D.C. Tax Revision Commission

MEETING MINUTES

Subject: D.C. Tax Revision Commission Meeting
Date: Nov. 4, 2013
Time: 3:00 p.m. to 6:00 p.m.
Location: Room W250 1101 4th Street, S.W. Washington, D.C. 20024

Members Present:

Anthony Williams	Stefan Tucker
Teresa Hinze	Kim Rueben
Fitzroy Lee	Ed Lazere
Pauline Schneider	David Brunori
Catharine Collins	

Staff:

Gerry Widdicombe	Steven M. Rosenthal
Ashley Lee	Richard C. Auxier
Elisha Gaston	

I. Call to Order (Anthony Williams)

Mr. Anthony Williams, the chair of the D.C. Tax Revision Commission (the "Commission"), called the meeting to order at 3:16 p.m. He began by thanking the Office of the Chief Financial Officer (OCFO), the Office of Revenue Analysis (ORA), and the Office of Tax and Revenue (OTR) for their exceptional contributions to the Commission's efforts. He announced that electronic copies of all meeting materials are available on the Commission's website, and invited guests to consult with Ms. Ashley Lee for hard copies. Mr. Williams notified those present that the Commission's third public hearing would be held on Nov. 12, 2013, from 5 p.m. to 9 p.m., in the same room (Room W250 1101 4th Street, S.W., D.C.).

II. Discussion of Commission Schedule and Deliberation Process

Mr. Williams announced that Councilmember Kenyon McDuffie (Ward 5), scheduled to appear before the Commission, was unable to attend. He noted the Commission would hear three presentations on tax administration: Mr. Stephen Cordi, Deputy CFO with OTR; Mr. Gregory Syphax, D.C. Real Property Tax Appeals Commission; and Ms. Linda Tanton, a tax administration review consultant. He commented that a good tax system must include on sound tax administration that is responsive to taxpayers.

Mr. Williams also congratulated D.C.'s new CFO, Mr. Jeffrey S. Dewitt. He noted that Mr. Dewitt has promised to take a hard look at all aspects of the OFCO and said the Commission looks forward to making its staff available to the new CFO.

III. Presentations: Stephen Cordie

Mr. Williams turned the floor over to Mr. Cordi, who explained that he joined the OCFO in January 2008 as Deputy CFO. Mr. Cordi proceeded to read from the presentation that he had provided to the Commission with no substantial deviation from his pre-written work. Mr. Cordi's presentation has been provided below.

> Good afternoon Mr. Chairman and members of the Commission, I am Stephen Cordi, Deputy Chief Financial Officer for the Office of Tax and Revenue. I very much appreciate the opportunity to address the Commission today on behalf of the Office of Tax and Revenue.
>
> Gerry Widdicombe was good enough to provide me with a suggested list of topics to address. When we went over them a few weeks ago, we agreed that covering all of them would take many more hours than has been allotted. For that reason, I am not going to try to get to them all, but can respond to any questions which you may have.
>
> The Commission has engaged Linda Tanton to do a report on the operations of OTR, and you will hear from her shortly. I've decided not to replicate her remarks on the day to day operations of the agency.

What I would like to do this afternoon is speak more generally to major themes affecting the agency, to agency initiatives and to administrative aspects of several of the tax policy options under consideration by the Commission.

Internal Controls: For OTR, the 2007 tax scandal revealed that internal controls over manually issued refunds were weak or non-existent. Creating, maintaining and improving internal controls have been among our most important tasks since then. We have had a lot of help from internal and external auditors and from the CFO's Chief Risk Officer.

For manual refunds, at Dr. Gandhi's express direction, we adopted comprehensive procedures, augmented documentation requirements, provided for tiered reviews, and instituted a back-end check through a Refund Control Unit created in our Revenue Accounting Administration.

Internal controls within the Integrated Tax System turned out to be weak as well. The system was designed with some functionality screens which permitted users to both authorize and approve transactions, users had incompatible authorizations and OTR was not effective in updating user rights when employees moved from department to department.

We've addressed these problems and more. The institution of internal controls is not a one-time exercise. It is an ongoing process of review, remediation and checking, followed by more reviews, remediation and checking.

We, of course, have no way of knowing what mischief we may have prevented through enhanced internal controls. We do know that the controls identified two separate employee schemes which were being used before the tax scandal broke when those employees tried to resume them afterwards.

The institution of effective internal controls requires multiple reviews and approvals of transactions and additional work with taxpayers, in other words a whole lot of additional work. The process would have been difficult in normal times. Unfortunately, most of the work had to be done in the face of a sharp economic downturn. Between FY 2009 and FY 2012, OTR lost approximately 100 of its 550 authorized positions. We've regained some of those positions in the last two budget cycles, but remain 60 positions short of our 2009 staffing level.

Unfortunately, there has been some degradation of service and taxpayers have noticed that the pace of issuing refunds has slowed and call wait times have increased.

External Controls: Not only did internal controls require improvement, controls of external refund fraud needed attention. In 2008, our fraud detection program was largely manual, dependent upon reviews of paper returns, taxpayer audits and filters for suspicious circumstances, such as withholding tax claims out of proportion to reported income. By 2009, we instituted an automated data warehouse check of refund returns to make sure that the claimant was a real person identifiable as being in the District. The data warehouse contains such things as employer w-2 information, unemployment wage reports, driver's licenses and vehicle registrations. This has been a fairly effective check on refund fraud based upon fake social security numbers and the use of social security numbers of persons with no actual District attachments.

We've tried a number of filters to identify fraudulent returns filed with social security numbers of persons who happened to have had a DC connection. Some have swept too broadly and turned up too many false positives. Others have worked well. Last year, for the first time, we have been blocking refunds for taxpayers listed on the Social Security Death Index, a procedure the IRS has had in effect for some time.

This year, we will pass refunds claims against our employer w-2 file, halting for review returns for which no w-2 information is being reported by the employer or for which no employer is on our file and adjusting returns where the employee has reported different wages or different withholding than is being reported by the employer. This check was made possible by a change in District law several years ago which requires employers to file their w-2 reports with us by January 31 of each year and electronically if 25 or more employees are being reported.

The other thing which we are doing for the upcoming filing season is to request taxpayers to provide us with their dates of birth. This information should be of considerable benefit to the Council and to our revenue estimators as policy- makers seem increasingly to want to condition tax benefits on the basis of attaining a certain age. Right now, all that we know about taxpayers is whether or not they claim to be over 65 years of age. The other benefit to this is that, down the road, it is another data element that will make identity theft refund fraud more difficult.

Integrated Tax System: The most pressing issue currently faced by OTR is the necessity of replacing its Accenture Tax Administration System (TAS). TAS was implemented in early 2001, replacing a hodge-podge of stovepipe systems for separate taxes. It has served the District well, but it has reached the end of its useful life. It is a COBOL system expensive to maintain; its noticing and case flow systems are rudimentary, and it is not really designed for an effective web presence. While we could throw more money at these and other issues, we could not get much of that work done before we could have a modern integrated tax system in place.

OTR went through an elaborate request for information (RFI) process to see what was available in the market and hired an outside consultant to assist us in developing business user requirements. We have issued a Request for Proposals (RFP) and are now in the process of evaluating responses. Members of the selection board are scheduling site visits of the systems in place in other jurisdictions for this month. We hope to have evaluations ready for the new chief financial officer when he takes office. Many of the helpful suggestions being made today by Ms. Tanton can, as a practical matter, best be accomplished in a new system.

Tax Collection and Debt Recovery through Offset: By far, the most effective means of collecting tax and non-tax debt is to do so through offset and not through enforced collection methods such as the filing of tax liens, bank attachments and wage garnishments. Here, we have made good progress in recent years. Historically, OTR offset its own refunds to satisfy unpaid tax, child support and unemployment insurance obligations and participated in the IRS refund offset whereby federal income tax refunds were captured to satisfy DC income tax debts.

Two years ago, we implemented a DC vendor offset program, whereby any payments which DC makes to contractors and others is offset to pay DC taxes, a program that produces about $1 million in collections per year directly and much more indirectly. A year ago, we instituted a reciprocal refund offset program with the Maryland Comptroller's Office whereby Maryland refunds ore captured to pay delinquent DC taxes and vice versa, a program that produces about $1.5 million per year. This year, we joined the federal vendor offset program run by the U.S. Treasury whereby federal vendor payments are offset to pay delinquent DC taxes and vice versa. So far this year, we have intercepted in excess of $10 million in federal vendor payments to satisfy DC tax debts, the highest amount for any jurisdiction in the program.

Also this year, the Council authorized OTR to intercept DC income tax refunds to pay outstanding parking ticket liabilities of the Department of Motor Vehicles. So far this year, we have intercepted more than $3.5 million in DC income tax refunds from almost 13,000 returns. The program really didn't get started this year until well into February, missing the early peak of the tax filing season.

Getting started at the outset of next filing season should result in collections approaching $5 million. OTR continues to work on expanding these programs. There remain practical opportunities to do so.

The Marketplace Fairness Act: As the Commission knows, there have been positive developments with regard to the remote collection of sales and use taxes. Historically, the states and the District have been prohibited from requiring remote sellers without substantial physical presence to collect our sales and use taxes in the absence of congressional authorization. Much to the surprise of many, just that authorization was passed by the Senate this spring in the form of S.743. S.743 would authorize the remote collection of the tax with relatively few burdens imposed up the states. We will need to be able to provide a central registration system which can probably be accomplished by making use of the existing central registration system of the Streamlined Sales Tax Project, and we need to provide software free of charge that calculates the tax and files returns. We believe that software can be provided through existing certified software providers of the Streamlined Sales Tax Project, at some presently unknown cost to the District.

The legislation has been transmitted to the House of Representatives and referred to the House Judiciary committee, chaired by Virginia representative Robert Goodlatte. Mr. Goodlatte is not known to be friendly to authorizing the remote collection of the tax. He has released what he calls his "Basic Principles on Remote Sales Tax Collection Authority," which are very general in nature and give little clue to what he actually intends to do. My view is that the most likely outcome is that the Judiciary Committee will do nothing with the bill. The next most likely outcome is that the legislation will be significantly weakened and passed out with a series of restrictions on the ability of the states to tax which have been kicking around in congress for some time, including, in particular, the Business Activity Tax Simplification Act, a poison pill intended to kill state corporate income taxation outright. The least likely, but nonetheless possible, outcome is a bill that the states and the District could actually use to obtain remote collection of sales and uses taxes.

Sales Taxation of Hotel Intermediaries: For more than a decade, states, cities and counties have been litigating with hotel intermediaries on the issue of whether those entities, with familiar names like Expedia, Priceline and Hotels.com, should be remitting hotel occupancy taxes on the portion of the charges paid by customers which are retained by them.

Typically, customers come to web sites maintained by the hotel intermediaries, contract and pay for hotel accommodations, following which a lesser sum, plus the sales tax on the lesser sum is directed to the hotels. Those hotels then remit the amount of the tax with their local sales tax or hotel tax return. Local taxing authorities often take the position that the amounts that the hotel intermediaries retain as their fees are as much of the price for the hotel rooms as the amounts actually remitted to the hotels.

Over the years, the hotel intermediaries have won more cases than they have lost, often winning on technical issues such as whether or not they fit within the definition of an "innkeeper" in antique taxing statutes. Where they have lost in small jurisdictions, they have reacted, not by commencing to collect the taxes, but rather by cutting off hotels within the tax jurisdiction and offering only hotels outside the taxing jurisdiction.

OTR felt for some time that our sales tax statute, which is where the hotel tax is imposed, was clear on the proposition that the tax was due on the entire consideration for the transaction. We were unable to interest the Attorney General's Office in pursuing the matter itself or authorizing the use of outside counsel until Irv Nathan took office as DC's Attorney General. He took an immediate personal interest in the matter and directed skilled members of his staff to pursue the collection of these taxes by filing suit in Superior Court.

The Attorney General has won an important early victory when the defendants' motion for summary judgment was denied. The case is by no means over, though, and is likely to have to be resolved in the DC Court of Appeals. The prospects for a recovery in the $60 million range are good, as are the prospects for ongoing revenues thereafter.

Tax Policy Options Presented to the Commission: Staff of the Commission, Gerry Widdicombe, Steve Rosenthal and Richard Auxier has briefed me on the policy options being considered by the Commission. They have been good enough to alert the Commission to the very few issues which entail any administrative issues at all. Overwhelmingly, the policy options presented to the Commission present no significant issues of administration.

Needless to say, OTR has no views on the policy issues. That said, I would like to touch upon those few policy options which present administrative issues. I will address them in the order in which they appear in the Deliberations Draft of September 26, 2013.

Assert click-through nexus: This is a suggestion that the District adopt an "Amazon" type statute similar to the one adopted several years ago by New York which asserted nexus on the basis of New York websites providing "click-through" access to a remote vendor's web site and being compensated for resulting sales. When this legislation was first enacted, Amazon began collecting the tax in New York while litigating the validity of the law.

In every subsequent enactment of similar legislation by a state, Amazon reacted by terminating the local websites from its click-through program and not collecting the tax. It is a virtual certainty that it would do the same were the District to enact such legislation, the result being that District businesses would lose revenue and no additional sales taxes would be collected.

The situation took a turn for the worse several weeks ago when the Illinois Supreme Court ruled that that's state's click-through nexus law was prohibited by the Internet Tax Freedom Act as discriminating against online sales.

OTR would naturally like to avoid being sent on the wild goose chase that this legislation would entail.

Add use tax line to the personal income tax return: This is a program that exists in a number of income tax states with sales and use tax statutes. The level of taxpayer response typically hovers around 1% reporting anything at all on the line.

Whether the District could collect enough to cover its direct and indirect costs is problematic, but even if we were fortunate enough that our expenses were only half of collections, it's a wasteful use of taxpayer dollars.

Taxpayers inherently know that there is no practical way for the government to enforce a use tax reporting requirement on income tax returns. That's why compliance is so low everywhere else. Taxpayers cannot imagine that government officials would actually try to examine their credit card bills and checkbooks to look for unpaid use taxes and, frankly, neither can I.

By definition, almost everyone owes some use tax, if only on a magazine subscription or book from Amazon, so a compliance level of 1% suggests that we would convert 99% of our income tax returns, now overwhelmingly accurate and honest, into inaccurate and fraudulent. That can only bring the government into disrepute, and no one can convince me that it is good tax administration.

When I testified on similar legislation in the Maryland Senate Budget and Taxation Committee some years ago for the Maryland Comptroller, I noted that the only taxpayers who would write anything at all on a use tax line were elected officials, people with licenses to protect and the pathologically honest; the other 99% of us would report nothing. Maryland has wisely not enacted any such requirement.

Replace BFT and UBT tax w/an expanded gross receipts tax: The previous tax revision commission recommended replacing the District's franchise taxes with an expanded gross receipts tax. At the time that recommendation was made, the District's franchise taxes were rapidly becoming almost voluntary as a result of tax planning in the form of intangible holding companies, finance subsidiaries and garden variety transfer pricing. The gross receipts tax recommendation was not adopted, but the District did, after a few years, adopt add-back legislation to reduce losses from intangible holding companies and finance subsidiaries, and, much more importantly, adopted combined reporting beginning in tax year 2011.

Combined reporting, which is similar to consolidated filing at the federal level, eliminates inter-company transactions and the tax planning opportunities thereby provided. OTR is only now processing the returns from the second year of combined reporting. It is a little too early to have reached any definitive conclusions on the effectiveness of combined reporting in the District, but the early signs are hopeful.

The implementation of combined reporting was a significant undertaking for OTR and the District's business taxpayers. At this point, needless to say, OTR would like to avoid another disruptive change in business taxation, in the absence of a pressing reason for such a change.

Split Property Tax - land and buildings: OTR does provide separate values for land and improvements as part of its real property assessment process. These are really just estimates, however.

Properties are in fact valued on a combined basis without regard to the components. There are simply not enough arms-length sales of true vacant property in the District to provide any reliable basis for assessing land separately from buildings. It is difficult enough for OTR to produce accurate values for improved properties in the aggregate without the additional burden of having to produce defendable values for the components separately, with little in the way of market data for land sales.

If legislation were enacted providing for differential tax rates for land and buildings, we foresee a sharp jump in appeals for properties, correctly assessed in the aggregate, contesting the unknowable. Whatever the theoretical benefits of separately assessing land and buildings may be, they are assuredly outweighed by the practical problems of doing so.

Thank you, Mr. Chairman, for the opportunity to address the Commission this afternoon.

IV. Presentation: Mr. Gregory Syphax

Mr. Williams then introduced Mr. Syphax, the chair of the D.C. Real Property Tax Appeals Commission (RPTAC). Mr. Syphax said that he is also a certified general appraiser, and that he also previously served as chairman on the Board of Real Estate Appraisers.

Mr. Syphax explained that the RPTAC is the second level of appeals for taxpayers who object to their property tax assessment. The first level is the assessor at OTR. He said that if taxpayers are not satisfied with RPTAC's decision they can appeal to the courts.

Mr. Syphax said that RPTAC provides fair and impartial hearings with the goal of assessing property at 100% of its market value. RPTAC has eight part-time members who work for five to six months of the year, and five full-time members who conduct hearings for half of the year and compile research during the other half.

Mr. Syphax said that he employs brokerage people, real estate appraisers, property managers and some people with business and finance backgrounds. He added that he is working with a bunch of great people, including Mr. Richard Amato, the Vice Chair of the Commission, who came from OAG, having litigated many of the tax and real property tax cases for D.C. for the last 42 years.

Mr. Syphax highlighted some of the differences between the new RPTAC and the previous Board of Real Property Tax Assessments and Appeals. The new RPTAC is more knowledgeable and prepared, partly because the prior board consisted of only part-time members. The new RPTAC knows a lot more about valuation, analyzing properties, and doing the math more than any of the previous boards, requires members to take continuing education courses. He said each decision is debated and argued among three commissioners who take their jobs very seriously.

Mr. Syphax noted that the number of appeals have been going down drastically over the last four years, with 79% sustained, 14% reduced and 7% stipulated. He said that stipulated means that the commission does not evaluate the issue, and simply signs off on OTR's ruling.

Mr. Widdicombe asked Mr. Syphax to share a wish list of things that might help RPTAC to get better at what they do.

Mr. Syphax responded that he wishes he had more time. He noted that RPTAC must complete their work by February 1, and that this deadline is taken very seriously, even if it means working on Saturdays and Sundays to meet the deadline.

Mr. Widdicombe asked for Mr. Syphax's opinion of the idea of taxing land and buildings at different rates, and therefore having two assessments.

Mr. Syphax said that multiple assessments is not a good idea, and that one of the major problems is that the assessors could struggle to put a value on building improvements. He said that a cost analysis is based on current materials and construction, not on why people buy old houses, and this causes deviation from the market because people buy old houses and value them for their old age.

Mr. Syphax recommended that OTR reorganize their assessors into specialty groups, where each group will be assigned to a specific property type, rather than have individual assessors use their personal ideas about the values on property. He suggested adopting a consistent methodology in assessing certain problems.

Mr. Syphax added that he doesn't know how OTR trains assessors. He was concerned about how some present their cases at RPTAC hearings and he recommended more preparation. He acknowledged that OTR does not have to prove anything, and that it is up to petitioner to prove that an assessment is erroneous, but said that OTR does have to say what they did and how they did it.

Mr. Widdicombe said that the Commission has heard these complaints in other testimony.

Mr. Syphax responded that specialty grouping should take care of most of these issues, and that what RPTAC does is tied so directly to what they do, and that when OTR gets better they all get better.

Mr. Williams thanked Mr. Syphax for his contributions to good and fair administration, and for his contributions to the city in general.

V. Presentation: Ms. Linda Tanton

Mr. Williams then introduced Ms. Linda Tanton, the former Deputy Controller of Maryland who was consulting with the Commission on tax administration. Mr. Williams noted that Ms. Tanton was recommended by the Federation of Tax Administrators.

Ms. Tanton thanked OCFO and OTR for being very generous in responding to questions and sharing their time, and then thanked Mr. Widdicombe for scheduling the proceedings. Ms. Tanton explained that she would be speaking from a PowerPoint presentation. The content of Ms. Tanton's PowerPoint is included below. The comments offered by Commissioners and Ms. Tanton are included in *Italics* within the presentation.

Slide 1: Mission of OTR

- Customer service must come first
- District's revenue stream must be protected and enhanced
- Financial integrity and accountability must be incorporated into tax administration

Slide 2: Organization of OTR

- Led by a Deputy Chief Financial Officer
- Organized functionally with directors of functional units reporting to the Deputy CFO

- 481 authorized positions in FY13 *(Ms. Tanton said that this is down significantly from pre-2008 numbers*
- $59.4 million budget in FY13
- Support functions of IT, personnel, training and procurement performed by organizations reporting directly to CFO – not Deputy CFO OTR

<u>Slide 3: Recommendations</u>

- Management of agency has made substantial progress in correcting issues brought to light in 2007 with Harriet Walters scandal
- New Deputy CFO brought in from outside agency
- Controls established to prevent future fraud
- Agency took steps to model itself after other successful state tax agencies
- Nine issues should be addressed to make agency more successful

<u>Slide 4: One—Continue To Work To Obtain New Integrated Tax System (ITS)</u>

- Current ITS system installed in 1991 and never fully implemented

(Ms. Tanton explained that a whole lot of manual effort goes into implementing such a system. Ms. Schneider asked for more information. Ms. Tanton said that the system that D.C. put in place had numerous problems that have not been fully addressed. She noted, in contrast, that other states have spent put significant resources into updating and completing these systems.)

- Current system requires manual intervention which is inefficient and time consuming
- Often leads to inaccurate information in system
- Many standard reports not easily available for management purposes
- Problems with ITS contribute to public's impression that OTR does not handle matters correctly

<u>Slide 5: New ITS Continued</u>

(Ms. Tanton said OTR's lack of online services contributes to a larger volume of calls and other administrative problems that overwhelm staff. She noted that implementation of these projects typically takes between two and three years, and that OTR must spend time doing correct implementation of any new system that is installed, which is an additional drain on resources, since some of the best staff must be put into training full time for the duration of the project.)

- OTR does not have available many of the online services for taxpayers that other tax agencies utilize

- Lack of online choices impacts volume of telephone calls to call centers, volume of correspondence and emails received, number of payments received at OTR for processing and volume of taxpayers who visit the office

- These increased volumes use valuable OTR resources which could be redirected if taxpayers could utilize more online services

- More online services provide flexibility for taxpayers and a resultant reduction in delay in response by OTR for those taxpayers who need to call or write

Slide 6: New ITS Continued

- New system should correct these issues when fully implemented

- RFP has been issued, bids received and proposals are being evaluated

(Ms. Tanton said that OTR must be provided with additional resources because it must continue all regular functions during implementation. She noted that this is one of the keys to a successful revision project.)

Recommend: OTR proceed with project and Mayor and City Council provide funding to OCFO to fully implement

Caveat: Full implementation will take two to four years; will require full-time commitment from a number of OCFO's existing IT and OTR staff

Recommend: Resources be provided to OCFO to supplement existing staff to enable core mission of agency to continue while subject matter experts are engaged in implementation

Slide 7: Two—Continue To Work To Obtain and Implement A New Phone System

- Current phone system utilized in call centers is outdated

- New phone system would also include new Interactive Voice Response (IVR) which provides taxpayers with information on their accounts 24/7, potentially reducing calls requiring direct agency personnel interaction

(Ms. Tanton explained that there are no cues developed to handle specialized calls, and a new system could allow flexibility and allow some employees to telework. She noted that teleworking is usually a morale booster and increases productivity.)

- New phone system would provide more flexibility in call centers to create work queues

- New phone system could provide flexibility, in conjunction with additional software, to permit employees in call centers to telework

Recommend: Urge OCFO to continue work to implement the new phone system and install features that will enhance both the taxpayer and employee experience

Slide 8: Three—Re-Evaluate Adjustment/Refund Review Process

- Adjustment/refund review process has redundant reviews
- Controls instituted after 2007 fraud scandal
- Appears that controls are burdensome and hamper efficient work of agency

(Ms. Tanton explained that controls currently provide redundant reviews that are irksome and inefficient, and since the new ITS system is at least a couple of years down the road, she would urge a change now, to a more of a statistical sampling based method of reviews.)

Recommend: While these reviews will be more automated with a new ITS, I would urge a review of the current controls to determine if the multiple levels of review can be reduced for at least a portion of the refund population before ITS is implemented

Slide 9: Four—Separation Of Duties For Adjustments

- Recent audit of OTR noted a need for separation of duties for adjustments

(Ms. Tanton said that a recent study determined that these adjustments are needed, and that some employees who could request adjustments could also approve them. She added that within each administration of OTR a separation of duties has been created, and that her inquiries revealed some issues and hassle as a result. She said that OTR should look at the option of creating an adjustment unit within the agency so that the issue is isolated to that unit.)

- OTR has implemented recommendation, but has done so within each area that is authorized to request adjustments
- Management voiced concerns about the administrative burden placed on each functional area

Recommend: Urge OTR to review current organization of this function to determine if more efficient to create one unit to perform adjustments requested throughout the agency and implement controls within that unit

Side 10: Five—Enhance Support Functions

- Information Technology, Personnel, Training and Procurement are support functions for OTR and report to OCFO

- The Office of the Chief Information Officer (OCIO) strives to deliver innovative, cost-effective and secure IT solutions for OTR but resources are strained

(Ms. Tanton added that OTR has a huge laundry list of projects that are not moving forward, some of which would produce revenue and benefits for D.C. She said that it was frustrating that these functions are not getting done largely because of a lack of resources.)

- Many IT projects of OTR would enhance efficiency of agency and provide better service to taxpayers and additional revenue to the District

- Projects are not being completed because of lack of resources in OCIO

(Ms. Tanton added that it takes some time to fill vacancies.)

Slide 11: Support Functions Continued

- Natural tension between OTR management and Personnel Services appears to be greater than the norm

- Example is minimum qualifications requirement for entry level tax auditor

(Ms. Tanton said that a person should not have to be a CPA to be an entry level auditor at OTR. She noted that surrounding states have less restrictive requirements.)

- Strong belief in OTR that requirements are too stringent and prevent OTR from filling vacancies in a timely manner

Recommend: OCFO look for ways to enhance the ability of the support services to serve OTR

Slide 12: Six—Employee Morale

- Management believes employee morale is an issue

- 2007 fraud scandal and various newspaper articles since then have contributed to low morale

- Hiring of top management from outside the agency has also contributed to low morale because employees do not see a career path

Recommend: OTR create a Leadership Development Program to identify future leaders of OTR and provide them with training

Several state tax agencies have developed such programs that can be shared with OTR

Slide 13: Seven—Enhance Taxpayer Information On Website And Outreach To The Public

- Review of agency's website indicates that additional information could be provided to taxpayers and practitioners

Recommend: OTR request additional resources, both personnel and technical, to enhance website material with goal of increasing voluntary compliance

Recommend: Review of existing outreach programs to constituent groups to determine if there are additional resources that would enhance educational opportunities to taxpayers

Slide 14: Eight—Lockbox Requirements

- Current lockbox requirements for some taxes create delays in processing documents and payments
- Because of the need for manual intervention for some payments processed through the lockbox, there is the potential for misapplication of payments for some taxpayers

Recommend: Urge D.C. Council review the bond provisions that contain these requirements and change them, if possible

(Ms. Schneider asked what the timetable of delays looked like. Ms. Tanton said that sometimes taxpayers bringing in vouchers because their licenses have been repealed until payment deal with delays for several days after submitting payment directly to OTR. Ms. Hinze added that part of the issue is the lack of communication with taxpayers.)

Slide 15: Nine—Explore Establishing A New Level Of Appeal For Real Property Assessments

- Current system provides third level of appeal to DC Superior Court
- Substantial backlog of cases awaiting hearing and resolution at this level

(Ms. Tanton explained that the backlog at the Superior Court puts pressure on OTR to settle these cases. Ms. Schneider asked whether a state like Maryland has such a process. Ms. Tanton said yes and that she recommends creating a third tier like the ones that exist in many states, similar to the Maryland Tax Court.)

- Taxpayers must pay assessment to appeal at this level
- Pressure on DC government to settle cases

Recommend: Explore feasibility of establishing a new appeal level with judges who have real property assessment background with goal of expediting the resolution of these matters

This concluded Ms. Tanton's presentation. Mr. Williams thanked her for sharing her time and knowledge and opened up the meeting to questions for all of the panelists.

VI. Question and Answer for all Panelists

Mr. Stefan Tucker asked Mr. Cordi how offsets are handled for pass-through entities in D.C. He added that if there is a tax lien, and sales taxes were being withheld, even bankruptcy should not discharge the debt.

Mr. Cordi said that sales and use taxes are not discharged, and that if there is a Chapter 7 bankruptcy liquidation, D.C. gets paid whatever is left. He added that D.C. has corporate fiduciary liability, but generally doesn't apply it unless there are substantial amounts due.

Mr. Tucker asked whether there is a threshold.

Mr. Cordi said that he did not wish to comment on the question. He said that when D.C. starts naming individual fiduciaries they often end up being responsible for nothing, and it ends in a waste of resources. He added that the nature of sales taxes is that the return isn't due until the twentieth day after collection. Therefore, D.C. does not typically know about the potential bankruptcy until two months have passed. Bankruptcy doesn't occur until many more months of default on those taxes. Mr. Cordi said that the solutions aren't very attractive and can precludes new businesses from opening.

Mr. Tucker asked why D.C. does not file liens.

Mr. Cordi said that the issue is that these businesses are typically non-filers, so D.C. does not know which business owes what and how much. He added that D.C. must file a claim and give taxpayers a chance to respond.

Mr. David Brunori said he disagrees with Mr. Cordi's assessment of the split rate tax system on real property. He added that the benefits of a split rate structure are far more than theoretical because taxing land at higher rates than buildings will discourage speculating. He said that although there would be a learning curve with implementation, the benefits are clear. He said he would hate for the administrative aspect of the policy to kill a good policy idea.

Ms. Catharine Collins asked Mr. Cordi why he believed administering a use tax via the individual income tax return would be tough.

Mr. Cordi said high cost software must be developed to keep track of revenue, and that the tax must be publicized since not everybody knows what the use tax is. He added that the city might be able to get $100,000, but would spend $60,000 to get it, which is not very efficient.

Ms. Collins said that in a place like D.C., people who are worried about getting into federal office might be willing to pay use taxes.

Ms. Hinze said that there is an obvious lack of resources in many areas to effectively administer taxes, and asked where Mr. Cordi would prioritize.

Mr. Cordi said that it would cost $35 to $40 million under typical instances to institute a new tax system. He said that money has been set aside for this, but the offices cannot carry on day-to-day operations and get this done with the same amount of people. Additional employee costs are not included in the estimate.

Ms. Schneider asked whether the issue is not having enough money to implement changes properly.

Ms. Tanton said, “None of us were involved in the 2001 implementation.” She explained that current CFO, Natwar M. Gandhi , implemented the changes in a relatively short period of time, and that his achievement was much of a miracle, because he didn’t have the staff needed to keep the contractors concentrated on what had to be done. Ms. Tanton added that lots of good tax people came from the IRS, but they were not state tax people.

Ms. Hinze said that the primary goal is serving taxpayers, and asked, “Where are the checks and balances to make sure that the liability we are trying to collect is correct?”

Ms. Tanton said that implementing a new system is tough because every system develops bad data in it over time, and expressed hope that the new system will process data in a much cleaner fashion.

Ms. Hinze asked about sending taxpayers notices for outstanding tax liabilities.

Ms. Tenton said that what you build into your system is noticing and case work, and that correction and compliance systems are real basic and minimal. She continued that a notice is sent when someone underpays, telling taxpayers what their rights are, and the consequences of not paying or establishing a payment plan.

Mr. Hinze said that a lot of her clients just give up and pay, but the issue is that D.C. has insanely high penalties.

Mr. Cordi said that penalties for non-payment are wildly out of line with surrounding jurisdictions, and contribute to taxpayers being unable to pay their liabilities.

Ms. Hinze said that another problem is that it is not easy to get into a payment plan after a payment is 60-days late and avoid penalty.

Mr. Cordi said that a 25% penalty is steep.

Mr. Lazere commented that reducing the levels of oversight seems like a vague recommendation and that he was wondering if Ms. Tanton could offer what she believes is a safe level of monitoring compared to what D.C. currently does.

Ms. Tanton suggested that D.C. survey what some other states are doing, and that there are terrific tax administration agencies in the North East region that are good models, though these agencies have IT systems in place that assist them.

Mr. Lazere asked whether D.C. should wait to make changes until after its IT system is in place.

Ms. Tanton said that her recommendation is to see if D.C. can ease up a bit on a certain subset of these taxpayers. She added that in Maryland, they do a statistical sampling on most of the adjustments and refunds that are being authorized, but this burdens their agency, and draws from good resources within the agency.

Mr. Lazere said that the Commission could give a vague recommendation, but would like to do something more specific. He asked Mr. Cordi what he thinks about the recommendation to create an adjustments unit within OTR.

Mr. Cordi said that currently, adjustments come out from multiple units, and that a centralized unit for making adjustments makes some sense.

Mr. Williams asked Mr. Cordi to talk more about the idea for a new third tier of appeals.

Ms. Tanton said that it is her understanding that D.C. cases are not getting scheduled and heard because the court is bogged down with casework. She noted that this puts pressure on OTR to settle these cases as a result.

Mr. Cordi said that the problem is that the Superior Court has a backlog that varies between 700 and 1,200 real property assessment tax cases, but the court is hearing cases at a pace not exceeding two cases per year. He added that the entire effort of the Superior Court is directed toward coercing the parties into settling, and that there are 400 to 500 settlements a year. He commented that trial court is not the place to do annual valuations of property.

Mr. Syphax said that there is a proposal to have RPTAC's decisions not go up to the Superior Court, which is controversial.

Mr. Williams noted that this idea is contrary to the whole notion of administrative law.

Mr. Brunori said that it is his understanding that Georgia has just adopted a tax court, and the American Bar Association routinely recommends adopting such a solution.

Ms. Collins asked whether there is any sense of how much personnel time has been lost because of auditing and the checking.

Ms. Tanton responded that D.C. has lost staff and increased the auditing role, which means that there is less staff to do other things. The impact of entertaining a separation of duties, is that some things will be done twice.

Ms. Collins asked if people with multiple homes get the homestead deduction on each home.

Mr. Cordi said that they are not supposed to, and that his office is now looking at states like Maryland, that have gone through a long process of centralizing the homestead deduction, and talking to them to sniff out D.C. residents who are claiming homesteads in Maryland and D.C.

Mr. Fitzroy Lee said that as part of the process they started capturing Social Security numbers.

IV. Adjournment

Ms. Schneider announced that the meeting was adjourned at 5:45 p.m.