



**State of Arizona
Board of Equalization
100 N. 15th Avenue Ste 130
Phoenix, Arizona 85007
(602) 364-1600**

**SUBSTANTIVE POLICY STATEMENT
NUMBER SBOE-05-001
EFFECTIVE, May 6, 2005**

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 ARIZONA REVISED STATUTES SECTION 41-1033 FOR A REVIEW OF THE STATEMENT.

In a hearing before the State Board of Equalization, a petitioner may not raise any issue not included in the initial petition filed with the assessor. A petitioner is required to submit to the assessor substantial information supporting the petitioner's opinion of the value of the property. Checking the box on an appeals form corresponding to a particular valuation approach is not sufficient.

If a petitioner has failed to provide substantial information on a valuation approach, then he or she has failed to properly raise that issue and may not present evidence relevant to that issue at a hearing before the Board of Equalization. If a petitioner does properly raise an issue, then he or she may present any evidence on that issue at a hearing before the Board, regardless of whether the evidence was presented to the assessor with the initial appeal.

A respondent county may present any information to support the current valuation. A petitioner may present any new evidence to rebut an issue raised by the respondent assessor's office, during the Board hearing, even if the petitioner did not raise the issue on the initial appeal.

Evidence allowed for rebuttal will be limited to evidence on a point raised by the respondent county. In other words, the petitioner may not use rebuttal testimony as an opportunity to present any new evidence he or she wishes. It must be on a rebuttal point only.



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MEMORANDUM

To: All Board Members
Cc: All Board Hearing Officers and Staff
From: Harold Scott, Chairman
Date: May 6, 2005
Re: Presentation of Evidence at Hearings Before the State Board of Equalization

This memorandum addresses the presentation of new evidence by a petitioner at a hearing before the Board of Equalization. The Board's policy will be that, while the petitioner may not raise any new issues not raised at the assessor level, he or she may present new evidence related to issues properly raised. Additionally, the petitioner may present any evidence in rebuttal to a point by the respondent, whether or not the petitioner raised that issue in his or her appeal.

In a hearing before the Board, a petitioner may not raise any issue not included in the initial petition filed with the assessor. A.R.S. § 42-16056(D). A petitioner is required to submit to the assessor substantial information supporting the petitioner's opinion of the value of the property. A.R.S. §§ 42-16051(B), 42-16052. Checking the box on an appeals form corresponding to a particular valuation approach is not sufficient.

If a petitioner has failed to provide substantial information on a valuation approach, then he or she has failed to properly raise that issue and may not present evidence relevant to that issue at a hearing before the Board. If a petitioner does properly raise an issue, then he or she may present any evidence on that issue at a hearing before the Board, regardless of whether the evidence was presented to the assessor with the initial appeal.

A respondent county may present any information to support the current valuation. However, a petitioner may also present any new evidence to rebut an issue raised by the respondent assessor's office, during the Board hearing, even if the petitioner did not raise the issue in his or her appeal. For example, if the petitioner files the initial appeal on the basis of cost but the respondent assessor's office responds with all three approaches to value, the petitioner on rebuttal may present new information on all three approaches to value in an attempt to rebut testimony presented by the responding assessor's office.

Failure to allow the petitioner to rebut evidence would likely be a denial of the petitioner's due process right to be heard on the issue. See, e.g., *Application of Levine*, 97 Ariz. 88, 91, 397 P.2d 205, 207 (1964) (defining due process rights), *Blakeway v. Texas Business Investments Co.*, 12 Ariz. App. 390, 470 P.2d 710 (1970) (opportunity to defend oneself against adverse claims is fundamental to due process).

Evidence allowed for rebuttal will be limited to evidence on a point raised by the respondent. In other words, the petitioner may not use rebuttal testimony as an opportunity to present any new evidence he or she wishes. It must be on the rebuttal point only.

Conclusion

The petitioner may not raise any issue before the Board that was not properly raised at the assessor level, and failure to include substantial information on any valuation approach amounts to failure to properly raise that issue at the assessor level. Once an issue is properly raised, the petitioner may present any evidence relevant to that issue. Also, due process requires that the petitioner may also present any new evidence if it is used to rebut a specific point argued by the respondent assessor's office, regardless of whether it is relevant to an issue properly raised by the petitioner.