

Property:

Arizona High Court Says Income from Power Purchase Agreement May be Relevant in Plant's Valuation Under Income Approach

Case No. CV-23-0016-PR, Ariz. (7/22/24). In a case involving the property tax valuation of an electric generation facility with an associated "Power Purchase Agreement" (PPA) between the power plant's owner and a group of electricity buyers, the Arizona Supreme Court (Court) held that applicable state law basing assessments on a property's "current usage" (*i.e.*, under Ariz. Rev. Stat. section 42-11054(C)(1)) does not require consideration of the PPA, as the PPA did not impact the manner in which the electric generation facility could be used. However, the income from the PPA "is not automatically and entirely irrelevant" to the property's valuation under the income approach. According to the Court, such income potentially may be considered in the valuation "if it is relevant to the calculation of income derivable from the property itself by continued use as a power plant." Moreover, other factors, such as the severability of a PPA and the prevalence of similar agreements, may be considered, and taxpayers also have the ability to make a showing of any independent value of the PPA. In this respect, the Court reversed and vacated lower court rulings in the case and ordered on remand for the Arizona Tax Court to give both the owner and the Arizona Department of Revenue an opportunity to offer a new power plant valuation under the income approach consistent with this opinion. Please contact us with any questions.

URL: <https://www.azcourts.gov/Portals/0/OpinionFiles/Supreme/2024/CV230016PR.pdf>

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