

ATRA SUPPORTS HB2081 (Striker Amendment)

Equitable treatment of TPT Commercial Leasing and Personal Property Rental Classes

The transaction privilege tax (TPT) commercial leasing classification is comprised of the business of leasing real property. Likewise, the TPT personal property rental class is a tax on leasing or renting tangible personal property.

In current statute, an exemption exists under each classification for leasing property to an affiliate, which is defined as 80% control or ownership of another entity. Although both classes allow for the exemption among affiliated entities, there is a lack of uniformity among the two classes in which the exemption applies.

The current exemption is limited to affiliated corporations, which does not recognize the predominant use of limited liability companies and other flow-through entities for intercompany leasing transactions. For example, a single member limited liability company is a disregarded entity for income tax purposes, but would be taxable for TPT purposes if engaged in intercompany leasing with its single corporate member.

The inequity between the commercial leasing and personal property rental classifications is apparent and should not exist if the original intent of the exemption was to eliminate the tax on leasing transactions between related parties.

The striker language in HB2081 amends the personal property rental class to mirror the commercial leasing class in order to eliminate the inequity between the two categories. In addition, new business structures were created since the original law was enacted such as limited liability companies (LLC's); therefore, the term "affiliated entities" replaces "corporations" in both statutes and is defined to include corporations, limited liability companies, partnerships, and real estate investment trusts in order to address current-day business structures.

ATRA ASKS FOR LAWMAKERS TO SUPPORT THE HB2081 STRIKER AMENDMENT



ARIZONA TAX RESEARCH ASSOCIATION

1814 West Washington Street, Phoenix, Arizona 85007

(602) 253-9121

www.arizonatax.org

Serving Arizona's Taxpayers Since 1940