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ARIZONA TAX RESEARCH ASSOCIATION

ATRA OPPOSES SB1409

Reverses MRRA Reforms under TPT Prime Contracting

Background

In 2013, then Governor Brewer's TPT Simplification Task Force adopted the aggressive recommendation to eliminate Arizona's unique and complicated prime contracting tax. That provision in the TPT reform bill drew significant opposition from the cities and towns. The initially enacted legislation limited the prime contracting reform to only maintenance and repair contractors that would pay tax on materials at retail rather than prime contracting in which the tax is calculated based on 65% of the gross proceeds of the contract regardless of the amount of materials used in the project. In 2015, clarifying language was enacted to provide that contracts for maintenance, repair, replacement or alteration (MRRA) activities within specified thresholds would be subject to tax on materials at retail rather than the prime contracting classification.

For "alteration" projects to qualify under MRRA, the physical change to existing property would fall under specific thresholds. For residential property, the contract price for the alteration is 25% or less than the property's full cash value and for commercial property if all of the following are true: 1) the contract amount is \$750,000 or less; 2) scope of the work is 40% or less of the existing square footage; and 3) scope of the work includes an expansion of 10% or less of the existing square footage. For either a residential or commercial contract, a 25% cushion was provided to accommodate changes to contracts that may initially qualify under MRRA without being pulled back into prime contracting.

Reason for ATRA's Opposition

SB1409 reverses any progress made with the enactment of MRRA by moving contract work for alterations back into prime contracting and dramatically changing the definition of replacement activities. These two major reversals of MRRA will definitely result in a tax increase. As the Legislature was originally contemplating the implementation of MRRA, the reduction in taxes had to be offset with increased revenues in other areas for the bill to remain revenue neutral. Certainly SB1409 will cause taxes to increase if MRRA is reversed.

MRRA provided simplification for small contractors by moving them from the complicated prime contracting structure to paying tax on materials at retail. If lawmakers want to simplify prime contracting, they should do so by either increasing or removing the alteration thresholds altogether.

ATRA ASKS LAWMAKERS TO VOTE NO ON SB1409!