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ARIZONA TAX RESEARCH ASSOCIATION

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The Chairs of the House & Senate Tax Committees Discuss Priorities for 2014



Senator Steve Yarbrough, Chairman of the Senate Finance Committee, provided an overview of the numerous reforms that were enacted at the Arizona State Legislature over the past decade and thanked ATRA for contributing to those successes.

Representative Debbie Lesko, Chairman of the House Ways and Means Committee, followed with an overview of the

TPT Reform legislation and outlined some possible legislation that is being considered for the 2014 session.

A few of the legislative proposals for next session may include a sales tax clean-up bill to address the lack of uniformity in licensing, penalty fees and interest rates, and increased transparency and oversight of K-12 property tax levies.



Congressman Paul Gosar Provides the Keynote Address at the ATRA Annual Awards Luncheon



What's inside...

- ◆ Fred Nicely Provides National Perspective on State and Local Taxes, page 2
- ◆ Michael DiMaria Named ATRA Chairman, page 3
- ◆ Arnold Provides State Budget Update, page 4
- ◆ Panel Discussed School Finance Issues, page 5
- ◆ Heidi Schaefer and Keely Hitt Named 2013 ATRA Outstanding Members, page 6
- ◆ John Greene Honored with 2013 Good Government Award, page 7

Fred Nicely Provides National Perspective on State and Local Taxes

Fred Nicely, Senior Tax Counsel for the Council On State Taxation (COST), provided ATRA conference attendees with a presentation of the current issues and trends in state and local taxes. From the first imposition of a sales tax in 1921 to the current proposal being advanced under the Marketplace Fairness Act (MFA), Fred provided a historic perspective of our country's sales tax system and how other proposed federal legislation may impact taxpayers in the future.

The debate of the taxation on remote sellers has heated up at the nation's capitol in recent years and some states are beginning to enact legislation in anticipation that Congress eventually takes action. Although the passage of HB2111 moved Arizona forward in meeting some of the requirements under MFA, there are still many steps that must be made before Arizona fully complies with the current proposal. The largest hurdle that Arizona would have to overcome is the lack of uniformity between the state and local tax base.



Other Federal Legislation

In addition to the MFA, Fred went on to explain other legislation that is currently being considered in Congress.

Digital Goods and Services Tax Fairness Act (S. 1364). A notable provision in this proposal includes the requirement to provide uniform sourcing of digital goods and services to the "customer tax address." The proposal also would bar multiple taxation and discriminatory taxation.

Internet Tax Freedom Act (H.R. 3086). With the most recent extension of the *Internet Tax Freedom Act* set to expire on November 2014, legislation is being proposed to permanently ban state or local taxes on Internet access and multiple or discriminatory taxes on e-commerce.

Business Activity Tax Simplification Act (H.R. 2992). This Act would expand the protections provided by P.L. 86-272 (Interstate Income Act of 1959) to all business activity taxes and would protect all sellers, not just sellers of tangible personal property. Additionally, protections under the law will apply to other qualitative de minimis activities, whereas the law currently only applies to solicitation. Under the proposal, economic nexus would be eliminated and the imposition of taxes can only be accomplished when the physical presence requirement has been met.

Mobile Workforce State Income Tax Simplification Act (H.R. 1129 & S. 1645). In general, this bill protects nonresident employees (and employers) from a state's income tax if a person works in the state less than 30 days.

Issues with Tax Reform Efforts to Expand Sales Tax Base

Fred talked about recent efforts of different states that are pursuing expansion of the sales tax base to include business services. He referenced a recent COST/EY study that reported the problems associated with this idea.

See Nicely, page 3

Nicely, *Continued from page 2*

He noted that 70% to 80% of taxes on new services would likely be imposed on business inputs, pointing out that twelve states presently derive at least 50% of their sales and use tax revenue from business inputs. Fred explained that the problems associated with taxing business inputs would include arbitrary and hidden differences in effective sales tax rates of different goods and services that distort consumer choices. Additionally, taxing business services can have detrimental impacts on a state's business tax competitiveness and make compliance extremely difficult.

COST Scorecards

COST publishes a scorecard that measures the fairness of state and local taxation on a state by state basis, and according to COST's *Scorecard on Tax Appeals & Procedural Requirements*, Arizona scored an A-. Some of the positive aspects that led to the high score included a favorable protest period for taxpayers, access to private letter rulings, and the absence of a requirement to pay taxes in order to appeal.

Arizona scored a B+ on COST's *Scorecard on State Unclaimed Property Statutes*. Arizona ranked favorably as a result of its unclaimed property statutes that include an exemption for business-to-business transactions and gift certificates, as well as the provision that provides a period of limitations and independent review process. The one major flaw under Arizona's unclaimed property statutes is that there is no prohibition against the state from hiring contingent fee auditors.

Arizona scored a C- on COST's *Scorecard of State Property Tax Administrative Practice*. Many factors contributed to this poor rating, including an annual 16% rate for the underpayment of property taxes, the requirement that taxpayers must pay to appeal, the presence of nine different classifications of property with varying assessment ratios, and unequal property tax burdens due to statutory exemptions.

Michael DiMaria Named ATRA Chairman

Michael DiMaria, Director of Legislative Affairs for CenturyLink, was elected as the Chairman of the Arizona Tax Research Association's Board of Directors at the 73rd Annual Meeting. Mr. DiMaria replaces Lyn White from Freeport McMoRan who served as the ATRA Chairman for the last two years.

The other officers elected with Michael DiMaria were Steve Barela, *Arizona Public Service Company*, first vice-chair; Jason Bagley, *Intel Corporation*, second vice-chair; Barb Dickerson, *Deloitte Tax LLP*, third vice-chair; and Dave Minard, *Individual*, Secretary/Treasurer.



The following members were elected to seats on the ATRA Board of Directors for terms expiring in 2018: James Busby, *Gallagher & Kennedy*; Michael Galloway, *Frazer, Ryan, Goldberg & Arnold*; Jim Klinker, *Arizona Farm Bureau*; Sara Lang, *Viad Corporation*; Tom Marin, *Ernst & Young*; Jessica Pacheco, *Pinnacle West Capital Corporation*; Meyer Turken, *Turken Industrial Properties*; Hugh Donahue, *Freeport McMoRan*; Byron Williams, *Southwest Gas*; and William Dvorak, *AT&T*.

In accepting his nomination as the new ATRA Chairman, Michael DiMaria said "I am honored to serve as the Chairman of Arizona's leading tax policy organization. I look forward to working with ATRA staff and the entire ATRA Board of Directors in continuing to provide sound fiscal solutions to Arizona policymakers."

Arnold Provides State Budget Update

John Arnold, Director of the Office of State Planning and Budgeting, provided ATRA Outlook Conference attendees with an overview of the major state budget issues facing state policymakers in 2014. He led off his presentation with a review of the policy choices that drove Governor Brewer's decision to support Medicaid expansion in the 2013 session. In addition to Fiscal Year (FY) 2013 revenues exceeding projections, Mr. Arnold reiterated the Executive's position that the state general fund is in a considerably better position as a result of the decision to expand Medicaid coverage using federal dollars.

Mr. Arnold explained that FY13 general fund revenues climbed 5.1%, considerably higher than the projected 2.3% growth rate. He noted that personal income tax collections for FY13, estimated at 5.3%, actually climbed 9.9%. He cautioned that personal income tax receipts can be very difficult to forecast and often can include one-time monies that can complicate budgeting for future years. The healthy revenue numbers from FY13 helped feed an ending balance of \$895 million. The state's rainy day fund has a balance of \$454 million.

Looking forward to the development of the FY15 budget, Mr. Arnold noted that increasing pressure for services within the Department of Economic Security (DES) would be a major issue for the Executive. Despite a major increase in the DES general fund appropriation for FY14, Arnold reported that caseload growth in major areas continues to exceed expected levels.

Mr. Arnold also suggested that both K-12 and Higher Education funding would be major issues for FY15. He noted that there was still considerable uncertainty surrounding K-12 funding following the Supreme Court's ruling in the *Cave Creek Unified School District vs. Arizona* lawsuit. In addition, the state's response to the huge costs associated with the rapid growth in district sponsored charter schools will be a major issue. Finally, he noted that Arizona's Universities are poised to make a major funding request for both maintenance and operations and capital needs.



Prospects for Income Tax Reform

Representative J.D. Mesnard, Co-Chair of the Joint Task Force on Income Tax Reform, provided conference attendees with his perspective on the prospects for reform.

The Task Force will be making its final recommendations at the December meeting.



Senator Gail Griffin leads the ATRA Conference in the Pledge of Allegiance.



Panel Discussed School Finance Issues

A panel of school finance experts outlined a host of major issues facing policymakers, schools, and taxpayers at ATRA's 2013 Outlook Conference.

Jeremy Calles, Chief Financial Officer for Kyrene Elementary School District, led off the presentations by highlighting Arizona's low national ranking in maintenance and operation (M&O) spending when measured on a per pupil basis. He noted that in 1970 Arizona ranked 29th in M&O spending per pupil and that ranking fell to 47th in 2011. Mr. Calles also reviewed the multitude of challenges facing the state regarding the differences that exist between funding for district schools and charter schools. In particular, he noted that the rapid expansion of district schools converting to charters poses a major funding issue for state policymakers.



Jeremy Calles



Eileen Sigmund

Eileen Sigmund, President and Chief Executive Officer for the Arizona Charter Schools Association, followed Mr. Calles and made a strong case for broad based K-12 funding reform. She began her presentation focusing on recent data reflecting the difference in funding levels between district and charter schools. For FY12, charter school data suggests that the average funding level per student for district schools is \$1,335 higher than the funding for the average charter student. While Arizona charter school students receive more funding per student through the state's funding formula (roughly \$1,000 per student), district schools have access to additional funding for bonds and overrides through the local property tax. The charters currently have an equity lawsuit filed against the State of Arizona.

ATRA President Kevin McCarthy wrapped up the panel discussion with a taxpayer perspective on the current state of school finance in Arizona. He noted that the last thirty years of school finance activity has been driven by lawsuits that challenged the equity of Arizona's system. He expressed regret that, despite the state's losses in the courtroom, policymakers in recent years have dramatically increased inequities in the system. McCarthy reminded attendees that the burden of resolving equity lawsuits always falls most heavily on taxpayers — noting that Arizona taxpayers have spent \$4.4 billion on Student's FIRST since that legislation passed in 1998 to address the *Roosevelt v Bishop* case.

McCarthy also agreed with Ms. Sigmund's contention that an inequitable school finance system undermines Arizona's long standing policy objective of promoting school choice. For decades, Arizona has promoted parental choice through open enrollment

across district boundaries, coupled with one of the nation's most aggressive efforts to create greater student choice through charter schools. McCarthy

cautioned that creating equity across districts and/or charters is an enormous challenge and the very reason why policymakers should avoid changes that undermine any of the equity achieved in previous school finance reforms.



Kevin McCarthy



Heidi Schaefer and Keely Hitt Named 2013 Outstanding Members

On behalf of the ATRA Board of Directors, ATRA Chairman Lyn White presented Heidi Schaefer and Keely Hitt each with the 2013 Outstanding Member award at the Outlook Conference luncheon.

As the Director of Corporate Taxes for the Salt River Project, Heidi Schaefer has been a fixture around ATRA for many, many years. Heidi is a great example of the real dedication of an ATRA member that supports the ATRA mission and lends her personal expertise in state and local taxation and policy advocacy to make ATRA a better organization. Heidi currently serves on the ATRA Board of Directors and is an active participant in the ATRA Tax Policy Committee and the ATRA Legislative Policy Committee. Heidi is also a faithful participant in ATRA's local government budget meetings, often traveling to the far reaches of Arizona to support ATRA staff in the important work of overseeing the development of local government budgets.



Lyn White (left) and Heidi Schaefer.

During last year's event, Keely Hitt was described as a "rising star" and ATRA completely agrees with that assessment. As the Senior Tax Manager for Circle K Stores, Keely Hitt has played a very important role in assisting ATRA's advocacy for sound fiscal policy in Arizona. Keely is a member of the ATRA Board of Directors, the Executive Committee, and a regular at both the Tax and Legislative Policy Committees.



Keely Hitt (left) and Lyn White.

Keely's expertise in state and local taxation has been a great benefit to ATRA's advocacy work on behalf of taxpayers. In 2012, Keely was selected by Governor Brewer to serve as a member of her TPT Task Force where she ultimately played a key role in the development of the Task Force recommendations. Keely then followed through on the Task Force recommendations by providing testimony in support of the TPT Reform bill in the Legislature. Her compelling testimony about the administrative challenges facing Arizona businesses played an important role in the passage of the TPT Reform.

In presenting the awards to Heidi and Keely, Lyn noted that ATRA appreciates their dedication and we hope to benefit from their participation for years to come.

Below: Representative Justin Olson.



Above: Senator Steve Pierce is one of many attendees at the ATRA Outlook Conference.



Right: Coconino County Supervisor Mandy Metzger poses a question to Congressman Gosar.



John Greene Honored with 2013 ATRA Good Government Award



John Greene, who passed away on October 1, 2013, was posthumously recognized at the ATRA Outlook Conference luncheon with the 2013 J. Elliot Hibbs ATRA Good Government Award.

For the last 22 years, ATRA has recognized outstanding individuals whose work in the public sector is characterized by strong, continuing, and consistent efforts to spend taxpayer dollars wisely and to promote government that is efficient, open, and accountable. This year, as those nominations were being reviewed, the capitol community was stunned by the death of John Greene, the Director of the Arizona Department of Revenue. ATRA staff and Board of Directors elected to honor John Greene's many years of service to the State of Arizona with the ATRA Good Government Award.

John Greene had a long and impressive career as a public servant in Arizona. Following a successful career in the private sector as an accomplished tax lawyer, he was elected to the Arizona State Senate in 1990 and served as the President of the Senate for four years.

Following his service as an elected official, he spent many years as a top level administrator in state government. He served as the Chairman of the State Board of Equalization, Director of the Arizona Department of Insurance and finally as the Director of the Arizona Department of Revenue.

In presenting the award to John Greene's wife Janice and two sons, Richard and Chris, ATRA Board member Michael Green said "Each of the agencies that John led benefited from his strong leadership and effective administration." On a personal level, Mr. Green added "John Greene was simply one the nicest individuals I have ever met. Whether it was serving as the President of the Senate or the Director of DOR, John always conducted himself with humility, graciousness, and integrity. With John, difficult issues were handled calmly and always with an appropriate touch of humor."



Janice Greene, sons Richard and Chris, along with Kevin McCarthy and Michael Preston Green.

2013 ATRA OUTLOOK CONFERENCE ATTENDEES



Above: State Treasurer Doug Ducey (left) with Spencer Kamps of the Home Builders Association of Central Arizona.

Below: Marty Shultz of Brownstein Hyatt Farber Schreck addresses conference panelists.



Above: Jason Symchak of APS (left) with Sami Khanisho of Tax Recovery Consultants, LLC.

Below: Senator Steve Yarbrough (left) with Tim Lawless of NAIOP.

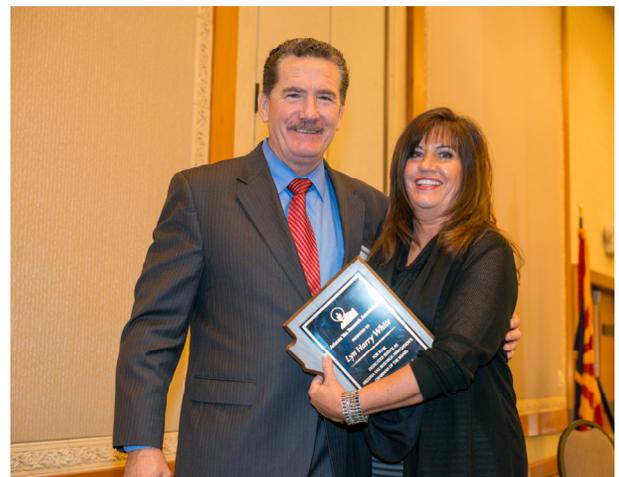


Above: Rigo Ramirez of TEP and Heidi Schaefer of SRP.



Above: Joanne Keene of Coconino County talks with Hunter Moore of Navajo County and Craig Sullivan of CSA.

Below: Laura Magnus of The Aarons Company (left) with Beth Lewallen of ABOR.



Above: ATRA President Kevin McCarthy presents Lyn White with an award to show ATRA's appreciation for her service as ATRA Chairman of the Board.