

ATRA SUPPORTS HB2512

Prohibiting 3rd Party For-Profit Entities from Collecting and Auditing Sales Taxes

Background

HB2512 addresses a very serious tax issue that is developing in Arizona between businesses subject to the transaction privilege tax (sales) and Arizona cities.

Arizona is one of only three states in the country that allows for an independent municipal sales tax structure. Unlike other states, our system requires businesses to maintain two sets of books for the payment of sales tax—one for the state and another for municipal tax obligations. In addition to multiple points of contact for the payment of sales tax, Arizona businesses are also faced with the potential administrative burden of audits from the state as well as municipal auditors.

HB2512 would prohibit cities from contracting with a for-profit company for the collection of sales taxes. Additionally, cities would be prohibited from employing or contracting with sales tax auditors on a contingent-fee basis.

Basis for ATRA's Support

Regrettably, and over the strong opposition of the Arizona Tax Research Association (ATRA) and the business community, the League of Cities and Towns is aggressively pursuing a change to municipal sales tax collections and auditing that will make an already bad situation much worse. The League of Cities and Towns has forged a partnership with the out-of-state firm Revenue Discovery Systems (RDS) to take over the tax collection and auditing process for cities currently in the state collection program. RDS would receive a percentage of the monthly sales tax collections of any city that contracted for their services, the same services that the Department of Revenue (DOR) currently provides at no cost. In addition, a percentage of the amount received by RDS would also be kicked back to the League of Cities and Towns.

Arizona's state and local sales tax structure is one of the most complicated and burdensome systems in the country for taxpayer compliance. In addition to being a dramatic move in the wrong direction from a tax policy perspective, ATRA believes the cities lack the legal authority to contract with a third party vendor for sales tax collections.

This issue is also being hotly debated in Georgia where the idea of turning over local tax collections to a for-profit tax collector is being opposed by the Georgia DOR. In a letter recently written by the Director of the Georgia DOR, the Director explains the unnecessary burden that will be imposed on taxpayers in privatizing local sales tax collections by stating, "In general, states across the country have decided that it doesn't make sense to require businesses to file a separate return for each county in which they do business. Less than 5 States with state and local sales taxes allow collection and audit at the local level." In addressing the perverse policy implications of for-profit tax collectors, the Director noted that "If the Department was funded this way rather than through legislative appropriation we would never waive another penalty upon reasonable basis and we would have collectors on every

corner interfering with legitimate business operations every day while trying to find the illegitimate ones all because the Department sought to make more money doing it.”

Lastly, the proponents are wrapping an extraordinarily bad idea in what is often viewed as a good policy: privatization. Properly applied, privatization actually saves taxpayers money. Contracting with RDS is an added cost to cities for a service that is currently free. Moreover, at the recommendation of the League of Cities and Towns, who have an obvious financial interest, this contract is being solely provided to RDS.

P.S. Attached for your review is a class-action lawsuit that has been filed in Alabama against RDS for a series of violations to the Alabama Taxpayer Bill of Rights.

Alabama Class Action Lawsuit:

http://www.arizonatax.org/publications/positions/2010/RDS-alabama_filing.pdf

Georgia DOR Letter:

http://www.arizonatax.org/publications/positions/2010/GA_letter.pdf



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