Journal of Multistate Taxation and Incentives (Thomson Reuters/Tax & Accounting)
Volume 26, Number 3, June 2016

ADMINISTRATORS FORUM

Challenges Facing State Agencies and Tax Administrators

By MIKE REISSIG

MIKE REISSIG is Deputy Comptroller and Chief Clerk with the Texas Office of the Comptroller of Public Accounts.

I'm often asked about the challenges facing state agencies, and specifically those that administer taxes. Of course, at the Texas Comptroller's office we do a lot more than administer taxes; we're the state's chief accountant and bill payer, treasurer, revenue estimator and purchaser.

So while collecting taxes is certainly one of our primary missions, I'll begin by discussing issues that affect any large state agency, and then move on to some specific challenges regarding tax administration.

Challenges facing *all* state agencies

The major challenges facing state agencies include:

- an aging workforce, and succession planning
- workplace motivation
- economic conditions and budget fluctuations
- training through mentoring, classes and work experience
- using and leveraging technology

  Managers and administrators face the first four items each day.

The most fundamental component for success in any workplace is an experienced, motivated workforce. As an aging baby boomer myself, I'm sensitive to the number of employees we stand to lose to retirement.

At the Comptroller's office, the median age of our workforce is 48, substantially higher than the median for working, college-educated Texans. About 22 percent of our workers currently are either eligible for retirement or have *already* retired and returned to work. Another 17 percent will be eligible to retire in the next five years.

How will we handle our tasks if a significant number of these folks leave in the next five years? And how should administrators plan for this sort of thing?

Any succession plan should be a natural outgrowth of good management. It's paramount to create a strong bench, with good employees in the prime of their careers. For government, though, this can be easier said than done.

Why? First of all, government salaries tend to lag behind those in the private sector; depending on the state of the economy, recruitment can be a challenge. Ideally, state governments should be a destination of choice for top graduates, but that's not always the case.

So what to do? Every few months, I talk to new tax auditors and tell them that, after they receive our training, and if they're competent, they may well receive a job offer from the private sector for a higher salary. I ask them to first consider the nature of public service and the greater good they're advancing for the state. If that doesn't move them-and let's face it, it doesn't always-I appeal to their pecuniary interest by reminding them of our still fairly generous employee benefits.

Any agency would do well to remind recruits that government employees still generally enjoy much more generous benefits than private-sector workers. Any state workers not familiar with the difference between defined benefits and defined contributions would do well to calculate the amount of money they'd have to save to fund a retirement income equal to two-thirds of their average salary over their last three years of service. It's probably more money than the average worker can save.

Now, a word about motivation. Again, appealing to financial self-interest doesn't always work in the public sector. Fortunately, many studies have shown that other factors can be just as potent.

The main key to motivation is to treat *everyone* with respect, no matter where they are on the org chart, and to give everyone a real sense of buy-in with major decisions that affect them.

That's easier said than done, of course, and if your management style is naturally autocratic, you'll find it nearly impossible. But if you *don't* find ways to increase involvement and give workers some sense of control, productivity and retention will inevitably erode over time.

One of the best ways to create this sense of buy-in is to create interdivisional teams to pursue special projects and make reports that flow all the way to the top. This cuts through bureaucratic management layers and gives smart, motivated people access to the top of the organization. It also forces people to think in new and creative ways.

Yet another key to effective succession planning is training and mentorship. Without these, you'll have a very difficult time not only in replacing key employees, but in achieving your day-to-day goals.

Training usually is delivered in three ways-through formal training sessions, either in-house or external, through the guidance of a mentor, or simply through hard-won experience garnered over years or decades. One challenge in the training arena is to establish the right mix of classes, offering both technical and interpersonal skills. Your training division should create the curriculum with the advice of the agency's various functional areas, which in turn should discuss training needs with their own front-line employees.

As for mentorship, I believe informal methods work best. You should always encourage new employees to identify and approach the veterans who can assist them in areas where they need development.

Of course, the hard-won experience of decades is available only from employees who *stay* for decades, and that's why the other factors concerning retention are so important.

Now, a quick word about technology. All agencies must learn to administer large technology contracts. As you evaluate your current technology and consider alternatives, listen to internal and external users of your technology, your technology division and outside contractors, *in that order.* At the state level, we may never be "cutting edge," but we have to stay current enough to make life as easy as possible for taxpayers.

Challenges facing tax administrators

As I see them, the biggest specific challenges facing state tax administrators are:

- relations with tax practitioners
- the efficient use of audit and enforcement time
- uncertainties regarding tax policy
- contested cases and settlements
- federal preemption

Let me begin by saying that the insight and experience of tax practitioners can be a big help to you. But you can never lose sight of the fact that they're in business to represent their clients, while *your* job is to protect the state's interests (while of course being fair and responsive). Periodic meetings with practitioners and taxpayers offer a great way to obtain early buy-in on policy issues. To be effective, however, such meetings can't be perfunctory meet-and-greets. At the Comptroller's office, we hold periodic meetings with tax practitioners as well as a taxpayer advisory committee, so we can run draft rules by them before they're exposed to public scrutiny.

Obviously, our audit and enforcement functions must be carried out effectively and as efficiently as possible. Auditors must understand clearly that their main goal is to educate taxpayers to pay the proper amount of tax in the first place, and that an audit can produce refunds as well as assessments. This is one of the first messages we give new auditors, so that they see themselves from the start as being there to *help* taxpayers. We expect them to be responsive to taxpayers just as we expect taxpayers to be responsive to us.

Efficiency, these days, mainly concerns using technology and new ideas to employ audit and enforcement resources as wisely as possible.

In February 2012, the Comptroller's Enforcement Division instituted a program called Finding Opportunities to Collect and Upgrade Services (FOCUS) that allows customer-service field offices in low-volume areas of the state to devote part of their week exclusively to collection activities. Under FOCUS, our offices shift their foot traffic into one part of the week and spend the rest collecting taxes. Similarly, since 1997 our Audit Division has used sophisticated statistical techniques to enhance its audit selection process, identifying potential taxpayers for audit with characteristics less obvious than their size or history of compliance.

A few years ago, our Tax Policy Division switched from emphasizing the production of letters to individual taxpayers to the promulgation of general rules. The idea was to promote clarity and consistency in tax policy proclamations so that more time could be devoted to giving specific guidance to taxpayers with a minimum of paperwork. We had found that the more letters we produced, the more we later had to pull or replace, a practice that taxpayers and practitioners found irksome at best.

What taxpayers want most from tax organizations is *certainty*, and considering the technical and often obscure language of statutes, the quest for certainty can be difficult even for the most efficient agencies. That's why clarity will continue to be an issue for tax administrators, especially as the economy and tax policy become more complex.

Contested cases will continue to be another challenge, and a natural extension of tax policy. Some hearings and litigation are probably inevitable. Coordination between tax policy and those representing the state in contested cases is critical to handling this issue effectively. At the Comptroller's office, Tax Policy and our hearings division meet regularly to discuss cases.

Under state law, the Comptroller's office can settle cases in audit and hearings, while the attorney general can settle cases in court. This authority can be either a blessing or a curse depending on how it's managed and applied. But I would argue that in Texas, it has meant a net benefit to both the state and taxpayers, as a method of disposing of cases when the parties can come to an agreement.

The last major challenge for tax administrators in the coming years will be the ongoing potential for federal preemption. We've already seen the impact of laws such as the recent Internet Tax Freedom Act. We could easily see similar laws in areas such as telecommunications, income sourcing, and even hotel room resellers. Tax administrators must stay aware of these efforts and work with the appropriate associations, congressional representatives and the Congressional Budget Office to make sure Congress, in turn, is aware of the fiscal impact these bills may have on the states.