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ARIZONA TAX RESEARCH ASSOCIATION

ATRA OPPOSES PROVIDING TARGETED PROPERTY TAX BREAKS

Sponsored by Senator Steve Yarbrough, SB1303 is currently dead in the House and ruled unconstitutional by the House Rules Attorney. There may be an effort to resurrect the tax break by amending it onto a House bill in the Senate. ATRA asks lawmakers to oppose any such effort.

Background

SB1303 provides a generous property tax break for a regionally accredited institution of higher education with at least one university campus in this state that has more than 2,000 students residing on campus (only Grand Canyon University). Upon meeting the requirements, the real and personal property owned by the institution is classified under class 6, which is assessed at 5%, compared to other for-profit university property as well as most business property, which is classified under class 1 and is assessed at 19.5%.

Basis for ATRA's Opposition:

Arizona has considerably higher business property taxes compared to other states as a result of Arizona's long-standing policy to shift the burden from residential property (class 3), which is assessed at 10%, to business property (class 1), which is currently assessed at 19.5%. Based on a 2012 study published by the Minnesota Center for Fiscal Excellence, the property tax burden on Arizona industrial property ranks 13th highest compared to other states. Back in 2005 when the assessment ratio for class 1 property was 25%, Arizona had the 4th highest business property tax burden. Since then, lawmakers have made considerable progress in reducing the assessment ratio and the "Jobs" bill that was signed into law in 2011 continues the reduction in the assessment ratio to 18% by 2016. Furthermore, Arizona statutes provide additional depreciation on business personal property, commonly referred to as "accelerated" depreciation, within the first five years of acquisition. The Legislature has enhanced the accelerated depreciation schedule several times over the last decade in an effort to encourage businesses to purchase new equipment. Factoring in the benefits of accelerated depreciation for businesses dramatically improves Arizona's ranking compared to other states.

Typically, the expansion of class 6 for businesses have been to attract a particular business or industry to Arizona. SB1303 actually provides a dramatic reduction for an existing business while not extending the same treatment to other similarly situated businesses.

Additionally, the Arizona Constitution under Article 9, Section 1, states that "all taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax." While the courts have given the Legislature broad discretion in creating different classes of property, they have also cautioned that those distinctions in use, purpose or industry must be "real" and not be "arbitrary, specious or fanciful." In fact, the courts have invalidated disparate tax treatment between similar businesses in the same taxing jurisdiction based solely on the timing and size of the investment. ATRA believes the distinction created in SB1303 could have just such an infirmity.

ATRA believes that the property tax break provided in SB1303 is bad policy and serves to exacerbate problems in Arizona's property tax system.