42-16001(B)(1). For petitions with multiple parcels, ADOR forms are provided to list the additional parcel numbers.

The SBOE policy is that the use of the correct forms is required for an appeal to be perfected.

3. The petitioner has standing to appeal.

The term "standing" means that the petitioner has a sufficient stake in the matter to obtain the requested relief. Black's Law Dictionary 1405 (6th ed. 1990) (defining the legal term of art "standing to sue"). A party with a sufficient stake in the assessor's valuation and legal classification decisions is one that "owns, controls or possesses" the property. A.R.S. § 42-16056(D). In order for the SBOE to make a determination that the petitioner has standing to appeal, certain facts must be ascertained.

Proof of a petitioner's standing could include:

- a. a showing that the name of the petitioner matches the name shown for the parcel in the assessor's records;
- b. a copy of a deed showing that the petitioner owns the property if the assessor's records are not up to date;
- c. a lease agreement showing that the petitioner controls or possesses the property;
- d. a management agreement showing that the petitioner controls the property; or

- e. other objective evidence that the petitioner owns, controls or possesses the property.

The SBOE policy is that staff will review each petition and verify that taxpayer, as shown on the petition, is the owner as shown in the assessor's records. This is typically done using a parcel search on the assessor's website. If the petitioner is not the owner, then evidence that the petitioner controls or possesses the property must be supplied by the petitioner. The SBOE policy is that this evidence will be reviewed in a hearing to determine if the petitioner has standing to appeal.

- 4. The parcel number(s) or account number on the petition filed with the SBOE are consistent with those in the petition filed with the assessor.

Since the tax will be assessed against the property, it is essential that the property be correctly identified. *Santos v. Simon*, 60 Ariz. 426, 429, 138 P.2d 896, 897 (1943) (finding that Arizona property taxes are owed by the property). To ensure that the SBOE has jurisdiction over the parcels or account number in the appeal, the SBOE reviews the petition and attachments to verify that the parcels or account shown in the assessor's decision match the parcels or account on the petition filed with the SBOE. This review for each appeal type is described as follows:

- a. Valuation and legal classification appeals for real property. A.R.S. § 42-16056(C). The parcel number(s) on the petition are compared with the parcel number(s) shown on the assessor's decision notice.
- b. Valuation and legal classification appeals for personal property. A.R.S. § 42-19052(A)(2). The account number on the petition is compared with the account number shown on the assessor's decision notice.
- c. Supplemental Notice appeals. A.R.S. § 42-15105. The parcel number(s) on the petition are compared with the parcel number(s) shown on the assessor's notices of change as described in A.R.S. § 42-15105(1).
- d. Notice of Proposed Correction appeals. A.R.S. § 42-16252(G). The parcel number(s) or account number on the petition is compared with the parcel number(s) or account number shown on the assessor's notice issued following the meeting with the taxpayer.
- e. Notice of Claim appeals. A.R.S. § 42-16254(F). The parcel number(s) or account number on the petition are compared with the parcel number(s) or account number shown on the assessor's written response to the notice of claim.

The SBOE policy is that parcels appearing on the petition filed with the SBOE that do not also appear on the petition filed with the assessor or notice of change issued by the assessor as described above are not within the SBOE's jurisdiction and will not be included in the appeal. For personal property appeals, if the account number on the petition filed with the SBOE does not also appear on the petition filed with the assessor, the SBOE will reject the petition due to its lack of jurisdiction.

- 5. At least one Basis for Petition is checked and substantial information justifying the opinion of value is included with the petition when filed with the SBOE.

The purpose of the ADOR petition forms is to notify the assessor of the taxpayer's claim and to start the process for review. Arizona is a "notice pleading" state. *Cullen v. AutoOwners Ins. Co.*, 281 Ariz. 417, 180 P.3d 344 (2008) (examining the jurisdictional requirement to provide sufficient notice to an opponent at the beginning of a lawsuit). The petition must "give the opponent fair notice of the nature and basis of the claim and indicate generally the type of" claim. *Id.* at 419, ¶ 6, 180 P.3d at 346 (quoting *Mackey v. Spangler*, 81 Ariz. 113, 115, 301 P.2d 1026, 1027-28 (1956) in an examination of Ariz. R. Civ. P. 8). If the petition only states conclusions, without any supporting facts, the petitioner has failed to state a claim where the tribunal can give relief. *Id.* at ¶ 7. If a petition fails to state sufficient facts required to indicate the nature and basis of the claim, the petition may be dismissed. A.R.S. § 42-16053 (describing the procedure to be used by the assessor when a petition "fails to include substantial information"). A petition that does not include the information required to support the requested valuation or change of legal classification may be dismissed by the SBOE.

Relevant facts for an appeal of the full-cash value should support the requested value through standard appraisal techniques. A.R.S. § 42-11001(6) (defining of full cash value). Standard appraisal techniques include the sales comparison, income capitalization and cost approaches. *The Appraisal of Real Estate* 79 (10th ed. 1992). The sales comparison approach, or "market approach" as stated in A.R.S. § 42-16051(B)(2), uses evidence of recent sales of similar properties to estimate market value. *The Dictionary of Real Estate Appraisal* 318 (3rd ed. 1993). The income capitalization approach, or "income approach" as stated in A.R.S. § 42-16051(B)(1), uses evidence of the property's earning ability. *Id.* at 178. The cost approach uses costs to build or replace the improvements and evidence of land value. *Id.* at 81.

The legislature identified particular facts that are necessary to provide legal notice for valuation and supplemental-notice appeals for the three approaches to value shown above. A.R.S. §§ 42-16051 and 42-15105. As shown in the instructions for the required forms created by ADOR, at least one "Basis for Petition" must be checked. This is shown on ADOR forms 82130 in No. 7, 82130NC in No. 7, and 82130R in No. 5. Details on the minimum evidence that must be supplied with the petition will be discussed for each basis.

- a. "Under the **market approach**, including the full cash value of at least one comparable property in the same geographic area or the sale of the subject property." A.R.S. 42-16051(B)(2). Because the language in the list of required factual information uses the term "including" to introduce the list, the SBOE believes that the list is open to other evidence of that type, such as a comparable market sale.
- b. "Under the **cost approach**, including the cost to build or rebuild the property plus the land value." A.R.S. § 42-16051(B)(3). The petition forms created by the ADOR contain instructions for completing the form. For the cost approach, the instructions state, "all costs . . . to build or rebuild the improvements plus the land value." ADOR form 82130 (01/2024). The SBOE believes that both the costs for the improvements and a separate land value must be provided because an appeal based upon the cost approach must include both a land valuation and a valuation

of the improvements. *Transamerica Development Co. v. Maricopa County*, 107 Ariz. 396, 489 P.2d 33 (1971) (holding that a valuation appeal must include the entire property value and not just a component of that value).

- c. "Under the **income approach**, including the information required in section 42-16052." A.R.S. § 42-16051(B)(1). Petitioner must include income and expense data for the subject property using ADOR form 82300 and the appropriate supplemental form for the property type. A.R.S. § 42-16052.
- d. "Other (explain below)" is a basis shown on the petition forms for valuation and supplemental notice appeals. ADOR forms 82130, 82130R, and 82130NC. Examples of substantial information that may be submitted for this section are (i) copies of a driver license, voter registration, and motor vehicle registration as factual evidence to support a change in classification from legal class 4 to legal class 3 and (ii) a copy of a lease agreement for an agricultural use and photos showing evidence of agricultural use such as grazing or field crops for a statutory agricultural valuation.

The SBOE policy is that evidence and arguments for valuation methods that were not checked on the petition and without substantial information attached will not be allowed in the petitioner's case presentation. This requirement must also be satisfied in the petition filed with the assessor. Issues not raised in the petition to the assessor may not be raised in a petition to the SBOE. A.R.S. § 42-16056(D); *see also*, State Board of Equalization Substantive Policy Statement SBOE-05-001 (2005).

- 6. If the petition was **not** rejected by the assessor, a complete copy of the assessor's decision is included with the petition; except, in the case of a Supplemental / Amended (Notice of Change) appeal, a copy of the assessor's notice of change is included.

As a necessary part of the SBOE's verification of its jurisdiction over an appeal, a complete copy of the assessor's decision is required. Instructions included with the Petition for Review of Real Property Valuation, under Part II, state: "Include a copy of the Agency Authorization form, if applicable, and the Assessor's decision with the petition." ADOR Form 82130 (rev. 01/2024). The SBOE policy is to require a complete copy of the assessor's decision which must include all pages sent to the petitioner.

The SBOE policy is that in the case of a Supplemental / Amended (Notice of Change) appeal, a copy of the assessor's notice of change for each parcel listed in the petition must accompany the petition.

- 7. If the petition **was** rejected by the assessor, a complete copy of the rejection letter or letters and the rejected petition are included with the petition.

If the petition was rejected by the assessor after June 15, the petitioner must include a copy of all rejection letters or notices along with a copy of the petition originally filed with the assessor along with all attachments. A.R.S. § 42-16053(2). This requirement is shown on the ADOR

petition forms and in the instructions. This information is important for the SBOE to be able to verify that it has jurisdiction over the appeal.

If the petition was rejected by the assessor on or before June 15, the amended petition must be filed directly with the assessor and not the SBOE. A.R.S. § 42-16053(1). If the petitioner files the amended petition that was rejected prior to June 15 to the SBOE, the SBOE does not have jurisdiction. A more complete discussion of SBOE policy on assessor rejections is contained in Substantive Policy Statement SBOE-04-008.

8. If a property tax agent files the petition on behalf of the taxpayer, a completed Agency Authorization form is included with the petition.

If the taxpayer chooses to be represented by a property tax agent, a completed agency authorization must be included with the petition when filed with the SBOE. A.R.S. § 42-16001(C). Such authorization must use DOR form 82130AA and must be signed by the taxpayer. The agency authorization must be signed in the year that the petition is filed and the hearing is held. A.R.S. § 42-16001(A) and (B). All parcels or the account number appearing on the petition must also appear on the agency authorization form. When the number of parcels or accounts exceeds the limit of the form, DOR form 82130AAA may be used for the additional parcels or accounts to be listed.

The SBOE policy is for staff to review each petition and agency authorization to ensure that:

- a. the parcel number(s) or account number on the petition are shown on the agency authorization;
- b. the agency authorization is applicable for the tax year shown on the petition and is not yet expired;
- c. the agent appearing on behalf of the taxpayer is listed on the agency authorization along with the agent's registration number;
- d. the authorization is signed by a person who owns, controls or possesses the property; and
- e. the taxpayer's name and title show that the person has standing to appeal the property. A.R.S. § 42-16001(A) (permitting a person that "owns, controls or possesses" the property to designate the property-tax agent to appeal before the SBOE). For this, the name of the individual signing must be legible and the office or title must support that the individual may sign for the taxpayer.

If the agent listed on the agency authorization form is unable to appear for any reason, a substitute agent may appear only if the substitute agent's name and registration number also appear on the agency authorization or a separate agency authorization form is completed that shows the substitute agent's name and registration number and is provided to the SBOE prior to the start of the hearing.

The SBOE policy is to review each petition and agency authorization for compliance. If there is a defect in the agency authorization, it must be corrected prior to the start of the hearing. A.R.S. § 32-3653(2).