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In this article, Bernard discusses the mutually beneficial advisory relationships between state tax agencies and corporate tax leaders.

Corporate tax functions of all sizes understand that state governments will be enacting new tax-related laws and rule changes in the face of revenue shortfalls and budget deficits.

By investing the time and energy required to establish and nurture mutually beneficial advisory relationships with state tax agencies, corporate tax leaders can limit the likelihood of detrimental tax rule proposals being enacted. The costs of rushed or poorly crafted regulations can be onerous. Consider the complexity and, many would argue, overreach of the 2011 Foreign Account Tax Compliance Act, which was generating headlines like "FATCA Compliance Still Global Nightmare" years after its passage.[1] Meaningful insights from corporate tax leaders can equip state departments of revenue with the analyses they need to steer their legislative partners away from enacting state FATCA equivalents. Healthy, ongoing informational exchanges with state tax officials can also mitigate potential reputational risks that strike swiftly in the social media era. These benefits in turn bolster tax executives' ability to deliver strategic value to their companies.

While a robust government relations function is a requirement for the world's largest corporations, the high risks of unfavorable tax legislation requires organizations of all sizes — including mid-sized and small companies — to engage in mutually beneficial interactions with state tax agencies. These partnerships center on two key principles: 1) corporate taxpayers are keen to comply with tax compliance laws and requirements that rationally reflect what state governments are striving to achieve; and 2) these partnerships operate best with mutual interests and trust.

Establishing and advancing relationships with state DORs involves straightforward steps; however, the execution requires a significant philosophical shift for many companies, especially smaller and middle-market organizations. A group of forward-thinking companies — primarily large enterprises with budgets to fund government relations functions — already treat engagement with government agencies, including tax authorities, as a top strategic objective. There are two other categories of government relationship approaches: predominantly mid-sized companies whose leaders prefer to lend indirect support, when needed, through trade groups and similar types of intermediaries; and organizations, primarily smaller companies, that have traditionally stayed on the sidelines. This approach needs to change given that all companies' bottom lines will be affected if their tax leaders do not engage periodically.

There are different modes available to wield influence with state DORs, including some cost- and time-efficient options. Corporate tax executives should recognize what drives the need

[1] Becca Lipman, "FATCA Compliance Still Global Nightmare," *InformationWeek*, Oct. 7, 2014.

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for state-level liaisons and consider several steps to start fostering working relationships.

Rushed Rules Changes, Growing Deficits, and Other Relationship Drivers

During the past decade, some extremely comprehensive and ongoing regulatory compliance burdens have resulted from federal business legislation and related rules that many would argue were rushed or enacted without sufficient input from business stakeholders. FATCA and the Dodd-Frank Act are frequently cited as examples of regulatory overreach.

To be fair, these and other rules were developed in response to real problems. Yet the risk of misdirected regulatory solutions to similar issues is increasing at the state level because of rising fiscal risks and the prevalence of state ballot initiatives. These trends are compelling reasons for corporate tax leaders to forge relationships with their counterparts in state DORs.

Rising Deficits and Related Fiscal Risks

Approximately two-thirds of states face fiscal stress because of to rising costs from previous commitments for employee retirement. According to an analysis from the Peter G. Peterson Foundation:

> In addition to their own budget challenges, states face increased uncertainty about future funding from the federal government. Rising federal budget deficits may lead to reductions in federal funding for Medicaid or discretionary programs, which would affect states that depend on such funding to supplement their spending on key areas like healthcare.[2]

Budget deficits and rising fiscal risks drive the need for cost cutting and more revenue, which is typically generated through sales tax increases. There were 560 standard sales tax rate changes in 2019,[3] many of which were increases. The volume of changes can be expected to increase as states implement additional sales tax rules and reporting requirements as a result of the COVID-19 pandemic.

Ballot Initiatives

In 2018, 167 statewide ballot measures were certified to be voted on by citizens, according to Ballotpedia, a nonpartisan, nonprofit organization that tracks U.S. politics and elections. That figure is down only slightly from the average number of measures that appeared on state ballots in even-numbered years from 2008 through 2016 (172 ballot initiatives).[4] Not all initiatives go before voters. In many states, legislators influence — via public comments or on procedural grounds — whether an initiative makes it to the ballot. And legislators tend to seek guidance from their revenue departments on ballot initiatives that concern tax issues. Tax departments need to monitor these initiatives regardless of direct fiscal impact.

Social Media Risks

Negative social media comments and campaigns regarding corporate tax practices can reach state audit divisions. How audit divisions respond to criticisms of companies posted on social media is influenced by how those auditors perceive a company. Tax functions that over time build up a reputation for credibility and trustworthiness with DORs stand a better chance of effectively managing negative social media comments if those reputational risks occur.

Strategic Pressure and Career Opportunity

Tax leaders perform great work on behalf of their organizations while addressing tax compliance requirements, managing a dizzying array of complexities, and enhancing strategic planning activities with tax-related insights. Establishing influential relationships with state DORs represents a valuable opportunity for tax professionals to add value that CEOs, CFOs, and other senior leaders will appreciate.

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[2] Peter G. Peterson Foundation, "State Budgets Also Face Tough Fiscal Challenges" (Feb. 19, 2019).

[3] Vertex Inc. 2019 EOY Sales Tax Rate Report.

[4] 2018 Ballot Measures, Ballotpedia.

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Main Street Magnetism and Other Considerations

As tax leaders begin developing relationships with state DORs they should remember the following factors:

DORs can influence legislators . . . and legislation. State lawmakers frequently consult with their DORs when drafting tax-related laws and responding to citizen-initiated ballot initiatives concerning tax matters. When new tax legislation emerges, legislators want to know if the DORs can enforce the requirements.

There are different ways to exert influence. This point is especially important, particularly for tax executives in small to mid-sized companies. A tax leader may meet directly with state tax officials or work through various intermediaries to indirectly share insights and perspectives. Chambers of commerce often take positions on tax matters, and tax executives can get involved with these efforts. Additionally, nonprofit, research-based organizations in many states represent corporate taxpayer interests while sharing insights on tax policy with state and local lawmakers. The Arizona Tax Research Association, a taxpayer organization created in 1940, represents a cross-section of Arizona individuals and businesses to help achieve "efficient statewide government and the effective use of tax dollars through sound fiscal policies." The long-standing Washington Research Council examines how public policy issues will affect that state's business, government, and community. In addition to working with groups like these, tax executives can join relationship-building efforts spearheaded by tax functions in other, typically larger, companies.

Main Street businesses possess significant influence. When it comes to showing the effect of a potential tax policy change on organizations, stories featuring small, Main Street businesses seem to hold the most sway. Policymakers and the public tend to care more about the struggles of small business owners than those of larger, well-known corporations. Tax leaders in larger companies should solicit involvement from their counterparts in smaller companies, and small-company tax or finance leaders should ensure that their powerful narratives are conveyed — directly or indirectly — to state tax officials.

Tax agencies pay attention to how tax functions operate and behave. As tax leaders enter advisory relationships with DOR leaders, they should recognize that their company's tax record — how quickly and accurately it remits taxes, how it responds to audit requests, and more — directly affects relationship dynamics.

Public sector counterparts often need to be educated on corporate tax department capabilities. In some cases, public sector tax leaders will have outsized impressions of how quickly their corporate counterparts can generate comprehensive, data-supported analyses of various tax legislation scenarios. During initial meetings, tax executives should address and temper any unrealistic expectations. However, companies must address legitimate questions from government tax administrators.

Government relations functions have broad purviews that extend beyond tax. Government relations functions often open the door to relationships between their tax colleagues and state tax officials. This handoff can be helpful, yet tax executives should recognize that government relations functions balance addressing a broad set of policy and legislative topics against several different corporate objectives. Sometimes, government relations activities and decisions, while helpful in furthering overall organizational objectives, can pose tax planning challenges. For example, a decision to help state lawmakers bolster education budgets (while strengthening the future talent pipeline) could mean sacrificing tax breaks that were negotiated years earlier.

How to Win Public Sector Friends and Influence Legislation

One approach that could benefit all corporate taxpayers is to conduct quarterly meetings with the senior officials in the state's DOR. The effort would be guided by a collective realization that the corporate tax community could benefit from discussions covering a wide range of tax topics including audit approaches, potential reforms to the appeals board, and potential impacts of pending legislation on businesses and state economic activity.

This approach would be helpful in optimizing ongoing interactions. Participants should remember the following:

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Where possible, build on existing government relations activities and relationships. If your company has a government relations group, consult with those experts first to learn what they know about the DOR's perspectives, information needs, and potential interest in scheduling meetings. Middle-market and larger enterprises frequently have highly engaged government relations professionals whose focus at the state level covers a range of policy topics that relate to residents' quality of life, including education, transportation, housing, and — of course — the taxes needed to fund government expenditures. Tax leaders in companies without government relations groups can make similar inquiries to their counterparts at larger companies that may have relationships with tax officials, the chamber of commerce, or taxpayer advocacy and research organizations.

Embrace a mindset of mutual interests and shared trust. Companies can start with an initial meeting with state tax officials and continually reinforce mutual interests — namely, sufficient funding for state services and balanced tax policy. This can help foster a spirit of mutual trust.

Ensure that meetings are between tax executives and tax officials. Quarterly meetings work best when attended only by a handful of state officials, including the director and assistant director of the DOR, the head of the department's audit division, and the head of the state's legislative policy division. On the corporate side, the only people in the room should be tax executives, vice presidents of tax, senior directors of tax, or directors of tax. It is crucial to restrict attendance to senior executives with deep tax expertise.

Collaborate on an agenda. A mutually agreed on meeting agenda serves as a valuable tool because it helps corporate tax experts prepare analyses in advance of meetings, keeps meetings focused, and gives both sides the opportunity to address key issues.

Address a consistent set of topics. Over time, meetings should settle on a core set of topics. These pillars can include pending legislation, current economic policy, tax objectives, and administrative processes. The administrative discussions should cover operational efficiency, audit process, the appeals process, rulings, and more.

Details regarding the agenda and who is present during these meetings are important when managing relationships with state tax officials. It is far more cost-effective to spend time and energy cultivating trust with state governments than it is to fund legal battles and face hefty costs complying with policy changes that do not meet both parties' mutual interests. ■

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