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Robert R. Corbin

August 14, 1989

Mr. Paul Waddell, Director
Arizona Department of Revenue
1700 West Washington
Phoenix, Arizona 85007

Re: I89-073 (R88-022)

Dear Mr. Waddell:

You have asked whether a golf course that has been developed to serve both the paying guests of a resort facility and the private homeowners of a subdivision development should be classified, and thus assessed, as class three commercial or as class four property not included in other classifications. We conclude that a golf course which is used in part as a commercial resort facility and in part as a private club for homeowners should be classified and assessed as class three property in proportion to its commercial use and as class four property in proportion to its private homeowner use.

A.R.S. § 42-162 classifies property for purposes of taxation into eight classes. Class three property is "property devoted to any commercial or industrial use" other than property included in other classes not relevant here. Id. subsection A(3) (emphasis added). Class four property includes all real and personal property not included in classes one, two, three, five or six. Id. subsection A(4). Class three property is assessed at 25 percent of its full cash value; class four property is assessed at 16 percent of its full cash value. A.R.S. § 42-227(B)(3), (4).

The Legislature has provided for proportional assessment for multiple uses:

If a parcel . . . has more than one percentage applied to its full cash value due to multiple uses . . . , the percentages

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shall be applied to the limited property value^{1/} of the parcel in the same proportion and in the same manner as they were applied to the full cash value of the parcel.

A.R.S. § 42-227(E) (footnote added). The Department of Revenue Assessment Practices Manual,^{2/} ch. 4, at 433.10 (effective July 1, 1987), provides in pertinent part:

All taxable real and personal property within the State of Arizona will be listed in the appropriate statutory class or classes of property for assessment purposes. The appropriate class grouping for taxable property will be based primarily on the use of the property. If the property is being used for two or more purposes each use will be reflected in a weighted assessment ratio.

(Emphasis supplied.) Consequently, if property is used in part for class three commercial purposes and in part for class four purposes, the assessment percentages, 25 percent and 16 percent

^{1/} "'Limited property value' means the value determined pursuant to § 42-201.02. Limited property value shall be used as the basis in the calculation of levy limitations for counties, cities, towns and community college districts and as the basis for assessing, fixing, determining and levying primary property taxes." A.R.S. § 42-201(5).

^{2/} The Department of Revenue is authorized to prepare and maintain manuals and other necessary guidelines reflecting standard appraisal methods and techniques for use by it and county assessors in determining the valuation of property. A.R.S. § 42-141(A)(5). The formulation of guidelines to further define statutory classifications does not constitute an unlawful usurpation of the legislative function by the Department of Revenue so long as the guidelines do not conflict with the intent of the Legislature. Central Citrus Co. v. Arizona Department of Revenue, 157 Ariz. 562, 565, 760 P.2d 562, 565 (App. 1988).

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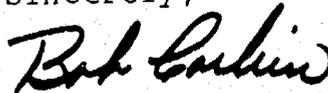
respectively, are applied to the property value proportionately, each use being reflected in a weighted assessment ratio.

The Assessment Practices Manual further defines what is meant by class three commercial use. Section 10.810 (effective January 1, 1987) provides that land and structures developed as a golf club and used by the public will be assessed at a ratio of 25 percent of full cash value, a class three commercial assessment percentage. "Commercial" is defined as "from the point of view of profit: having profit as a motive." Webster's Third New International Dictionary 456 (1976). A resort facility catering to paying guests has a profit motive and is appropriately classified as a class three commercial property. Thus, a golf course used by resort guests is a class three commercial property assessed at a ratio of 25 percent of full value.

The Practices Manual also provides that land and structures developed as private golf clubs for the exclusive use of members and their guests will be assessed at a ratio of 16 percent of full cash value, a class four assessment percentage. Assessment Practices Manual, § 10.810 (effective January 1, 1987). Cf. Appeal of Hart, 410 Pa. 439, 189 A.2d 167 (1963) (court affirmed zoning board's determination that private swim club was non-commercial use of property). Thus, a golf course used exclusively for subdivision homeowners and their guests is a class four property assessed at a ratio of 16 percent of full value.

Applying A.R.S. § 42-227(E) and the appropriate guidelines to a golf course used to serve both the paying guests of a resort facility and the private homeowners of a subdivision development, we conclude that the assessment percentages for class three commercial property and class four property should be applied to the property value proportionately, each use being reflected in a weighted assessment ratio.

Sincerely,



BOB CORBIN
Attorney General

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