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# Administration and Collection Problems

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# ADMINISTRATION AND COLLECTION PROBLEMS

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"In the field of revenue administration, there is no longer such a thing as a simple tax law. Complex problems require complex laws, and complex laws are made to protect all taxpayers alike."[1]

When a state or local government provides for a general sales and use tax, it is assuming a heavy administrative responsibility. Such tax laws are deceptively simple. They are not easy to administer. Failure to recognize these facts has resulted all too often in disappointing revenue yields and widespread dissatisfaction among retailers and their customers.

No one really enjoys paying taxes. What may be merely mild distaste for the taxing process soon becomes active antipathy if the taxpayer has reason to believe that he is the object of discriminatory treatment. He expects the tax administrator to do whatever may be required to assure that others in like situation respond to their tax obligations in the same way that he does.

Roger J. Traynor, whose words have just been quoted, spoke from practical experience. In 1933, when the California sales tax first became effective, he took a leave from his academic duties at the University of California to devote his full time to the direction of the new tax.[2] The law school professor became a state tax administrator. What he did toward building the foundation for successful sales tax administration in California was a significant public service.

A few months later, Professor Traynor resumed his distinguished academic career. As its consultant, he kept in close touch with the sales tax administrative agency, however, until his elevation to the Supreme Court of California in 1940. Thus, his influence upon the methods of dealing with problems encountered in administering and collecting the tax made itself felt throughout formative years of the Sales Tax Division of the State Board of Equalization.

What are these problems? What has been the experience of California in finding satisfactory solutions? Are the complex laws achieving their purpose of protecting all taxpayers alike?

Successful administration of a sales tax law must be built upon taxpayer cooperation. During the first year and a half of the operation

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1. This observation was made by Honorable Roger J. Traynor, Associate Justice of the Supreme Court of California, at the 38th annual conference of the State Association of County Assessors in Eureka, California, in 1940.

2. Retail Sales Tax Act of 1933, CAL. STAT. c. 1020, § 1, p. 2599 (1933), now codified into CAL. REV. & TAX. CODE ANN. §§ 6001-7176 (Deering 1952).

of the California sales tax, there were numerous complaints from retailers, who believed that trade that normally would have been theirs was diverted out-of-state to avoid the addition of sales tax reimbursement to the price of the merchandise. Mindful of the need for retailer cooperation, Professor Traynor was instrumental in drafting a use tax law.[3] Its most characteristic application is with respect to interstate transactions that may be excluded from sales taxation because of the commerce clause.[4]

Imposed at the same rate, and on the same measure (the price of the property), the use tax applies to California use of property bought for that purpose from a retailer, when no sales tax liability in this state arises out of the transaction despite the fact that the property is of a kind the sales of which are normally within the scope of the sales tax. Thus, the use tax serves as a sales tax supplement, preventing avoidance of the latter to the dismay of California retailers and the detriment of the state revenues. Since 1943, both taxes have been included in the same part of the Revenue and Taxation Code, entitled "Sales and Use Taxes."[5]

During the years that have intervened since 1933 and 1935, when California sales and use taxes were first imposed, the tax yield has grown prodigiously. Although the current rate is the same as that in 1935, and there have been no significant changes in the scope of these taxes, they are producing in excess of seven times as much revenue. Instead of the $70 million paid twenty years ago, the current yield is over $500 million. Rising prices and greater volume of goods sold due to population and income increases account for much of this gain, but not all of it. The Sales and Use Tax Law has proven increasingly effective as a revenue producer.

Apparently the techniques that Professor Traynor employed more than twenty years ago, and which have been followed since then in the administration of these taxes, have established their worth. What has been done to promote this success?

Sales and use taxes are paid normally upon the basis of the taxpayers' own declarations of liability.[6] It is essential, therefore, that taxpayers have a correct understanding of the law if their returns are to be made accurately and the taxes paid correctly. If there were only a few thousand persons engaged in the business of selling tangible personal property in California, the task of keeping all of them informed about sales and use taxes would be relatively easy. But there are more than 285,000 active sales and use tax accounts in the records of the State Board of Equalization.

3. Use Tax Act of 1935, CAL. STAT. c. 361, § 1, p. 1297 (1935), now codified into CAL. REV. & TAX. CODE ANN. §§ 6001-7176 (Deering 1952).
4. U.S. CONST. art. I, § 8, cl. 3.
5. CAL. REV. & TAX. CODE ANN. §§ 6001-7176 (Deering 1952).
6. CAL. REV. & TAX. CODE ANN. §§ 6452-6454 (Deering 1952).

These accounts cover a great variety of businesses, carried on in many different ways.[7] The goal of having all sellers of tangible personal property who come within the scope of the law correctly informed of its application to them is not to be reached easily. Its achievement, however, is a basic problem that the tax administrator must face if he is to perform his job successfully.

In a state as large as California, effective sales and use tax administration calls for decentralization. Taxpayers are so numerous and so widely scattered that it is not feasible to serve them from a single office or, for that matter, from a few offices. There can be no assurance that retailers or consumers will consult with the administrators concerning the application of the tax unless there are sufficient offices to afford reasonably convenient access.

Many of those who pay sales taxes are engaged in relatively small businesses from which they find it difficult to absent themselves except for brief periods. They view as formidable the task of reducing their questions to written inquiries. If there is no administrative office conveniently near, they simply do not bother to inquire. Under such circumstances, it must be anticipated that they will resolve their doubts in their own favor. Although individual amounts involved may not be large, collectively they may represent substantial revenues.

This is not to suggest that the administrative problem of promoting accurate sales and use tax returns can be solved most effectively by word of mouth. On the contrary, experience has demonstrated the desirability of reducing the matter to writing. It is not always feasible to get the taxpayer to do this, but once he has presented his problem orally, the answer can be written so that there will be a clear record of how the tax is intended to apply.

All of this requires an active field force, well co-ordinated with a central office where a legal section is prepared to give prompt, consistent, and authoritative answers on the application of the tax. To the extent that it is feasible, these interpretations are made available generally. Thus, through the years, an invaluable group of precedents has been established for the guidance of taxpayers and the staff.

The Sales and Use Tax Law, which the Board publishes with annotations giving the gist of all decisions interpreting its provisions, is thus supplemented by a large volume of administrative rulings, with illustrations of their application to specific questions. An effort is made to avoid rulings that are merely restatements of what is already stated in the law. Instead, the eighty-three sales and use tax rules adopted by the Board are designed to tell the taxpayer in simple terms how the law applies with respect to certain types of business or trade, as, for ex-

7. For statistics see CAL. STATE BD. OF EQUALIZATION ANN. REP. 79 (1953-54).

ample, contracts for the construction of improvements on realty, or the buying or selling of property in interstate commerce.[8]

Opportunity to verify the accuracy of tax obligations as reported by retailers and consumers is necessarily limited. It is far better to avoid mistakes in tax returns than to correct them after they are made. The correction process is costly to taxpayers and the state alike. Truly successful sales and use tax administration is achieved through informed and cooperative retailers, who know how the tax applies and want to work with the administrative agency in seeing that it is returned correctly.

Recognizing the need for decentralization of its staff, the Board has created fourteen administrative districts, each supervised by a district tax administrator.[9] In addition to the fourteen district offices, there are some 46 others distributed throughout the state, so that members of the staff are reasonably accessible from the place of business of nearly every retailer.

It must be recognized, however, that unless the activity at all of these offices is coordinated through central interpretive service, differences in interpretation soon would destroy the uniformity and the fairness of the tax administration. Through office manuals, bulletins, regional meetings at which headquarters staff review the law, and many other procedures in addition to the issuance of the annotated law and board rulings, the field staff is kept informed as to the views of the agency on the correct application of the tax.

There are frequent conferences, too, with taxpayers and their representatives. With the help of trade organizations, many of which issue bulletins of their own with respect to the tax, the views of the board are further disseminated. These contacts are of invaluable assistance to the administrative agency in making it aware of the questions that confront taxpayers and in enabling it to issue rulings and interpretations that afford clear and authoritative answers.

In brief, this is the problem of sales and use tax administration that stems from the need for an informed and co-operative taxpayer and the way in which the California administrative agency has endeavored to meet that need. Important as these considerations are to the success of the tax, there remains still another problem that requires the attention of the tax administrator if the law is to operate as an effective revenue producer.

8. Rulings on specific subjects are furnished upon request. For complete sets of rulings, taxpayers are referred to the Documents Section, Printing Division, State Department of Finance, which distributes the California Administrative Code (including sales and use tax rulings), or to the tax services, among which may be mentioned California Tax Service, Berkeley, California; Prentice-Hall, New York; and Commerce Clearing House, Chicago, Illinois.

9. These districts are delineated in CAL. STATE BD. OF EQUALIZATION ANN. REP. iv (1953-54).

How can there be a reasonable degree of assurance that the law is being observed generally? It is not enough to cover the field thoroughly with rulings, interpretations, and taxpayer conferences. These are necessary, but something more is required. A scientifically planned field audit program is essential to effective administration of a sales and use tax law.

Systematic selection of accounts for audit is the foundation on which such a program is built.[10] There must also be a staff of competent auditors, well informed with respect to the application of the law. Quite early in the administration of the California Sales and Use Tax Law, the State Board of Equalization began to organize an audit program. Gradually the Board has built up an audit staff that far surpasses that of any other agency with like responsibility.[11]

This course has paid handsomely in revenues. The yield from the California tax is much greater than that of any other state in the nation, both absolutely and after adjustment for differences in rates, coverage, and volume of retail trade. More than 44,000 audits were made during the year ended June 30, 1954.[12] They resulted in changes of $11,360,000 in the amount of self-assessed taxes.

These changes include overpayments of $566,000 refunded to taxpayers. It has been stressed that the Board is as eager to correct overpayments as underpayments, and that the object of the audit program is to see that all taxpayers respond to the tax law in the same way, paying neither more nor less than is believed to be due.

The staff of the Joint Legislative Budget Committee, which advises the Legislature on the appropriations for the support of the sales and use tax administration, has not shared this philosophy. On the contrary, from that quarter the suggestion has been made that, unless an audit gives promise of substantial "recovery," *i.e.*, of developing an underpayment well in excess of its cost, it should be discontinued. The object of the audit program, it is argued, is to get more revenue; let the hapless taxpayer who has overpaid his tax and does not know it take care of himself.

Consistent with this attitude is the theory that, in order to gauge the effectiveness of an auditor and of the program in which he is engaged, the sum of any overpayments developed and allowed as the result of audits should be deducted from the underpayments likewise established. Only in this way, argues the Legislative Auditor, can the worth of the program be evaluated.

Fortunately, this view has not prevailed. If it had, there is every

10. For an excellent discussion of the basic objectives of such a program, see an article by William T. Denny in NAT'L ASS'N TAX ADMR'S, REVENUE ADMINISTRATION—1949 (Federal Tax Admr's).
11. Due, PROVINCIAL SALES TAXES 217 (Canadian Tax Foundation 1953).
12. CAL. STATE BD. OF EQUALIZATION ANN. REP. 20 (1953-54).

reason to believe that the splendid cooperation that the administrative agency has had from retailers would no longer be typical in California.[13] Unfortunately, repeated voicing of this concept of tax administration at budget hearings has cast enough doubt upon the justification for an extensive audit program to make difficult its maintenance or expansion.

To meet this challenge, the State Board of Equalization urged that a research project be instituted to develop the facts concerning its sales and use tax audit work. Legislative and executive approval was obtained. Accordingly, at the joint request of the Legislative Auditor, the Department of Finance, and the Board, George W. Mitchell, Vice President of the Federal Reserve Bank of Chicago, consented to act as consultant for the project. A former member of the Illinois Tax Commission and of an advisory group appointed in 1947 by the Joint Committee on Internal Revenue Taxation to study the administration of federal revenue laws, Mr. Mitchell was admirably qualified to assist in the joint study of this problem in state tax administration.

After a series of conferences, it was agreed that the actual research should be carried on by the Division of Research and Statistics of the State Board of Equalization. Its chief, Ronald B. Welch, has described what was done in an article entitled "Measuring the Optimum Size of a Field Audit Staff," published in the National Tax Journal for September 1954.[14] A more detailed explanation of the study is found in "The California Sales Tax Sample Audit Program," which was a report prepared by Mr. Welch in February 1954 for legislative use.[15]

Perhaps nothing better expresses the spirit in which the whole project was undertaken than a quotation from Lord Beaconsfield, appearing at the beginning of the report:

> "The more extensive a man's knowledge of what has been done, the greater will be his power of knowing what to do."

Certainly, the knowledge of what had been done by California sales tax payers toward accuracy in self-assessment was much more extensive after the completion of the study than it had been. A reading of Mr. Welch's article will disclose that those responsible for the fate of the audit program were thus enabled to have a much greater ability to make sound decisions regarding its future.

There are, as Mr. Welch points out, two basic questions that must be answered:

1. What is an optimum audit program?

13. For an expression of the attitude of taxpayers, see a report of the remarks of Vincent D. Kennedy in PROC. NAT'L TAX ASS'N 212 (42d Ann. Conf. 1949).
14. 7 NAT'L TAX J. 210 (1954).
15. Reproduced in multilith form, this report was issued by the State Board of Equalization, Sacramento, California.

2. Why audit one account in preference to another?

The first question is one related to the *size* of the program, while the second pertains to its *shape*. "The same type of analysis," says Mr. Welch, "may be used to describe the 'shape' of the program of optimum size or the best possible 'shape' of a program of greater or lesser size."[16] Hence, the analysis has proven useful in determining what accounts to audit, even though it has not been feasible, with the funds available, to achieve a program of optimum size.

How is an optimum audit program to be defined? Assuming that those who provide the funds for tax administration are willing to spend what is required to get the best results, but, quite reasonably, are unwilling to finance an audit program that costs more than prudent expenditure would warrant, what is the answer? Here is Mr. Welch's definition:[17]

"An optimum audit program is one which maximizes the excess of total tax assessments plus refunds of self-assessed taxes over the total cost of auditing. Note that total tax assessments, not just deficiency assessments, are referred to in this definition; we believe that one of the most important results of an audit program is better self-assessment. Note also that refunds of self-assessments are *added* to self-assessments, not subtracted from them; it is as important, we think, to correct overassessments as to correct underassessments, and audit time is required whether such overassessments are disclosed by auditing or are first brought to the administrator's attention by petition for refund. Note, finally, that the only cost that is to be deducted is the cost of auditing; the costs that would be incurred even if there were no audit program are not involved in the calculation."

No one experienced in tax administration would be disposed to question Mr. Welch's belief that one of the most important results of an audit program is better self-assessment. If there were no audit program, it is obvious that taxpayers inclined to "cut corners" would be encouraged to do so. It is also obvious that they are discouraged from resorting to such tactics by the existence of an audit program. It is reasonable to assume that the extent of their discouragement has a fairly close relationship to the extent of the audit program. The surer the prospect of detection of inaccurate reporting, with resultant additional taxes, interest, and possible penalties, the greater the care in making an accurate report. But how can this influence be measured?

This question Mr. Welch does not attempt to answer. Instead, for analytical purposes, he has used a different definition of an optimum audit program, although the one that has been stated is regarded as the ideal. He explains:[18]

16. 7 NAT'L TAX J. 210 (1954).
17. *Ibid.*
18. 7 NAT'L TAX J. 211 (1954).

"We have found no means as yet—and are not optimistic about finding them—of measuring the effect of varying amounts of auditing on self-assessments. Consequently, we have had to work with a definition that omits this factor. An optimum audit program under this modified definition is one which maximizes the excess of deficiency assessments plus refunds of self-assessed taxes over the cost of auditing. We believe that this definition produces a lower estimate of the optimum size of an audit program than the preferred definition since it seems virtually certain that an increase in the size of an audit program will not only produce more deficiency assessments but will also induce more nearly complete self-assessment. We use it not out of choice but out of necessity."

Possibly the next observation made by Mr. Welch is the most cogent of all. He was moved to remark: "If one were blessed with perfect foresight, he would probably not be a tax administrator."

After reviewing the courses of action open to a tax administrator who is something less than omniscient, Mr. Welch went on to point out that the goal in the selection of accounts for audit is to arrange them substantially in descending order of detectable misplaced tax per hour of audit time and audit as far down the list as available resources will permit. "This," he says, "is the choice which is consistent with the modified definition of an optimum audit program set forth above." Then he adds:

"Being mortal rather than divine, tax administrators do not fully succeed in assigning audit priorities by this rule. But if they are worthy of their hire, they succeed to a limited extent in their objective. Even our severest critics admitted long before we had the facts to prove it that the California administrators were making better than random selection of accounts for audit. We are happy to say that the facts bore out this hypothesis, though it should be added, in the interests of the whole truth, that they also bore out our impression that the administrators were not divine."[19]

The study under discussion covered the three-year period 1950-1952. The occasion for using this span for the sampling of audit results arises from the fact that the law prescribes a three-year limitation on the assessment of deficiencies in the absence of fraud.[20] If, in another jurisdiction, there should be a different limitation period, a similar analysis should be modified accordingly. In California, the problem is how to deploy the audit staff so as to produce the best possible results within this statutory period. The size of the staff is influenced by the same time cycle.

No attempt will be made here to describe in any detail the type of

19. 7 NAT'L TAX J. 212 (1954).

20. CAL. REV. & TAX. CODE ANN. § 6487 (Deering 1952).

procedure employed in this sampling process. It is admirably set forth in the report prepared by Mr. Welch. For reasons that he has explained, accounts already audited during the three-year period were excluded from the sampling. Included were all other accounts that became eligible for audit then. An account "eligible for audit" is one to which the three-year limitation becomes applicable during the period under consideration.

A system of two-way stratification was employed—by type of business and by volume of taxable sales. In all, 17 strata or cells were used. It then became necessary to determine how many samples would be selected from each cell. Depending upon the size and other characteristics of the cells, the sampling ratios varied from one in five to one in several hundred. In all, some 2,500 samples were drawn.

Six major findings and conclusions were deduced from the study. They disclosed that, instead of being overstaffed as had been suggested by the Legislative Auditor, the Board would have required 51 more field auditors to implement the optimum program as already defined. This would have resulted in detection of $28,807,000 of misplaced tax in contrast to the $24,544,000 actually disclosed by the work of the audit staff during the triennium.

This difference would have been narrowed, however, if, in the light of what was developed about the *shape* of the audit program, there had been optimum deployment of the staff. It is estimated that, with such deployment, the misplaced tax disclosed would have been $26,768,000.

These conclusions are both reassuring and challenging. Reassuring because they show that the existing staff is needed and that, expressed in annual taxes, its production is within $1,500,000 of the optimum program. Challenging because they show that the Board needs to enlarge its audit staff by at least six per cent to achieve the optimum program and that, even without adding to the staff, more than $740,000 in additional misplaced tax could be disclosed by improved deployment.

Other interesting facts come to light. The study shows that a 100 per cent auditing program would have disclosed $33,067,000 misplaced tax for the triennium. To achieve this, the audit hours would have had to be increased from 2,573,633 to 4,782,000. To gain disclosure of an additional misplaced tax of $8,523,000, which is slightly more than 33-1/3 per cent over the yield of the existing audit program, would have increased the outlay for audits by some $12,521,000, or approximately 85 per cent. The law of diminishing returns is startlingly illustrated.

Even though a net loss of $3,998,000 for the triennium is indicated from the expansion to 100 per cent coverage, this would not mean that

the audit program, as a whole, would have cost more than the misplaced tax revealed. On the contrary, it would still return a profit approaching $6 million for the three-year period, or an average of $2 million a year. How much more satisfactory would be the returns from the self-assessed taxes, with 100 per cent audit coverage, is an interesting speculation. It seems unlikely that the opportunity to explore the effect of a 100 per cent audit coverage will be afforded to the California sales tax administration, or to any similar agency elsewhere. Budgetmakers are not that bold.

Perhaps legislative reluctance to spend more on the California sales tax audit program is explicable by the fact that the existing program, costing some $5 million a year, seems to result in determinations that cover over 98 per cent of the potential base. Recognizing this, the board asked Mr. Welch to gather further facts that might enable it to (a) get even better results with its existing audit staff, and (b) demonstrate even more convincingly, if possible, that the Legislature should at least provide for the optimum program, rather than expect the administrative agency to work under less favorable conditions. "The Second California Sales Tax Sample Audit Program" was the result.[21]

This study covered the triennium 1952-1954. It revealed that, under the concept of an optimum program developed earlier,[22] this would have disclosed $29,450,000 of misplaced tax and that 41 more auditors devoting their full time to direct audit work would have been needed to implement the program. The addition of these auditors to the board's staff, together with the transfer of nine auditors from administrative districts with relative unproductive audit subjects to other districts, would have cost approximately $1,650,000 but the increase in the amount of misplaced tax brought to light would have been $4.4 million. With this addition to the revenue already realized during the triennium, it was indicated that something more than 99 per cent of the potential tax liability under the Sales and Use Tax Law would have been recorded.

Although this optimum program would have covered a little less than 40 per cent of the sales tax accounts, under the recommended process of selection it would be anticipated that the accounts selected would represent something more than 70 per cent of the tax base. To cover the remaining 60 per cent of the accounts and 30 per cent of the tax base would seem a costly process for the amount of additional misplaced tax involved.

The second sample audit program resulted in an estimate of $39

21. A report thus entitled has been prepared by Mr. Welch. It was published in multilith form by the State Board of Equalization in June 1955 and copies are available at Sacramento on request. The data appearing in the report have been modified slightly, and the modified figures are used in this article.

22. WELCH, THE CALIFORNIA SALES TAX SAMPLE AUDIT PROGRAM 17-19, 26-28 (Cal. State Bd. of Equalization 1955).

million of misplaced tax through complete audit coverage, but this would have required an additional outlay of almost $15 million for the triennium. In other words, the tax of approximately $10 million in addition to the yield from the optimum program would have cost $15 million, resulting in a loss of $5 million in contrast to the gain of $2,736,524 derived from building up the existing program to the optimum program.

Naturally, it must be anticipated that if the taxpayers know that only 40 per cent of the accounts are audited, they may be more apt to "cut corners" than they would if they realized that all accounts would be subject to such scrutiny. Doubtless there would be some added improvement in self-assessments as a result of adoption of a 100 per cent audit program. Because the total tax involved is so large—it was approximately $1,350,000,000 for the triennium 1952-1954—a very slight increase in self-declarations would have a very large effect in dollars.

Yet it must be recognized that an administrative agency would have difficulty in convincing a legislature that provision should be made for full coverage in preference to optimum coverage of the type described. It would seem, however, that there should be little difficulty in convincing the Legislature that it ought, at least, to provide for the optimum coverage. Apparently no such provision has been made in any state in the union. In California, as has been shown, there would need to be an addition to the audit staff of approximately six per cent.[23]

It is believed that the existing program in California comes as close to the optimum as that in any other state. Possibly the same enlightened attitude that moved the Legislature to make provision for the present program will cause it to provide for the optimum, thus leading the way to sounder and fairer state sales and use tax administration.

At relatively small cost, the California administrative agency has disclosed facts that will enable it to make the most effective use of its audit resources, as well as to determine when it has reached the optimum program from point of size. These data are not static, however, and, in the prudent management of its responsibility, the administrative agency should have a continuing analytical project of this kind. Naturally, in any other jurisdiction where such a study has not been made, the need therefor is urgent. It must be met before the tax administrator can proceed with the assurance that he is in full possession of the facts surrounding size and shape of his job.

There are, of course, numerous other administrative problems, many of which are important factors in sales and use tax work. If, however, the administrator is able to deal effectively with the problem of secur-

23. There are currently 850 sales and use tax auditors and 41 more are required.

ing taxpayer cooperation through reasonable accuracy in self-assessments and the problem of organizing an audit program that will correct most of the instances where there has been failure to secure such cooperation, solution of the other problems will be well on its way.

One that will be encountered in any administrative program, no matter how careful are the plans for securing accurate self-assessments and reenforcing these with an adequate audit program, is the question of collections. Under the California law, the sales tax is the primary obligation of the retailer.[24] Although the use tax is primarily the obligation of the consumer,[25] it is ordinarily collected by the retailer from his customer,[26] so that for the major part of the revenue from the Sales and Use Tax Law the administrative agency must look to retailers.

Aside from the fact that there are some 285,000 sellers concerning whom records must be kept, the problem of securing collections is further complicated by the fact that their activities are by no means static. Businesses are discontinued. Businesses are sold. New businesses are begun. Locations of stores are changed. Revision of administrative records is involved, and it is of the utmost importance that this be done accurately and promptly. Every business day throughout the year there are at least 1,000 such changes in California. Unless all of these are recorded promptly and accurately, there can be no assurance that tax collection will be enforced in the absence of a self-assessment.

Quite reasonably, the Legislature has provided that a seller may have a month within which to complete his return and make his tax payment after the close of the reporting period.[27] In the event that there is failure to do so, this means that there may be a substantial accumulation of unpaid tax before the administrative agency can institute collection procedures. To guard against the inability to collect such accumulations, the law makes provision for security for tax payments.[28] In the light of some twenty years of experience in California, this would seem to be a most important provision for dealing with a persistent administrative problem.

By requiring security, the Board has minimized collection losses and expense to a gratifying degree. Currently, security on deposit to cover obligations under the Sales and Use Tax Law amounts to $26,700,000.

24. CAL. REV. & TAX. CODE ANN. § 6051 (Deering 1952); Meyer Constr. Co. v. Corbett, 7 F. Supp. 616 (N.D. Cal. 1934); People v. Herbert's of Los Angeles, Inc., 3 Cal. App. 2d 482, 39 P.2d 829 (1935).

25. CAL. REV. & TAX. CODE ANN. § 6201 (Deering 1952).

26. CAL. REV. & TAX. CODE ANN. § 6203 (Deering 1952).

27. CAL. REV. & TAX. CODE ANN. §§ 6451-6452 (Deering 1952).

28. CAL. REV. & TAX. CODE ANN. § 6701 (Deering Supp. 1955).

This means that 71 per cent of the sellers have made deposits that cover approximately 22 per cent of all quarterly collections.

The effectiveness of the security is much greater than the ratio last mentioned might indicate. A very large proportion of the tax is paid by retailers whose businesses are well financed, and whose accounts are never permitted to become delinquent. Hence, there is no real need for securing their accounts, although for the sake of uniformity of practice, it might be desirable to require some security within a maximum limit. As to other accounts, the deposit of security may well mean the difference between being able to enforce collection and being without effective means of doing so. Thus, it would seem reasonable to conclude that adequate provision for securing the payment of retailer obligations under a sales and use tax law is an important factor in dealing effectively with collection problems.

Another feature of the California law that has proved most helpful in dealing with an administrative problem is the requirement that all sellers of property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the sales tax must register with the board and make periodic returns.[29] This has enabled the agency to maintain a much better record of the flow of commerce in this type of property than otherwise would be possible. It has greatly facilitated the checking of resale certificates by which sales tax reimbursement to vendors is excluded from the prices paid to them.[30]

Successful administration of this type of taxation appears to present problems that may be identified in these four major categories:

1. Identification of all sellers of property of the kind included in the measure of the tax;

2. Procurement of periodic returns from these sellers, with as accurate and prompt tax payment as can be elicited;

3. Verification of the accuracy of these amounts of self-determined liability; and

4. Effective enforcement of tax payments when these are not made voluntarily.

It is believed that the problems involved in all four categories are susceptible of reasonably satisfactory solutions when the sales tax administrator, with the support of his legislature, is enabled to proceed along the lines that have been indicated. Then, and only then, may it be said that a general sales and use tax law is fulfilling its function as a sound means of producing substantial revenues measured by the prices that consumers pay for goods.

29. CAL. REV. & TAX. CODE ANN. §§ 6014, 6066, 6452 (Deering 1952).
30. See CAL. REV. & TAX. CODE ANN. §§ 6091-6095 (Deering 1952).