

July 2021

State Revenue Department Should Publish Rulings

William R. Newcomb

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

William R. Newcomb, State Revenue Department Should Publish Rulings, 21 Dicta 238 (1944).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

payments would be due after the end of next month—or in a period from four to seven weeks later.

Soldiers would be wise to pass on these facts to their dependents so that they may budget their initial family allowance accordingly.

If everybody understood the procedure for setting up and paying family allowance accounts, I am sure the ODB would receive fewer letters like the one from the Army wife out west who wrote testily:

“My husband was inducted last week and I haven’t received any checks yet. Ship money or husband at once!”

The ODB cannot ship husbands back to their wives. But it can—and does “Get ’Em Paid!”

State Revenue Department Should Publish Rulings

BY WILLIAM R. NEWCOMB*

At a time when both the spirit of administrative reform is in the air and problems of taxation are increasingly critical it seems pertinent to call attention to a situation relating to both of these matters which should be of vital interest to all Colorado lawyers.

I write of the lack of publication of the findings of the Revenue Department for the State. As Colorado lawyers know, when either a protest of an assessment or a claim for refund is made, the taxpayer is granted a hearing before the Law Board of the Revenue Department. As a result of this hearing a Final Determination is put in written form and a copy thereof is sent to the taxpayer, either denying or granting his claim. This Determination is kept in the files of the taxpayer and in the files of the Revenue Department. No one else can be aware of it except by rumor passed about by word of mouth. This situation contains the seeds of two possible evils. First, there may be dozens or even hundreds of taxpayers in exactly the same position as a taxpayer who is fortunate enough to secure a refund, who are never informed of their rights. It is too much to expect, of course, that the Revenue Department will, of its own initiative, search the files in order to grant refunds. The burden is, as it always has been, upon the person claiming a right and a remedy. Yet, it must also be assumed that the Revenue Department is not interested in retaining funds to which, by its own determination in many cases, it is not entitled. The remedy for such a disturbing situation is to enable the taxpayer to be vigilant in the enforcement of his rights, by giving to him information concerning the Revenue Department’s findings through publication and distribution of its Final Determinations.

*Of Denver bar.

A second evil of this lack of publicity is the possibility of the Revenue Department's making conflicting decisions on the same facts according to the whim and caprice of its members. Published reports would eliminate the groping in the dark by those who appear before the Department as to what attitudes have been assumed in the past on the same or similar facts.

The element of secrecy cannot be considered a desirable one in any administrative agency. It is conducive to the atmosphere of the Star Chamber and, in the hands of less forthright and conscientious gentlemen than those who are now in the Revenue Department, could result in the gravest of injustices to the taxpayer. The cost of such publication cannot, of course, be considered as a material objection when fundamental rights are at stake. By the same token, the increased burden on the Revenue Department as a necessary consequence of the demands of an enlightened and vigilant class of taxpayers cannot be considered to be material.

It is true that at present appeals may be taken to the District Court and thence to the Supreme Court, which tends towards a uniformity of Determinations by the Revenue Department and to a small measure of publicity. But the uniformity is imposed only as to the infinitesimal number of cases which reach the Supreme Court, and the publicity is achieved only to the same extent.

It is not suggested that the Department publish in full its rulings and decisions so as to reveal information which taxpayers may not wish disclosed as to their incomes. However, a system of publication similar to that of the Cumulative Bulletins of the Federal Government would serve adequately to inform the public and still preserve anonymity.

A government of laws and not of men is the strongest guaranty for the maintenance of the democratic way of life. That fundamental principle would be furthered in the State of Colorado by the simple expedient of giving full publicity to the determinations of the Revenue Department. If the Bar Association of Colorado would take an active interest in this pressing need, and work to see the reform accomplished, it would be striking a hearty blow against the type of governmental machinery that allows despotism to flourish.

State Bar Plans Interesting Convention Program for Meeting on October 13-14 at Springs

With a program highlighted by addresses by Judge Manley O. Hudson, internationally known jurist, and Judge John B. Knox, judge of a federal district court and author of two best sellers, the annual convention of the Colorado Bar Association promises to be one of the best