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ARIZONA TAX RESEARCH ASSOCIATION

ATRA OPPOSES SB1268

Bad Policy, Bad Precedent, and Likely Unconstitutional

Background

In 2000, the voters of Arizona approved the Property (Senior) Valuation Freeze that freezes the taxable value of property for individuals if they are at least 65 years of age and the person's total income from all sources does not exceed 400% (individuals) or 500% (two or more) of the supplemental security income benefit. SB1268 reclassifies property for only those individuals that qualify for the Senior Valuation Freeze currently assessed under class 3, assessed at 10%, to be classified instead under class 6, which is assessed at 5%. All other residential property remains assessed under class 3 at 10%.

Basis for ATRA's Opposition

Arizona's property tax system classifies property based on use and consists of nine different classes with varying assessment ratios. SB1268 would provide inequitable treatment among similarly situated properties by classifying and assessing residential property of owners that meet certain age and income requirements differently than the residential property of other owners that do not meet those specific thresholds.

The uniformity clause under Article 9, § 1 of the Arizona Constitution requires "all taxes shall be uniform on the same class of property." Although the Legislature has broad discretion in classifying property, the courts have held that the Legislature may not unfairly and unreasonably discriminate "between taxpayers of the same class, or be arbitrary, specious, or fanciful."

In the 1994 America West Airlines tax court case, the taxpayer argued state statute capping the property tax of small airlines at 1% of Full Cash Value while taxing large airlines at a higher rate simply based on number and size of airplanes violated the uniformity clause. In its ruling, the Arizona tax court stated that "Under a uniformity clause, property cannot be put in different classes 'according to size or location rather than value because this would be arbitrary classification.'" The court further referenced *Mathias v. Department of Revenue* in its decision in favor of America West that "Classifications, to pass state constitutional muster, must be based on inherent, qualitative, genuine, rational differences between the classes of property to be accorded different treatment." The court further clarified that a property classification system that taxes small airplanes used for rural routes differently than large airplanes used for urban routes "would be a classification of property based on one of the property's characteristics or uses rather than a classification of owners."

Regrettably, the property tax classification system provides an ongoing temptation for policymakers to discriminate in allocating the property tax burden. Instead of creating greater disparities, ATRA encourages policymakers to reduce disparities through reductions in the number of classes.

Lawmakers Should Question the Constitutionality of SB1268 and VOTE NO!