



Surviving a Sales Tax Audit (Part Two)

Part Two of a Two-Part Series

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In part one of this two-part series, we covered issues such as why your company was selected for a sales and use tax audit, the types of questions the auditor will ask, and the nature of the documentation the auditor will want to examine when conducting the a sales and use tax audit. In concluding this short series, focus will be directed to handling proposed sales and use tax audit adjustments, sales tax amnesty, and how sales tax management software can help companies minimize sales tax compliance issues.

Handling Proposed Sales and Use Tax Adjustments

Despite a company's best efforts, auditors may still find issues related to sales and use tax compliance and propose adjustments to the liability. When the auditor proposes adjustments, generally you will receive a "thirty-day letter" from the auditor. This letter formally outlines the proposed adjustments and your rights to contest the proposed adjustments should you wish to do so. As may be inferred from the name of the letter, you typically have thirty days to contest the adjustment and file a formal appeal. Should you decide to appeal, be prepared to gather and present detailed explanations of why you believe the proposed adjustments are erroneous. Remember that your rationale for contesting the proposed adjustment should be based strictly on factual evidence. Certainly, if facts exist to support your position, it would be advantageous to present these to the auditor during the course of the audit and before the auditor proposes any adjustments.

Another strategy for handling proposed adjustments is to consider negotiating a settlement. In some cases, the auditor may be willing to compromise in your company's favor on certain issues in order to entice a quick closure to the audit. Engaging in a negotiated settlement could be advantageous if you believe you will have a difficult time substantiating your position in a formal appeal process.

Is Sales Tax Amnesty a Viable Option?

According to the Streamlined Sales Tax Governing Board, seven states currently offer some form of sales tax amnesty – Arkansas, Nevada, Ohio, Tennessee, Utah, Washington, and Wyoming. These amnesty programs are only applicable to sales and use taxes due from a company in its capacity as a seller and does not apply to sales and use taxes due from a company in its capacity as a purchaser. Further, these amnesty programs apply to companies that are not currently registered to collect sales and use taxes in a state and that agree to collect or pay sales and use taxes for all taxable sales in all states. In the absence of any fraud or material misrepresentations by the company, amnesty is fully effective provided the company collects and remits all appropriate sales and use taxes for at least thirty-six consecutive months. Provided these conditions are met, sales tax amnesty absolves the company of past uncollected and unpaid sales and use taxes as well as penalties and interest.

Is applying for sales tax amnesty a viable option for your company? In order to answer this question, first ask several other questions.

- Does your company qualify for sales and use tax amnesty, based on the conditions outlined above?

- Does your company have a legitimate legal case as to why sales and use tax was not collected, reported, and paid?
- Does your company have the resources to prove its case?
- Is entering into potentially expensive and protracted battle over sales and use taxes a cost-effective strategy for your company?

For some companies in states currently offering sales and use tax amnesty, this is a choice that should be carefully weighed, particularly if the company's exposure is significant.

Using Sales Tax Management Software to Minimize Sales Tax Compliance Issues

Billing, reporting, and remitting sales and use taxes can be a complicated and expensive process and one that is prone to error. As such, many companies have made the strategic decision to utilize sales tax management software in an attempt to minimize the risk of non-compliance and the expense associated with sales tax compliance. Companies such as **Avalara**, **SpeedTax**, **ADP**, and **CCH** all offer sales tax applications that interface with leading accounting software packages to automate the process of billing, reporting, and remitting sales taxes.

While the features and benefits associated with each sales tax application vary, these tools generally streamline compliance efforts and minimize risk by validating customer addresses and assigning the appropriate tax rate based on the validated address; automating the process of reporting and paying sales taxes to the appropriate taxing jurisdictions; and helping companies manage non-routine issues such as sales tax tiers, tax holidays, and product taxability rules. Accordingly, even for very small businesses utilizing sales tax management software can prove to be a very cost-effective strategy for reducing the cost and headaches associated with sales tax compliance and reducing sales tax audit risk.

Summary

Surviving a sales tax audit need not be an insurmountable task. As discussed in part one of this two-part series, understanding potential triggers for sales tax audits, anticipating questions the auditor will ask, and gathering the documentation necessary provide a useful head-start in preparing for the audit. If the auditor does propose an adjustment, knowing how to approach and resolve these adjustments can save your company thousands of dollars. Two potential strategies for resolving proposed adjustments include formal appeal and negotiated settlement. In certain cases, it may be appropriate for a company to seek sales tax amnesty, but recognize that presently only seven states offer such programs. Finally, given the complexity and cost associated with sales tax compliance, many companies are turning to sales tax management software as a means of reducing sales tax audit risk. Such applications typically automate many of the error-prone processes that otherwise could prove to be costly in a sales tax audit. Knowing the tools and strategies appropriate for you and your company can help to bring a sales tax audit to a quick and favorable closure and, in some cases, prevent the audit from occurring in the first place.

About the Author

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