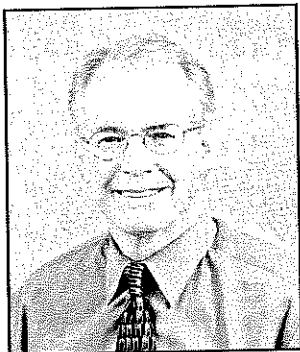


The Taxpayers' Friend

by Billy Hamilton



I recently wrote a column¹ about what I called the state tax ecosystem, which is made up of all the groups in and out of government that surround and shape tax policy. All sorts of groups and individuals populate the tax ecosystem, particularly when taxes on business are concerned.

Business taxpayers may at various times be represented by their own employees, by lobbyists, by trade associations, by statewide business associations, and by one of the more interesting tax-related groups: the taxpayer association.

There are all sorts of taxpayer organizations at the state and local level, but the taxpayer associations I'm referring to occupy a special niche. Their goal is to educate and inform lawmakers and the public on tax and spending issues in a straightforward and nonpartisan way, all the while reflecting their members' collective point of view. At least that is their claim and the basis of their involvement in the process. Their members may be individuals and businesses, but business taxpayers predominate. The tax associations may also have members representing other organizations, like trade associations, that want to take advantage of the tax association's tax expertise. The tax associations are nonprofits, generally with small in-house staffs. They advocate for fair, if restrained, state taxation. Fair, of course, is often in the eye of the beholder.

One of the associations' major activities is to provide nonpartisan — and it goes without saying, nongovernmental — research and analysis on tax and spending issues. The heads of most of those associations belong to a loose umbrella group called the National Taxpayers Conference (NTC), which has members in 26 states.² Most of those organiza-

tions are also members of the larger Governmental Research Association (GRA). The NTC was an outgrowth of GRA. There are many NTC members solidly in the western states and around the Great Lakes. They are less prominent in the Mid-Atlantic and southern states except Florida (which has the Florida Tax Watch), Alabama (Public Affairs Research Council of Alabama), and Louisiana (the Public Affairs Research Council of Louisiana).

The tax associations date to the first half of the 20th century. One of the most prominent of the current organizations, the California Taxpayers' Association (Cal-Tax), was founded in 1926. The Massachusetts Taxpayers Foundation has been around for more than 70 years. The Arizona Tax Research Association was formed in 1940. The Texas Taxpayers and Research Association (TTARA) is an amalgamation of two organizations — the Texas Research League formed in 1951 and the Texas Association of Taxpayers created in 1971. They merged into one organization in 1996. And one last example — the Montana Taxpayers Association (MTA) was organized in 1921 by a group of 19 business representatives worried about the growth in government spending in the state back then.

I know a little about the history of the Montana and Texas groups because I had an opportunity to talk to their leaders about the organizations and the NTC. Mary Whittinghill, president of the MTA, is also the new president of the NTC. Whittinghill worked for the Montana Department of Revenue for 17 years, ending her career there as administrator of property assessments. She left the government in 1997 to work in Mexico but came back to head the Montana association in late 1999. Bill Allaway is president of TTARA. In the interests of full disclosure, I also worked for TTARA for a while back in the 1980s when it was still the Texas Taxpayers Association (TAT). Allaway also preceded me as chief revenue estimator for the state before joining TAT in 1982. He's been there since, and you could say we have a history together that's lasted longer than his career as a competitive motorcycle rider and mine as a competitive (sort of) runner.

Whittinghill comes by her interest in the MTA based on more than just a background in Montana's

¹"The State Tax Ecosystem," *State Tax Notes*, Feb. 18, 2008, p. 559, Doc 2008-2563, 2008 STT 34-5.

²National Taxpayers Conference: available at <http://www.statetaxes.net/>.



Mary Whittinghill

property tax. "My grandfather was one of the original 19 businessmen who formed the association," she told me. "He was president of Mountain State Telephone and Telegraph back in the 1920s."

I asked her about the MTA's focus and structure. "We provide decision-makers and our members with nonpartisan information and analysis on current and

proposed tax systems and promote reasonable tax policy. Our activities are directed by a 21-member board representing the major industries operating in Montana — for example, agriculture, energy, transportation, professional services, retail, and tourism."

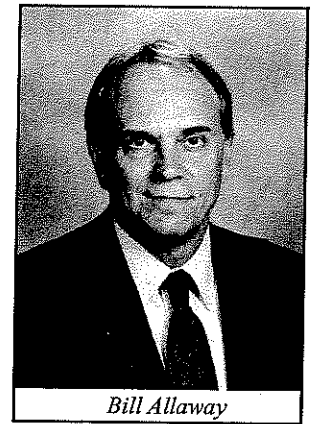
I asked her for a representative example of MTA's work. "We have spent time recently studying and having dialogue about targeted taxation. It's important in designing tax policy for policy makers not to fall into targeted taxation." By targeted, I asked, do you mean targeting business, for example, as opposed to individuals or some industries as opposed to others? "Exactly. Targeted taxes don't follow the basics of sound taxation whether for business or individuals. We generally opposed initiatives like those," Whittinghill said.

"We bring together groups of stakeholders to talk about omnibus tax bills that are introduced to ensure that what lawmakers are trying to achieve won't unintentionally damage the tax system or the state's competitiveness," she said. "We believe in education before legislation."

Whittinghill said communication is a key for taxpayers when a major tax bill is under consideration. "When we communicate, we communicate with more than 500 of our own members and the members of 35 business and farm associations. This immensely extends our reach."

She said that business groups in Montana decided a few years ago that there was so much legislation that the various trade associations needed to come together and pool their resources to understand the bills and find common ground whenever they could. "The Taxpayers Association has special expertise. It's our mission to provide information and education to taxpayers, policy makers, and others involved in the legislative process. The other associations have partnered with us on tax issues and that has increased our effectiveness. All of us — and Montana's taxpayers — benefit from the relationship," Whittinghill said.

"A role I find myself playing more and more is as a resource on new legislation," she said. "We have experience and expertise, and we have a large membership base from which to draw even more data and input about issues in their particular areas." In such cases, the communication process extends beyond taxpayers and their representatives. "One of our priorities is establishing a working relationship and maintaining an ongoing dialogue with the administration, especially the Department of Revenue."



Bill Allaway

Legislative communication is especially important for the tax associations, and most maintain a visible presence in the halls of their state capitols, meeting with legislators and their staffs and sharing their knowledge and opinions. Whittinghill said term limits in Montana have made the role of a nonpartisan tax research association more important than ever. "Term limits seem to have created a more challenging environment during legislative sessions in Montana. Legislators can spend up to four terms in the House, two in the Senate, but may not exceed 16 years. There isn't always time to develop a deep level of knowledge of the tax system and how it works. When experience is limited, the need for solid information becomes vitally important."

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She stressed that while the association has a point of view, its goal is to work with all lawmakers to keep the tax system working well and fairly. "Although our basic position is conservative, we are nonpartisan. We are pro-taxpayer. When new legislation comes up, we provide all members of the legislature with an educated assessment of the implications of the various tax proposals and how a particular bill will affect the state's taxpayers and businesses."

The TTARA fills a similar role in Texas. It has long been a respected source of advice for legislators and governors. "TTARA is an advocacy organization," Allaway said. "We spend a lot of time going to

hearings, testifying and talking to public officials — and some amount of time doing battle with the Comptroller's Office [the state's tax agency] over points of policy important to our members. We do not, however, do advocacy for specific businesses or industries. Our membership is diverse, so our interest is in broad issues that affect much if not most of the business community."

Allaway cited the TTARA's work on the margin tax debate in 2005 and the passage of margin tax cleanup legislation in the 2007 legislative session as areas in which TTARA has focused much of its recent activity. "One of our major jobs is to keep our members abreast of the rapidly changing versions of the legislation and to monitor and provide input to the rulemaking process."

He agreed with Whittinghill on the role of the taxpayer associations as sources of sound information and education — even if they do have a particular slant. "One of the things groups like ours do is provide analysis that doesn't come from the official perspective. The state staff does a good job in analyzing tax proposals, but it isn't always a complete job. As with everything, the work is as good as it has to be. We try to provide more information and another viewpoint. We've found that if we don't do good work and fairly present the issues, people won't pay attention. There are plenty of people out there keeping us honest," Allaway said.

"One of the things that we do if we're doing our job properly is to serve as a go-between, mediator, and translator among interested parties," he said. "Our members have major investments in Texas so they have a real stake in how the state goes about its business. We are interested in seeing government work well. Our members' views need to be communicated. But it's a two-way street. We help people in government understand our members' views, and we also help our members understand where the government is coming from."

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Allaway called organizations like his think tanks on state fiscal issues. He said that many started out as part of the GRA, and they remain research-oriented at heart. The GRA was formed in 1914 and advertises itself as encouraging "individuals and organizations to engage in governmental research in the general interest." Governmental research by its definition involves "the collection, analysis, and distribution of factual information on governmental

activities to citizens and officials for the improvement of government and the reduction of its cost."³

In the old days of state government — at least up to the 1970s — the information available to lawmakers was scant, analytical procedures were slipshod or nonexistent, and state government staff support was limited at best. Many of the GRA's member organizations provided a sort of unofficial analytical resource for state and local government. That was certainly the case with the old Texas Research League, whose interests extended beyond taxes to encompass studies of government organization and management. Slowly, as professional staff capabilities increased in the states along with tax burdens, the groups' relationship with government became more one of providing external input to the process to ensure that taxpayer interests, especially business interests, were not stamped by poor information or politics.

Today, the GRA's membership is broader than just the taxpayer associations although many of the associations continue to be active members. GRA includes groups that mainly focus on government efficiency and non-tax-policy issues. It also includes many local government-oriented associations like the Boston Municipal Research Bureau and the Economy League of Greater Philadelphia. Still, taxes are a major concern. A look at the presentations at the 2007 GRA conference includes presentations on the sustainability of the sales tax, local business incentives, government ethics, and Boulder, Colorado's new carbon tax.

The NTC brought together the heads of the associations mainly interested in taxes for the first time nearly 70 years ago, according to its Web site. "NTC is composed of the CEOs of organizations that do tax nerd stuff," Allaway said. "It lets us meet and talk without necessarily having to come up with any sort of common agenda — which we couldn't anyway because we meet as individuals and not as a group of associations," he said.

The taxpayer associations also take an active interest in spending-side issues. Spending policy often drives tax policy. Whittinghill provided an example of that interest. "A few years ago our K-12 schools were in litigation over quality. MTA brought in an attorney to discuss national school adequacy litigation. He made a presentation to a joint House-Senate education committee and provided some very valuable information they wouldn't have had otherwise. Few were presenting opposing views in the school funding discussion up to that point. We helped the legislators learn that the issue was more

³Governmental Research Association: available at <http://graonline.org/>.

complicated than the information they had received." TTARA also monitors school finance issues because they are intimately related to state taxes in Texas lately, owing to the links between school funding levels, legislative efforts to cut property taxes, and the necessity of finding a state funding source to pay for the cuts.

Allaway said that many of the NTC member organizations occupy a space between more conservative, right-leaning groups and more liberal, left-leaning advocacy groups. "The guys on the right are interested in policies designed to make it hard for government to raise money and to make it as clear as possible how much money is raised so people stay mad at the government. Ultimately, they feel this restrains the size of government. Advocates at the other end of the spectrum want to minimize the sense that anyone is paying taxes. They often are interested in using the tax system to redistribute income. They are always critically interested in tax incidence and would prefer for the rich and businesses to pay most state and local taxes. We try to strike a balance. Government has a specific role. It needs to be financed. But it needs to be financed fairly — and conservatively. Much of the time that means convincing legislators that all of the state's tax burden shouldn't be heaped on business."

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"Most of the members of NTC are like us," Allaway said. "They advocate for good tax policy as their members define it. They have broad memberships and don't do much in the way of industry-specific advocacy," he said. Cal-Tax, which was headed until recently by the late Larry McCarthy (who died at the age of 59 in early December of last year), is the association most actively involved in advocating on issues affecting particular industries. "They are more likely to take positions on a telephone issue or a semiconductor issue," Allaway said. "Most of the rest of us take positions and advocate issues that a broad range of industries favor."

There is, Allaway says, a sort of geographic division to the basic orientation of NTC's members. "We all do some research, some education, and some advocacy. We all believe that people will find good research and do the right thing — or at least we hope so. The organizations in the northeast are a little more oriented toward 'good government' research. In the west, taxes are the big issue. For most, it's a mix of the two. Since groups like ours

focus more on taxes and tax administration, we tend to be a little more heavily into advocacy than those that focus more on good government."

Whittinghill became president of the NTC last October. She says the group is, at best, a loosely knit organization. "We don't have an office or staff. We hold a conference once a year and compare notes and understand what has changed in tax policy as well as create a shared view of upcoming issues." That communication continues during the year between the member associations. They don't, in other words, call it a taxpayers' conference for nothing.

Still, it provides a useful network, particularly when new tax policy springs up in one state and spreads across the country. "It's a wonderful network. If there's a tax proposal like changes in reporting requirements or new tax approaches, we can find out what's going on with similar issues nationally and bring information about what does and doesn't work to our legislators."

"More and more, we find legislation jumping from state to state," she said. "We need a network like the NTC to keep us abreast of what's going on and to find workable legislative language that promotes ease of compliance."

She said the meeting and greeting of colleagues in other states is a central point of the organization, but not the only one. "On occasion our association will contact congressmen on legislation that will promote national uniformity — equalization of burdens from state to state and common definitions in the tax laws. States should be able to decide their own tax policies, but we promote uniformity in definitions and other areas so taxpayers don't face large compliance costs as they deal with each state's tax system," she said. It can be an uphill battle at times because of the size of the associations and the scope of the issues they confront. "We are all small associations for the most part. In Montana, we have a staff of two."

When Allaway and I worked together — and for many of the years since — we have talked from time to time about "which side of the door" we wanted to be on in the tax business. (Neither of us ever found a way out of tax policy and into something more glamorous and fast-paced like pharmacy or accounting.) By the phrase "which side of the door," we meant whether we wanted to be in government or out. The "door" is the one behind which the decision-makers retreat to work out their decisions once everyone had had their say in a policy debate. When the critical decisions are made, it's mostly lawmakers, a few other public officials and state government staff that are in the room — behind the door. Groups like TTARA and the MTA have to wait to see how things come out and hope their arguments, backed by their stacks of research, prevail. As the old saying goes, they also serve who sit and

wait, and in the case of the creation of tax policy, it's the waiting that kills you.

The best tax policy — the least damaging, the most sensible for all concerned — comes from the blending of positions, neither left nor right but somewhere near the middle.

In the end, those on both sides of the door are important to the tax policy process. Lawmakers and governors make the decisions, but if they're smart, they recognize that you can never have enough information, particularly about something as politically incendiary as taxes. As a tax administrator, I knew that you could stare for hours at stacks of computer printouts of taxpayer data and still not really know what a given business or industry might do if a particular tax change was made. At times, you just have to go to the source and ask the people who will pay the bill. You might think they wouldn't be willing to tell you what you want to know, but in general, that's not the case. If they're smart — and they usually are — they prefer government to make informed decisions rather than uninformed ones.

The tax associations have access to a lot of information, and assuming they follow their advertised policies of fairness and scrupulousness, their insights can be invaluable to making sure tax policy is

as fair as possible. Yes, the taxpayer associations have a point of view, but so do most of the other denizens of the tax ecosystem. I happen to believe that the best tax policy — the least damaging, the most sensible for all concerned — comes from the blending of positions, neither left nor right but somewhere near the middle. As Allaway said, government has some things it has to do, and those things have to be paid for. The financing should be accomplished as fairly as possible and based on the fullest set of information.

Of course, that doesn't keep the taxpayer associations standing outside the door from hoping that they've done a little better than just break even. "We know decisions will be made whether we like it or not," Allaway said. "It's better for us if the decision-makers know where we stand. A more active version is 'you shall know the truth, and the truth shall set you free.' Or at least that's the theory." Naturally enough, the same idea holds true for all the other organizations working on taxes, but Allaway thinks the tax associations have a leg up on the others. "We assume the truth will produce outcomes that match our views," he said, "because we're right." ☆

Billy Hamilton was the deputy comptroller at the Texas Office of the Comptroller of Public Accounts from 1990 until he retired in November 2006. He is now a private consultant.