



ARIZONA STATE SENATE
Forty-ninth Legislature, First Regular Session

PROGRAM PRESENTATION
Government Property Lease Excise Tax

Background

Article IX of the Arizona Constitution provides that all federal, state, county and municipal government property is exempt from taxation. Occasionally, as an economic development tool, government land is leased to a private party for profit for the purposes of commercial or industrial use. Since the land is still owned by the government, it is exempt from property taxes.

By the 1980s, the leasing of government land as an economic development tool was in wide use. In 1985, the Arizona Legislature enacted legislation that provided a method for the taxation of possessory interests. A possessory interest is created when a private party is granted the exclusive use of real property owned by a nontaxable entity. The new law specifically provided that possessory interests in federal, state, county and municipal government property would become subject to taxation. The tax on possessory interest was calculated by valuing the interest that the lessee had on the government's property. That value was then placed on the property tax rolls as the unsecured personal property of the lessee. The standard property tax rates were then charged against that value and the lessee sent a property tax bill. Additionally, the law established possessory interest tax exemptions and provided special valuation rules for possessory interests created prior to April 1, 1985.

The possessory interest tax was challenged in court in a number of cases. The court held that limiting the special valuation to interests created before April 1, 1985, violated the uniformity clause in Article IX of the Arizona Constitution. The court also held that the possessory interest exemptions went beyond the constitutional tax exemptions and were therefore ruled invalid. As a result, all possessory interests became taxed in the same manner as other properties.

In 1995, the Legislature repealed the possessory interest tax. The intent statement expressed the Legislature's desire that possessory interests not be subject to ad valorem taxation (taxation based on value) until a new taxing mechanism was enacted.

The Government Property Lease Excise Tax (GPLET), enacted by Laws 1996, Chapter 349, served as the successor to the possessory interest tax. GPLET is a local excise tax that is based on the square footage of a building rather than on its value. GPLET is levied on entities that lease the property of a city, town, county, or county stadium district for commercial or industrial purposes for at least 30 days [A.R.S. § 42-6201].

Fiscal Information

The Joint Legislative Budget Committee estimates that GPLET's cost to the state General Fund is approximately \$4 million but this figure may change as more data is made available.

Committee Activity

The Senate Finance Committee held public hearings on GPLET on January 21, 2009, and February 4, 2009. The Committee questioned stakeholders on the following issues related to GPLET:

- The use of GPLET as an economic development tool.
- The use of GPLET as an economic re-development tool.
- The tax-shift onto other taxpayers and the state (through additional state aid) as a result of the loss of property tax revenue from GPLET properties.

Attachments

- Government Property Lease Excise Tax Slideshow Presentation by Joint Legislative Budget Committee (JLBC) staff.
- Government Property Lease Excise Tax Questionnaire.
- Government Property Lease Excise Tax. [*source*: JLBC Tax Handbook 2008, pp. 157-160.]

Prepared by Senate Research
February 5, 2009
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