

State Tax Administration in the Eyes of the Taxpayers

FTA 2010 Annual Meeting
June 7, 2010

Presenters

- ▶ **Jeff Saviano**
 - Ernst & Young LLP
 - Boston, MA
 - 617/375-3702
 - jeffrey.saviano@ey.com
- ▶ **Todd Lard**
 - COST
 - Washington , DC
 - 202/484-5229
 - TLard@cost.org
- ▶ **Cass Vickers**
 - IPT State Tax Counsel
 - Atlanta, GA
 - 850/907-0692
 - cvickers@ipt.org
- ▶ **Dan De Jong**
 - Tax Counsel
 - Tax Executives Institute,
Inc.
 - Washington, DC
 - 202/-638-5601
 - ddejong@tei.org

VDA programs

- ▶ Programs are a win-win for the state and taxpayer
 - Brings in revenue immediately for the state
 - Provides certainty around provisions
- ▶ Uniform provisions/guidelines
 - May encourage more taxpayers to participate

Audit inefficiencies

- ▶ Endless audits with multiple SOL waivers
- ▶ Auditor discretion – auditors seem unable or unwilling to make decisions/judgment calls in the field
- ▶ Unwillingness to rely on past experience (e.g., state audits R&D credit three years with no change, and still audits it aggressively in year four)
- ▶ No materiality thresholds

The easy button

- ▶ Perception and expectation that large taxpayers have immediate and easy access to all sorts of records requested by auditors.
- ▶ Task Force on EDI Audit and Legal Issues for Tax Administration (1997)

Inconsistent and/or results-oriented positions

- ▶ Less willingness (possibly because of fewer resources) to issue rulings
- ▶ Non-responsive rulings
- ▶ Taking a different position
 - Taxpayers files one way for 10 years, but the law is unclear.
 - If the issue was audited and passed on for those 10 years, states should not take a different position on the issue in year 11.
- ▶ Use of “equitable” apportionment
- ▶ Unreasonable substantiation requirements

State appeals process

- ▶ End pay-to-play
- ▶ Appeals forum must be independent
- ▶ Hearing officer should be well-versed in the intricacies of state tax laws and concepts
- ▶ Adequate time to file a protest
- ▶ Taxpayer rights advocate with powers / discretion

Confidentiality of taxpayer records

- ▶ Outsourcing components of an audit
- ▶ Limit access to third party consultants
- ▶ Same concerns on a local level
- ▶ Preserving confidentiality in litigation

Rule making

- ▶ Rulemaking that makes retroactive changes
- ▶ Issuing guidance on law changes in a timely manner
- ▶ Important for tax accounting purposes
- ▶ Struggling to accommodate APA requirements
- ▶ Seeing some improvement
 - e.g., MA, WI issuing combined return regulations shortly after legislation enacted