Transparency Essential to Effective Tax Administration, Brunori Says

By Waltreese Carroll

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Disclosure in state tax systems benefits both tax collectors and taxpayers, a tax professional said on June 18.

Speaking at the Federation of Tax Administrators’ annual meeting in Washington, David Brunori, executive vice president of Tax Analysts, said that openness is essential to democracy, the rule of law, and individual freedom.

"Secret laws are an abomination," he said.

Brunori said Tax Analysts is investigating state tax transparency and noted a series of recent articles analyzing tax transparency at the state level. The articles focus on guidance and legislative transparency. (For part one of the series, see State Tax Notes, April 16, 2012, p. 189, Doc 2012-7393, or 2012 STT 73-1. For part two of the series, see State Tax Notes, April 30, 2012, p. 331, Doc 2012-8583, or 2012 STT 83-3.)

Taxpayers crave certainty in guidance, Brunori said, adding that taxpayers want to know what the law is, how to follow it, and that it will be consistently enforced -- all of which require guidance.

Forty-five states issue letter rulings, but Maine, Mississippi, Nevada, North Carolina, Washington, and the District of Columbia do not, Brunori said. The Washington State Department of Revenue issued 5,700 letter rulings last year but published none of them, he said. (For coverage of transparency issues in Washington, see State Tax Notes, June 18, 2012, p. 815, Doc 2102-12627, or 2012 STT 115-1.)

Brunori said that although the Washington state government cited cost as a constraint to publishing letter rulings, disclosure ultimately saves money for the state. More guidance means fewer letter rulings because taxpayers are less confused about the law, he added.

Tax Compliance, Policy, and Innovation

Also speaking at the meeting, Will Rice, project director for FAST Enterprises LLC, discussed the opportunities for innovation in tax administration and tax policy.

Rice, former director of the Washington DOR, said that attempts at innovation too often complicate the tax code and that one of the greatest opportunities for tax innovation lies in tax simplicity. Simplicity does not require novel inventions, he said.
Whistleblower Updates

At a later session, Jack Trachtenberg, counsel with Sutherland Asbill & Brennan LLP, New York, and Jordan Goodman, partner with Horwood Marcus & Berk Chartered, Chicago, identified areas of concern with whistleblower laws.

Trachtenberg said the New York False Claims Act is problematic because taxpayers immediately get branded in the press as "tax frauds" and "tax cheats." The issues of law and whether tax is owed are often unclear, he added. The law gives the state a tremendous amount of leverage to settle cases, and the question is how much leverage is too much in situations when actual fraud does not have to be proven, Trachtenberg said.

Goodman said that people who do not understand tax -- but understand false claim acts and *qui tam* actions -- are being allowed to decide who gets punished and who does not. "I can't believe that's the right way to do it," he said.