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VIA PDF

September 8, 2015

Connecticut State Tax Panel

Hon. Senator Len Fasano

Hon. Senator Tony Guglielmo

State Tax Panel Public Hearing

300 Capitol Avenue

Hartford, CT 06106

Re: Comments on 9/16/2015 Public Hearing

Ladies and Gentlemen of the Committee,

Hon. Sen. Fasano, Hon. Sen. Guglielmo.

At the invitation of Sen. Fasano, I hereby submit these written comments to the State Tax Panel. These comments are delivered with experiences in my almost lifelong citizenship to this state; my thirty-five years in personal tax practice, my twenty-plus years in owning a state-based small business, (and my twenty-plus years in charitable and media endeavors).

I personally regret being unable to testify at the hearing due to a long-standing family obligation.

By way of my own personal background and makeup, I am conservative in nature, and believe that hard work, education, and using available knowledge and education are the keys to personal development and growth. Personally, I am the child of a seventh-grade educated father (and a high-school-dropout mother) who raised three boys with advanced degrees (two with law degrees, and one with a license). I am a product of the Stamford school system and the state junior college system, prior to moving on to other education. Through it all, it has always been my belief to live below my means and within budget, and I have never taken one dollar in welfare, state aid, unemployment, or charity, even during times of need. In like manner, I am of the belief that we need a strong lean (and efficient) government to service the needs of the people (and not the other way around).

I am also of the belief that such a government requires tax dollars to run, but said government should be highly accountable for the dollars granted to it, with harsh penalties doled out for officials not adhering to this standard. It is a sacred trust to serve the people and its capital, and in my mind, officials should act accordingly.

In fashioning my comments below, it is my endeavor to be acutely honest in delivering my perceptions to this Honorable panel. In reading the same, you may find some of my comments to be blunt (if not, harsh). In this connection, please bear in mind that I mean no disrespect to this Honorable panel (but rather, I believe that our state right now is in critical condition and political politeness is a luxury that we cannot afford). Many of the ills facing this state are due to a poor national economy, but many other ills are the fault of poor and distorted decision making on the part of our elected officials and of those in authority over state agencies. In addition, it is my belief that my tax suggestions below are productive and encouraging of investment and improvement, and in some cases actually raise revenue over current parameters. Further, I believe such suggestions are critically necessary for the development of this state.

Therefore, with this explanation of my background and my perceptions, I respectfully furnish the following comments dealing with improvements to the state tax laws (and the state tax system).

COMMENTS ON TAX TYPES

- a) **Business Entity Tax**: This tax is simply a pox on business creation and ingenuity and endeavor in this state, which needs such ingenuity all too desperately. In addition, it is a slap in the face of any individual boldly stepping out on a shoestring to start a new endeavor. It needs to be abolished (but if this cannot be accomplished immediately, can it at least be collected by the amount of \$125 each year rather than semi-annually?) The act of collecting once every two years is nonsensical and brainless, and causes forgetfulness (and subsequent penalties) to be charged against taxpayers.
- b) **Income Taxes**: Our income tax system has turned into a complicated horror over the years. Rates are now "competitive" with high-tax states such as New York and Mass., and the system serves as a great motivator for citizens to leave and take up residence elsewhere. Personally, I would love to see the "light go on" and have CT be an income-tax free state (just imagine the growth this would cause!) but I am not overly hopeful of that happening any time soon.

However, on the way to repeal, what I may suggest is a very simple 3% of Federal Gross Income tax (period), with the only deductions allowed to arrive at that sum to be those for medical expenses and mortgage interest (both being of any amount, without limitation).

Further, I believe a dollar for dollar tax credit (limited to 50% of all taxes due) should be allowed for the following federally-deductible charitable contributions actually paid during the taxable year, (provided verifiable proof is furnished with the return):

- State-based charities having to do with providing either food, clothing, or shelter.
- State-based volunteer fire departments
- State-based National Guard divisions

All charities wishing to benefit from this endeavor will need to register (and to submit a list of all donors annually by a certain date). This tax plan can also be easily modified for Fiduciary Income Taxes, allowing charitable deductions as stated above (if said charities are listed in the governing instrument) and allowing the normal distribution deductions common to estates and trusts.

Such a tax plan will have the dramatic results of 1) lowering and simplifying income taxes, 2) diluting and eliminating redundant state bureaucracies by allowing funds to go directly to critical human need based charities, and 3) encourage testamentary giving from wealthy donors to these same charities.

- c) **Estate and Gift Taxes:** In speaking against my own interest (as this is a large part of our business), it would be much better for the state if all such taxes and tax returns were permanently abolished (be it either on the non-taxable or taxable sides). First of all, the returns are very complicated pieces to complete and often require the services of high priced technicians, accountants, or lawyers, (regardless of if a tax is paid or not). Secondly, these taxes do a very good job of driving away achieving and financially-productive citizens to more tax-friendly places. Thirdly, estate tax proceedings with the Department of Revenue Services are often used as a bludgeon against citizens (more on that below), further alienating and driving citizens and businesses out of this state.

For the relatively small amount of revenue this type of tax provides (and the incredible costs of keeping up with it on both the private and governmental sides), I would propose that CT adopt a simple income tax-driven Canadian style system whereby all of the assets of a decedent of any amount in excess of their cost bases (net of all qualifying Federal Estate Tax deductions such as debts, expenses, and the marital and charitable deduction) be taxed at the same rate of 3% on a Decedent's final income tax return.

This form could be easily completed as an adjunct form to an income tax return and will serve to make a congruence/convergence between cost bases for assets on a Federal and State level, in addition to obviating the need for professional assistance in many cases. Further, the revenue generated here would more than outstrip that realized now from estate taxes and would save taxpayers' money overall (as they are no longer paying professional firms to complete onerous estate tax requirements).

- d) **State payroll taxes:** At one time, my state payroll tax return was on one half of one page, and took 15 minutes to complete four times a year. As my business grew, it is now an ordeal with a separate bank account and deposit (my bank is a twenty-minute walk in downtown New Haven every time a deposit needs to be made) with a persnickety, picayune hard to deal with penalty system that consumes five hours of my bookkeeper's time each month (which of course, I must pay her for). This system simply needs to be abolished, (as of yesterday). It is frankly, terrible.
- e) **Sales and Use Taxes:** Rates here across the board should be reduced to 4% for most items (the 6% rate can be retained for luxury items over a certain threshold). Given the poor state of CT economics, the sales tax must simply be lowered (in order to attract more buyers to the region).

- f) **Gasoline taxes:** With the recent fall-off in fuel prices, the functions of state government (such as they are) do not appear diminished in any way. Therefore, I would like to see a freeze on state fuel taxes capped at the \$2.50 per-gallon benchmark rate.
- g) **Personal Property Tax for vehicles:** It is no secret that the average age of a motor vehicle in the U.S. is twelve years old. As a case in point, my personal vehicle is fourteen years old with over 300,000 miles on it, and I keep maintaining it to go farther. It is not because I cannot afford another vehicle. (I can). It IS largely in part to the fact that I am REFUSING to pay both a burdensome sales tax on a new car purchase, in addition to a large excise tax every year to my town on that same vehicle.

This idiotic, punitive (and regressive) system of taxation needs to stop. In its place, I might suggest the following:

- 1) A three-year property tax "holiday" on any vehicle purchased in this state in excess of a given amount (that given amount could be the mean value of a new compact car for a given model/tax year), or:
- 2) A one-half of the standing sales tax rate levy for every car purchase with a value in excess of the same mean value (mentioned above).

Changes in line with the above would foster newer car purchases, raise revenue inside of the state, eliminate double taxation, provide safer and newer cars overall, and greatly increase spending and the state economy.

ADMINISTRATIVE CHANGES:

Speaking as a long-time tax practitioner, I can safely say that CT is the governmental entity in which citizens have the least rights in a dispute with its Revenue Department as compared to any other. Through the years in my practice, I have observed that the DRS has employed the following provisions of state tax law as a weapon against taxpayers.

- a) An (un-Godly) 1% interest rate per month on any balances due.
- b) No forgiveness of accrued interest if the DRS takes its time in adjudicating an appeal or a matter, (The federal government does provide such relief in accordance with IRC Sec. 6404 (e). But in the case of the state, it behooves the DRS to drag out matters for as long as is possible, so that higher amounts of interest can be collected.
- c) No accountability for DRS errors and abuses (along the lines of Internal Revenue Code Section 7430 and 7433, whereby aggrieved taxpayers may seek reimbursement for fees for unjustified IRS positions against them).
- d) An Appellate Division that can simply say "no" if it wants to, (dis-avowing the law), leaving Superior Court as the only avenue for a citizen to seek redress.

In making these comments, kindly bear in mind that I am not merely making pot-shot allegations. As just several cases in point throughout my career:

- 1) I was responsible several years back for an estate tax matter where the agents assigned undertook a “water torture” audit, asking the same questions and asking for the same repetitive submissions over an eighteen-month period. We finally settled on a small balance due that we should not have paid at all (albeit, with a huge interest accrual). What was heartbreaking to me was that this was the estate of a deceased friend who owned a small business that was a major job-creator in his troubled community, (and made the difficult business succession issues for this business, even more so).
- 2) I represented a large black family years back that was the recipient of a house gifted from its elderly matriarch. It was the family’s sole asset. Mom’s only error was a failure to timely file a state gift tax return (she simply forgot). I was hired for the appeal, and while acknowledging the error I proposed several simple settlement options, feeling that this minor matter could very easily conclude. Unfortunately, my assigned Appellate officer did not feel the same way, and for the better part of eighteen months over a series of random, unannounced calls, put this family (and this practitioner) through a warped and convoluted interpretation of gift and estate tax law (refusing to even cite his sources when being asked repeatedly to do so). When asked to speak to his supervisor, he refused, saying that “Superior Court” was the only remaining option, and his word was law.

Fortunately, I had kept a diary of this person’s conduct. I finally had to write the Commissioner and the Taxpayer Advocate about this person’s conduct (strongly believing that racism had something to do with it), and the matter then settled quickly (especially when I had mentioned that the family WAS prepared to go to court and cite racism). It is interesting to me that at that point in time the officer had finally coughed up “sources” for his position (that were so laughable, if in fact they were the least bit humorous).

- 3) I represented a World War II veteran and his wife who lent money to their sons to purchase a beach house. One son predeceased his parents, and the other son purchased the entire interest in the property by receiving the deceased son’s share, and subsequently paying off the entire borrowing by a check to his parents. However due to the incompetent act of the closing attorney, a “quit claim” deed was recorded in the transfer (rather than a “bargain and sale” deed). This act of incompetence caused the property to show up on the “unfiled gift tax return” register, and we were before the audit division.

I brought the copy of the cancelled check to the audit examiner (and drafted a clear and concise letter clearly explaining that there was no gift made as there was more than sufficient consideration). But the examiner would have none of it, stating that “he believed a gift was made”, providing no technical support for his conclusion. After hours spent with him, I then claimed appeal rights and received a call eighteen months later from an officer stating that we were absolutely correct, and “regretting the inconvenience”. (I am sure he

could have cared less about the thousands of dollars my clients had to spend in their own defense).

The above list is by no means exhaustive. I did not tell this Honorable panel about the absolutely brutal (and needless) Succession Tax audit faced by an elderly widow due to the passing of her husband (a beloved local grocer). It was always highly suspect to me that the Succession Tax rates for the class of beneficiaries pertaining to the non-spousal beneficiaries in this man's estate were raised in a special session of the Legislature four months after he died. (He was perceived to be wealthy, others in his family were, and he clearly was not). Nor do I mention the countless estimated tax penalties charged in error which require numerous letters and phone calls, the most recent audit for "out of state municipal interest" (and the errors I have found with that), the DRS personnel that refuse to give you a last name when asked, so you can exercise proper professional conduct and mark your file, the four different people that call you up on ONE matter for ONE taxable year, or the "mandatory e-file" rules (its ten years later, and we still cannot electronically file a state CT- 1041).

Again, all of the above cases are absolutely true.

In summation, all of the above situations could have been dealt with easily with a much more manageable interest rate, and adoption of the Federal provisions mentioned above. **However, it is my opinion that both houses of the Legislature have been entirely self-serving in this regard and have not had the courage to enact such necessary reforms (due to concern about the state revenue stream).**

You will note that in several of the paragraphs above, I have mentioned the Appeal procedure in this state. Please bear in mind that I am not inferring that every tax appeal in this state is a sham, for I have had many good and fair appeals with fair people presiding. The issue is that, for those either not treated fairly, (or for those remaining in dispute after an unfavorable appeal), there is no avenue of redress other than a Superior Court proceeding (which of course means the hiring of counsel and very high expenses).

I find this option to be troubling. If a taxpayer has an issue with an unfavorable federal determination, he or she can pay the princely sum of \$60, and be heard in the U.S. Tax Court! The problem we have at the state level is since the "deck" is so clearly stacked against the taxpayer, there is not one cost and user-friendly venue outside of the DRS where a matter could be heard objectively and de novo at a cost-efficient basis.

The solution to the above dilemma is quite simple to create a venue for adjudication: Either establish a state "tax court" where people can proceed pro-se (with their practitioners being allowed to speak on their behalf, if desired), or create an elected "tax appeals" panel (five persons, minimum two from each party) to decide such matters by committee.

Making such a statement would be proof to all that CT is moving ahead to be a fair and pro-development state in matters of business and citizen's rights.

It is also accurate to say that I have been asked in my practice by clients as to suitable states to set up businesses, residences, and trusts in. In all good faith and conscience, I have advised them not to do so, here. These projects have gone on to employ people and generate substantial revenue, but in other jurisdictions. While pleased that I have done my duty in representing my client to the best of my ability, I

am saddened that my own state suffers due to its persistent pattern of poor conduct with respect to business and tax matters.

Further, I (as a responsible practitioner) in no way condone or encourage flouting the law, deception, or fraud. (No responsible practitioner does). And from being in this business for a long time, I do know that reasonable people may differ and tax matters can become contentious. However, not every person coming before the DRS with a dispute is a scofflaw or a criminal, and they are often treated that way (even in cases where there is nothing subjective at all involved).

CONCLUSION:

In conclusion, I would like to thank the members of the panel, Sen. Fasano, and Sen. Guglielmo for the opportunity to comment. Again, all of my comments are intended with an eye towards improving our tax system and ultimately our state, and I ask that they be received in this vein.

In my mind, tax reform is a critical item in this state that can address many ills. However, the many grave situations impacting our state will not be fixed immediately by tax reform. But, it is my opinion that a leaner and more business friendly government and a more productive populace will cause for a number of chronic ills plaguing this state to be lessened, and eventually removed.

Respectfully submitted;



Anthony J. De Angelo, E.A.

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To the extent that written tax advice was present in this communication, additional issues may exist that could affect the federal or local tax treatment thereof. Therefore, this communication does not provide a conclusion with respect to such issues. With respect to issues outside the limited scope of this advice, this advice was not written, nor can it be used, for penalty avoidance. (The foregoing instruction has been added pursuant to U.S. Treasury Regulations governing tax practice effective on, or after June 20, 2005.)