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ARIZONA TAX RESEARCH ASSOCIATION

ATRA OPPOSES HB2526

Statutory Change Conflicts with Constitutional Provision

Background

Arizona has one of the most complicated property tax systems in the country. One of those complications is that property in Arizona receives two valuations: full cash value (FCV) and limited property value (LPV). Arizona courts have ruled that the FCV of property should represent the property's market value. Since the FCV fluctuates with the market, there is no limit as to how much it can increase each year. On the other hand, the Constitution limits the annual growth in LPV to a mathematical calculation. Prior to the passage of Prop 117 in 2012, the annual growth in LPV was the greater of 10% over the previous year or 25% of the difference between the current year's FCV and the previous year's LPV. As passed by the voters, Prop 117 limited the annual growth in LPV to 5% or the FCV and made the LPV the only taxable value for both primary and secondary property taxes.

Due to its subjective nature, taxpayers have always had the ability to appeal the FCV of property. The LPV on the other hand, since it is a mathematical calculation, has never been an appealable value. The only exception to the annual 5% growth limit is in situations of new construction. Based on authorization provided by the Constitution, a statutory provision exists that directs the LPV on newly constructed property to be calculated as a percentage of the FCV that reflects the FCV/LPV relationship of similar properties, which is referred to as the "Rule B" calculation.

The number of appeals filed with county assessors across the state have dropped dramatically since the passage of Prop 117. The decrease in appeals is likely associated with the obvious benefit of 117 in that the annual growth in property taxes are no longer tied to sharp swings in the real estate market. As anticipated, the reasonable 5% limit in the annual growth in property values has created stability in Arizona's property tax system and greater predictability for both government and taxpayers.

ATRA's Opposition

During the 2016 legislative session, ATRA opposed a statutory amendment that would have allowed taxpayer's to appeal the LPV based on the "equity" approach. ATRA questioned how a change in state statute would allow a different calculation of the LPV in contrast to the constitutional provision that clearly mandates the annual growth in LPV to 5%.

HB2526 would provide that if the FCV is reduced through an appeal on property, that the LPV be reduced by the same percentage. Proponents of the bill argue that since the FCV is no longer a taxable value and the annual increase in the LPV is minimal because of Prop 117 that taxpayers' desire to file an appeal has essentially been eliminated. The proponents also compare this new change to the existing Rule B calculation for new construction. On the contrary, the current Rule B percentage is calculated by the assessor each year and the same percentage applies to all property that is added to the tax rolls in that year. There is no rationale that the LPV be reduced by the same percentage as the reduction in the FCV that was based on market value.

Lawmakers should question the *unconstitutionality* and *motivation* behind this proposal. HB2526 will certainly reverse any of the benefits that resulted from the passage of Prop 117 by increasing the number of appeals filed.