

ATRA SUPPORTS HB2202

Narrows the Definition of “Affected Class” under the Taxpayer Bill of Rights

Background

In situations where the Arizona Department of Revenue (Department) determines that noncompliance with tax obligations results from extensive misunderstanding or misapplication within an “affected class” of taxpayers, the Department may enter into closing agreements with those taxpayers. Extensive misunderstanding or misapplication of the tax laws occurs if the Department determines that more than 60% of the persons in an “affected class” have failed to properly account for their taxes owing to the same misunderstanding or misapplication of the tax law.

In this situation, the Department must publicly declare the possible misunderstanding or misapplication and hold a public hearing. If it is determined that there has been an extensive misunderstanding of the tax laws, the Department must issue and publish a tax ruling to that affect. A closing agreement by the Department may abate all or some of the taxes, penalties, and interest that the taxpayers have failed to remit or the agreement may provide for the prospective treatment of such taxes to the class of affected taxpayers. Additionally, all taxpayers in the affected class that have properly accounted for their tax obligations for the tax periods must be offered the opportunity to enter into a similar closing agreement providing for a pro rata credit or refund of their taxes previously paid. Also, the closing agreement must require the taxpayers to properly account for and pay such taxes in the future.

Currently, “affected class” is defined broadly to mean “taxpayers who are directly affected by the Department’s position in a tax matter.”

Basis for ATRA’s Support

The purpose of the “affected class” provision under the Taxpayer Bill of Rights is to provide relief to a specific group of taxpayers that have a legitimate misunderstanding of the tax laws and requires those taxpayers to comply with all future tax obligations. Unfortunately, the existing definition of “affected class” has been broadly applied by the Department, and as a result, very few taxpayers have been awarded relief under this provision.

HB2202 narrows the definition of “affected class” to taxpayers who are similarly situated and directly affected by the Department’s position in a tax matter. For TPT and use tax purposes, the “affected class” as determined by the Department may include taxpayers that are in the same industry code under the North American Industrial Classification System code (NAICS) if applicable to the tax matter or taxpayers that directly compete with each other. Additionally, the Department is required to enter into closing agreements if it is determined that the class of taxpayers meets the terms and conditions of the definition. Finally, HB2202 provides taxpayers with the same administrative appeals provisions that currently exist in statute, which is an avenue that is not currently provided to taxpayers under this provision.

HB2202 Passed out of the House unanimously

ATRA Asks Lawmakers to Vote Yes on HB2202!



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