STATE OF ARIZONA
OFFICE OF THE
AUDITOR GENERAL

INTEGRITY • ACCOUNTABILITY • MAKING A DIFFERENCE

Government Property Lease Excise Tax

REPORT HIGHLIGHTS
SPECIAL AUDIT

Our Conclusion

We conducted a special audit of the government property lease excise tax (GPLET) to address whether GPLET, as modified by Laws 2010, Ch. 321, provides a viable revenue stream to counties, cities and towns, community college districts, and school districts (jurisdictions). We found that the changes to the GPLET laws may not increase revenues because most lessees do not pay the increased GPLET rates. In addition, we found that improvements are needed to ensure GPLET is accurately calculated, collected, distributed, and reported to ensure jurisdictions receive all GPLET revenues due to them. Because of limited information, we could not evaluate the effect of GPLET on the development of vacant or underutilized property, on new economic development, and whether slum or blighted areas improved through an abatement of GPLET.

2015

December • Report No. 15-307

GPLET overview

In 1996, the Legislature passed laws to allow Arizona's cities, towns, counties, and county stadium districts (government lessors) to lease property they own to private parties (lessees) for nongovernmental use. In addition, the government lessors can enter into agreements with lessees to develop unused or underutilized property to help revitalize a community. Because the property is owned by the government, it is exempt from paying property taxes, and instead GPLET is assessed and distributed to jurisdictions.

In 2010, the Legislature amended the GPLET laws to increase the GPLET rates for new leases entered into on or after June 1, 2010, limit lease terms, and eliminate the ability to reduce payments over time. Additionally, the changes in law required the Arizona Department of Revenue to annually adjust the GPLET rates based on inflation and establish new reporting requirements to improve accountability and transparency. However, those government property improvement leases and development agreements entered into or approved prior to June 1, 2010, are still subject to the GPLET rates established in 1996.

Changes to GPLET laws may not increase revenues as expected

Although the Legislature changed the GPLET laws in 2010 to increase revenues distributed to jurisdictions, these statutory changes may not increase revenues as expected because most lessees do not pay the increased GPLET rates. We analyzed leases included on the County Treasurer Reporting Forms (Reporting Forms) during calendar year 2014 and determined that most leases are either exempt from paying GPLET or continue to pay GPLET under the old GPLET rates and laws, which include a provision that allows lessees to reduce GPLET payments over time. Because so few leases are subject to the new GPLET rates and laws, the changes to the GPLET laws may not increase revenues as expected unless government lessors enter into a substantial number of new government property improvement lease agreements that are subject to the new GPLET rates.

Based on our review of the Reporting Forms for calendar year 2014, almost half of the government property improvement leases we identified are exempt from paying GPLET. Further, because statutes do not require county treasurers to report exempt leases, the number of exempt leases could be much higher. There are 15 different types of government property improvement leases that are exempt from paying GPLET. For example, leases with other government entities, nonprofit organizations, low-income housing, and various types of athletic and entertainment facilities, including some restaurants, movie theaters, and retail shops, are exempt under statute.

Recommendation

The Legislature should consider forming a task force to evaluate the GPLET exemptions.

Improvements are needed to ensure GPLET is accurately calculated, collected, distributed, and reported

Various actions are needed to help improve the overall administration of GPLET to ensure jurisdictions receive all GPLET revenues due to them. A lack of understanding of the processes for calculating, collecting, distributing, and reporting GPLET, and a lack of policies and procedures by the parties charged with administering GPLET contributed to the lost revenues and incomplete or inaccurate reporting. We reviewed a random sample of 12 leases in effect from June 1, 2010 through December 31, 2014, and found that $236,119 was not collected and disbursed to jurisdictions because the GPLET liability for 11 leases was incorrectly calculated and 1 lease was incorrectly assessed GPLET. These errors were the result of using an incorrect GPLET rate or excluding information needed to properly calculate the GPLET liability. Additionally, from the sample items, 5 lessees did not submit a GPLET return or payment for at least 1 calendar year. County treasurers also did not assess penalties and interest on delinquent GPLET payments. Further adding to the errors, our review found that GPLET reporting was incomplete or inaccurate and that some distributions were not made to the appropriate jurisdictions.

GPLET process is not well understood and lacks adequate procedures—Many city, town, and county officials (parties) who are responsible for GPLET administration indicated a general lack of understanding regarding GPLET laws and requirements. Additionally, the lessees did not always understand how to accurately calculate GPLET. Further, the parties lack adequate policies and procedures to ensure GPLET is properly calculated, collected, distributed, and reported. Specifically, the parties did not review GPLET returns for accuracy; reconcile payments to lease agreements; or communicate with other parties administering GPLET.

Incomplete GPLET reporting could affect equalization assistance payments to school districts—The Arizona Department of Education (ADE) is required to consider the valuation of properties subject to GPLET, as reported by the county assessors, in its calculation of equalization assistance payments made to school districts. However, we found that some county assessors did not notify ADE of the valuation of properties subject to GPLET. As a result, the State and counties may have paid more in equalization assistance payments than required.

Legislature should consider modifying GPLET processes—The Legislature should consider modifying statutes regarding the processes and time frames for calculating, collecting, distributing, and reporting GPLET revenues. For example, the government lessor should calculate the GPLET liability instead of the prime lessee because the government lessors have the information required to perform the calculation and are responsible for levying GPLET. Additionally, the Reporting Forms should be completed by both the government lessors and county treasurers to help ensure all GPLET payments are received and distributed to the jurisdictions. Further, to allow the parties sufficient time to complete these proposed recommendations and others outlined in the report, the tax due date and other time frames should be modified.

Parties administering GPLET should develop and implement policies and procedures—Even if the Legislature takes no action, policies and procedures would improve the administration and oversight of the GPLET calculation, collection, distribution, and reporting processes.

Recommendations

The Legislature should consider modifying statutes regarding the processes for calculating, collecting, distributing, and reporting GPLET revenues.

Parties administering GPLET should develop and implement policies and procedures to help ensure that GPLET revenues are accurately calculated, collected, distributed, and reported.