

ATRA SUPPORTS SB1165

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

Background

SB1165 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 a few 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.

SB1165 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 Arizona League of Cities and Towns (League) has aggressively pursued a change to municipal sales tax collections and auditing that is making an already bad situation much worse. The League 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.

Arizona's state and local sales tax structure is arguably the most complicated and burdensome system 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.

Arizona businesses are not alone in their battle to oppose this extraordinarily bad public policy. In Georgia, the Director of the Georgia Department of Revenue 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 five 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.” Fortunately for taxpayers in Oklahoma, the Oklahoma Legislature passed a measure last year preempting the cities from contracting with for-profit entities to administer their tax collections and audit functions. In Alabama, a class-action lawsuit was filed against RDS for a series of violations to the Alabama Taxpayer Bill of Rights. The Arizona Department of Revenue has also weighed in regarding their concerns with government contracting out their tax collection and audit responsibilities to for-profit companies (see attachment).

Lastly, the proponents have wrapped 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, the League has recommended to cities to extend this contract to one vendor (RDS), who were initially providing a kickback to the League.

SB1165 passed out of the Senate 24-5-1.

ATRA ASKS LAWMAKERS TO VOTE YES ON SB1165!



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