



TAXPAYERS'
FEDERATION
— OF ILLINOIS —

Illinois Audit Issues: War Stories, Tips and Trends

Mary Kay Martire

McDermott, Will & Schulte LLP

David C. Blum

Akerman LLP

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TFI Fall Seminar

AGENDA

- I. Rules for this Session
- II. Income Tax/PPRT Issues
- III. Indirect Tax Issues
- IV. Local Tax Issues
- V. Procedural Issues
- VI. Amnesty Issues
- IV. Next Steps?



RULES FOR THIS SESSION

1. No Government Presence
2. Confidential Exchange of Information
3. Resolution/Follow Up



Income Tax/PPRT Issues

- Depreciation issues
 - IDOR auditors will not accept as the starting point the depreciation shown on IDOR's audit schedules from prior year.
 - Requiring everyone to start back at 2001.



Income Tax/PPRT Issues

- Partnership Issues
 - IDOR auditors don't understand them.
 - Requiring all the 1065 and K1 forms for every partnership even though 100% owned and included in the unitary group.
 - Rationale: to ensure everything is in the factor.



Income Tax/PPRT Issues

- “I think a good question would be the requirement\test the auditors are using for throwback and 80/20 companies.
 - Auditors are stating you must have BOTH property and payroll in a state to avoid throwback - even if you file a return and pay the tax. That isn’t the same standard they apply when determining if you have nexus in IL.
 - They are using the same for 80/20 companies EVEN though the statute allows for you to not have both. The statute specifically addresses what to do if you don’t have both property and payroll, but the auditors don’t seem to care what the statute says and basically say they can impute what they need to break the 80/20 when one factor isn’t present.”



Income Tax/PPRT Issues

- “A question that is coming up, not yet on audit, but is being asked a lot is how do you qualify for the unreasonable exception to the 80/20 addback? Is the IDOR going to give any guidance on the topic?”
- “If all of the technology was developed in another country and is being used here, would that qualify? If not what would?”



Income Tax/PPRT Issues

- State apportionment: Is IDOR auditor entitled to see how a taxpayer reported income or sourced receipts in other states?
- Sale of a business and inclusion of receipts from goodwill in the sales factor denominator. Alternative apportionment?



INCOME TAX/PPRT ISSUES

- “Like *PepsiCo*, we are seeing Illinois auditors rely on economic substance as a basis for tax/penalty assessment, even when taxpayers meet the technical requirements of the statutes. In the corporate income tax context, we are seeing auditors disregard entities on this basis to determine an apportionment less favorable to the taxpayer.”
- “I wouldn’t be surprised if other taxpayers/practitioners are seeing the same!”



INDIRECT TAX ISSUES

- Collection of tax by a marketplace facilitator
 - Seller remits tax to the marketplace seller rather than to IDOR.
 - How do you prove that IDOR received the money?



Indirect Tax Issues

- IDOR Sales Tax Audits
 - No explanation for adjustments on audit schedules.
 - Lack of knowledge of recent IDOR rulings.



Indirect Tax Issues

- Sales tax - Difficulty getting cash refunds.
 - “The IDOR seems to push you to a credit option and does not make cash refunds easy to obtain.”



Indirect Tax Issues

- Sales Tax
 - New rules and penalties for direct pay non-compliance
 - Compliance issues?



LOCAL TAX ISSUES

- Chicago Personal Property Transaction Tax –
 - How do you prove that a cloud computing company is really a nontaxable service provider and not a software vendor?



PROCEDURAL ISSUES

- Audit Delays
 - What is the group's experience?
- Last Minute Demands for SOL Extension By Slow Auditors
 - IDOR auditors are threatening that unless extension is granted taxpayer will lose the right of ICB review. Citing June 2024 amendment to 86 Ill. Admin. Code 215.115(b).
 - Also threatening to assert estimated [read: unfairly high] assessment absent extension. Concerning given appeal standards/choice of forum issues.
 - Strategies in response?



Procedural Issues

- Is there an IDOR audit “brain drain?”
 - Are auditors less experienced/sophisticated than they used to be?
 - “lack of audit progress; auditors inexperienced with large taxpayers”
 - “Our current auditor has indicated she is ‘overwhelmed’ with the scope of the audit.”
 - If so, will IDOR be inclined to hire former IRS auditors who might have been let go?
 - Implications?



Procedural Issues

- Repeated Audit Cycles?
 - “We have been audited every year since 2024 with negligible findings. Not sure why this is occurring.”



Procedural Issues

- Penalty Abatement Issues
 - Will IDOR accept reliance on a tax advisor for purposes of requesting penalty abatement?
 - Are penalties being waived on audit or are taxpayers being forced to appeal?



Procedural Issues

- ICB
 - Is it worth it or should you just go straight to court?
 - Useful as a vehicle to obtain penalty waiver, or partial resolution of substantive issue?
 - “Difficulty scheduling an informal hearing regarding penalty waiver (prior audit). We were told there was a backlog due to staffing issues.”
- Independent Tax Tribunal
 - Absence of substantive rulings.
 - Despite “independence,” taxpayer-friendly rulings are rare.
- Tax Protest Litigation
 - Cook v. Sangamon County strategies
- Illinois Appellate Court
 - First District anti-taxpayer rulings



Amnesty Issues – 2025 IDOR

- Ability to get fair evaluation of claim pre-amnesty?
- Ability to seek both VDA (to shorten look back period) and amnesty (for interest waiver)?
- Subsequent right to amend and obtain refund?
- Other guidance needed?



Amnesty Issues – Franchise Tax

- Secretary of State has issued guidance
- 2025 Amnesty Information Sheet
 - Suggests submission in-person or via mail (FedEx or UPS)
 - Online submission?
- Amnesty Form now available:
 - C 373 Franchise Tax and License Fee Amnesty Act of 2007 Petition
 - Form amended and effective 7-1-2025



Amnesty Issues – Marketplace Facilitator

- 2026 Program
- What do taxpayers relinquish by participation?



Next Steps?

- Issues to bring to attention of taxing authorities?



Presenters

Mary Kay Martire

mmartire@mwe.com

(312) 984-2096

McDermott Will & Schulte LLP

David C. Blum

David.blum@akerman.com

(312) 870-8018

Akerman LLP