

State Tax Day - Current, S.2 Special Feature: *McDermott's Arthur Rosen Interviews Recently Confirmed New York Commissioner Thomas Mattox, (Mar. 14, 2011)*

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[Arthur R. Rosen of McDermott Will & Emery LLP summarizes below an interview he recently conducted with newly confirmed New York Commissioner of Taxation and Finance Thomas H. Mattox.]

Thomas H. Mattox was selected by Gov. Andrew Cuomo on New Year's Eve to serve as New York State's Commissioner of Taxation and Finance. He was confirmed by the State Senate on March 8.

Having spent most of his career as a Managing Director in the Finance Division at Goldman Sachs (he also served as Chief of Staff of the Controllers and the Finance and Resources Divisions there) and at Chase Manhattan Bank (where he led merger integration business development initiatives with the Management Consulting Center and then the Capital Markets Fiduciary Services area), Mattox's Tax Commissioner role is his first foray into public service on a full-time basis (over the years, he spent significant effort in various eleemosynary efforts related to education). He accepted the governor's offer because he was impressed and inspired by Gov. Cuomo's plan to "reinvent government." Mattox believes public service is something all Americans should do at some point in their careers; in fact, he thinks that some serious thought should be devoted to considering whether it should be mandatory for all young adults. His own upbringing in the southern New Jersey area near Fort Dix and McGuire Air Force Base, where the local ethos is very affected by the large presence of military families, imbued him with the belief that a person's activities and endeavors should be viewed as parts of "something bigger." His years at Goldman Sachs – where public service is encouraged, admired and esteemed – reinforced this aspect of his personal character.

Mattox is very excited about what he can offer the Tax Department. He believes that each commissioner's tenure can be seen as an opportunity for the agency to absorb whatever each commissioner's area of expertise or focus may be (in other words, the Tax Department should act as "the Borg"). For his tenure, Mattox hopes to impart his focus on accelerating the identification, development and implementation of "leading-edge" practices in the agency, such as requiring greater use of e-filings and electronic forms of communication with taxpayers. He hopes that through accomplishing these and similar goals, he and the balance of the department's management team will make a significant contribution to the reinvention of state government. He is acutely aware – as having been a private citizen until now – of the public perception of government as inefficient/wasteful and often ineffective; he believes that this perception – as well as the reality – can be changed.

Mattox, however, is not so naive as to think that instilling change in state government will be easy. He and his colleagues in the Cuomo administration understand the issues posed by, for example, the need to consider organizational structure and management changes related to personnel in the context of civil service rules and budget constraints, reflecting in part the complex bureaucracy of administrative state agencies as exists today. Mattox sees these constraints as the hallmark of management in government in contrast to management in the private sector. He is nevertheless optimistic as he cites New York City Mayor Michael Bloomberg as having made headway in this area.

Mattox's first few weeks in the Tax Department have revealed to him that the department has no problems with the skill level and dedication of department staff; nevertheless, there are clear opportunities to enhance practices and techniques and to review the efficacy of current business processes.

Although Mattox has virtually no formal tax background, he has been able to begin "getting up to speed" with respect to several specific tax issues. During our discussion, we focused on a sales tax issue and a corporation tax issue.

In the sales tax area, Mattox has observed that new technologies and new ways of doing business – such as Internet marketing platforms and the growth of e-commerce – warrant a review of sales tax law and guidance. When queried about the respective roles of the Tax Department and the Legislature in addressing these developments, Mattox noted his understanding that the department should focus on its mission of tax administration, but nonetheless look for opportunities to recommend changes that recognize shifts in market dynamics that enable new business models.

As an example, e-Books, he said, are the functional equivalent of hardcopy, printed books but, on the other hand, they are, in their actual manifestation, different. To determine what should be done in connection with sales tax on sales of e-Books and other digital products, he suggests that the Tax Department's proper role is to identify and develop the issues for the Legislature, and also to present various options to address those issues. He hopes that the Tax Department's expertise and collective management experience will allow it to work more closely with the Legislature as an advisor in the "design and architecture" of tax legislation.

In the corporation tax arena, Mattox is focusing on the clear need for change in the state's corporation tax structure. For example, he plans to spend considerable time looking at a "corporate tax reform" proposal that would merge the Article 32 bank tax into the Article 9-A general corporate franchise tax and make major changes to that tax as well. He noted that "the landscape has changed" and that New York "needs to catch up." Mattox believes that being "business friendly" does not necessarily mean having lower tax rates. Rather, it means having a less complex, more transparent and fair tax system that is sensitive to modern business structures and ways of doing business. He believes that progress with respect to simplification will allow New York to reemerge as a leader among state governments.

Mattox noted that he has "thoroughly enjoyed" his first few weeks on the job and that he "isn't disappointed in any way in how interesting the job is."