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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:

**PETITION TO AMEND RULE 31.3(d)(5),
ARIZONA RULES OF SUPREME
COURT**

Supreme Court No. R-

Petition to Amend Rule 31.3(d)(5),
Arizona Rules of Supreme Court

Pursuant to Rule 28, Rules of the Supreme Court of Arizona, Mary Z. Chandler and Brad Tebow, individually and as members of the Arizona State Board of Equalization, respectfully petition this Court to adopt an amendment to Rule 31.3(d)(5), Ariz. R. Sup. Ct., governing exceptions to Rule 31.2 regarding non-lawyer representation of a taxpayer in an administrative review of an agency's tax-related decision, as proposed below.

I. Background and Purpose of the Proposed Rule Amendment.

Petitioners request an amendment to Rule 31.3, Ariz. R. Sup. Ct., to clarify and permit non-lawyer representation in certain property-tax related, administrative appeals by persons not included in any other exception to Rule 31.2. Administrative appeals that may be termed as "small claims" are currently addressed in Rule 31.3(d)(5)(A)(iii) that permits

non-lawyers to represent taxpayers "in matters in which the amount in dispute, including tax, interest and penalties, is less than \$5,000[.]" This exception, however, is not applicable to most administrative appeals relating to property tax. The requested amendment to this rule will address the limit for property-tax-related appeals and will add a restriction against the person receiving compensation in exchange for the representation in property-tax matters.

A. Limit for Property-Tax-Related, Administrative Appeals.

In Arizona's ad-valorem, property-tax system, agency decisions that may be appealed administratively usually concern valuation and classification of taxable property. Specific statutory provisions allow administrative appeals of these decisions to either a county or state board of equalization. *See* A.R.S. §§ 42-14005(1); 42-15102(2); 42-16056(C); 42-16252(G); 42-16254(F). In order to apply the current exception for non-lawyer representation in a small claim, the amount of tax in dispute must be known.

Beginning with tax-year 1996, property-tax assessment is conducted on a two-year cycle for real property and a one-year cycle for personal property. A.R.S. § 42-11001(20) (defining "valuation year" in relation to the year taxes are levied). For locally-assessed real property, taxpayers receive a notice of full cash value and classification on or before March 1 of the valuation year. A.R.S. §§ 42-15101 and -15102. If the taxpayer disagrees with the valuation or classification of the property, they must file a petition for review with the county assessor within 60 days after the assessor mailed the notice. A.R.S. § 42-16051(D).

If, after meeting with the assessor, the taxpayer is still dissatisfied with the valuation and classification of the property, they may file an administrative appeal to the appropriate board of equalization. By statute, these administrative appeals must be concluded by October 15th of the valuation year. A.R.S. §§ 42-16108(A) and 42-16165. That is nearly a year before the actual tax amount in dispute is known. An alternative is available to provide an objective limit for a small claim in property-tax administrative appeals.

The Arizona Tax Court has a statutory procedure for small claims regarding property-tax related appeals. For property tax appeals, a small claim may be filed for "[d]isputes concerning the valuation or classification of property in which the property is class three property¹ . . . or in which the full cash value of all real or personal property does not exceed two million dollars." A.R.S. § 12-172(A)(1). The Tax Court small-claim limit specifically addresses appeals involving property-tax-related decisions, whether or not they were administratively reviewed by a county or state board of equalization. The full-cash value and classification determinations are known at the time a taxpayer may appeal administratively or to the Tax Court. The proposed amendment to Rule 31.3(d)(5) would clarify and expand the Rule to include property-tax-related, administrative appeals.

B. Representation by a Non-Lawyer in Exchange for Compensation.

There are exceptions to Rule 31.2 for non-lawyers to represent taxpayers in

¹ Class three property is residential property occupied by the owner or a relative of the owner as their primary residence as described in A.R.S. § 42-12003. This would not include vacation or rental homes, rental apartments or other uses that are class four properties. A.R.S. § 42-12004.

property-tax-related, administrative appeals in exchange for compensation. These are certified public accountants, federally authorized tax practitioners, and property tax agents. Rules 31.3(d)(5)(A)(i), (ii), and 31.3(d)(3), Ariz. R. Sup. Ct. Certified public accountants are regulated by the Board of Accountancy. *See* Title 32, Chapter 6, Arizona Revised Statutes. Federally authorized tax practitioners are regulated by the US Department of the Treasury. *See* 31 U.S.C. § 330. Property tax agents are registered by the Arizona Department of Insurance and Financial Institutions. *See* Title 32, Chapter 36, Article 4, Arizona Revised Statutes.

An example of a lay person who may represent a taxpayer in property- tax-related, administrative appeals as an incidental part of their employment are officers, members, managers, partners, or employees of a legal entity. Rule 31.4(d)(5)(B), Ariz. R. Sup. Ct. In this exception, the lay representative may not receive "separate or additional compensation for such representation." Rule 31.3(d)(5)(B)(v), Ariz. R. Sup. Ct. The exception requested in this Petition should be limited similarly because such a representation is intended to not be a regular practice. Lay employees of a legal entity or lay persons who regularly represent their legal entity or other clients in property-tax-related, administrative appeals for compensation may register as a property tax agent.²

² Currently, the statutory registration fee for property tax agents is \$200 for the initial registration and \$100 for each renewal. A.R.S. § 32-3652. The registration must be renewed every two years. *Id.* As part of the registration, the applicant must supply an affidavit regarding a felony conviction or a "misdemeanor involving dishonesty or moral turpitude." *Id.* No professional credentials are examined in the registration process. Once registered, a property tax agent may represent a taxpayer in administrative hearings regarding property tax. A.R.S. § 42-16001.

C. Conclusion.

The proposed change to Rule 31.3(d)(5) will clarify and expand the exception for persons representing taxpayers in property-tax-related matters before a county or state board of equalization where the full-cash values are less than \$2,000,000 or concern the taxpayer's primary residence. The current limit of \$5,000 shown in Rule 31.1(d)(5)(A)(iii) does not apply to most property-tax-related appeals because the majority of appeals must be filed long before a specific tax amount is assessed. Furthermore, the proposed change conforms to the statutory, small-claims limit for the Tax Court set by statute. Additionally, the proposed change includes a restriction against receiving compensation for the representation because an exception already exists for registered property-tax agents who are able to offer representation to taxpayers in exchange for compensation.

II. Contents of the Proposed Rule Amendment to Rule 31.3(d)(5).

Additions are shown by underline and deletions are shown by ~~strikethrough~~.

Rule 31.3(d) Tax-Related Activities and Proceedings.

(1) – (4) [No Change]

(5) In any tax-related proceeding before the Arizona Department of Revenue, the Office of Administrative Hearings relating to the Arizona Department of Revenue, a state or county board of equalization, the Arizona Department of Transportation, the Arizona Department of Economic Security, the Arizona Department

of Child Safety, or any county, city, or town taxing or appeals official, a person may represent a taxpayer if:

(A) the person is:

(i) – (ii) [No change]

(iii) the taxpayer's duly appointed representative

(I) for disputes concerning the valuation or classification of property in which the property is class three property as described in A.R.S. § 42-12003 or in which the full cash value of all real or personal property does not exceed \$2,000,000, and the person is not receiving compensation for such representation (other than receiving reimbursement for costs) or

(II) for disputes concerning all other taxes in which the amount of the ~~in matters in which the amount in dispute,~~ including tax, interest and penalties, is less than \$5,000, ~~the taxpayer's~~ ~~duly appointed representative;~~ or

(B) [No change.]

CONCLUSION

Mary Z. Chandler and Brad Tebow respectfully request that the Court modify Rule 31.3(d)(5)(A)(iii) of the Arizona Rules of Supreme Court as requested above.

RESPECTFULLY SUBMITTED this 29th day of November 2024.

By: /S/ Brad Tebow

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Electronic copy filed with the
Clerk of the Supreme Court of Arizona
this 29th day of November, 2024.

By: /S/ Brad Tebow