

Audit Session: War Stories, Tips, and Trends

Presenters



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Agenda

State audit landscape: Income Tax, GRT, and Sales & Use

Other audit risk areas: Unclaimed Property & Withholding

State audit landscape

States increasingly data-driven in audit selection

Focus on high revenue recovery areas

Common targets

- Income/franchise tax
- Gross receipts tax
- Sales & use tax

Audit procedures

- Notice
- Information requests
- Sampling
- Burden of proof
- Exemption review
- Appeal



Income/franchise tax

- **Allocation & apportionment**
 - IL: Throwout and Throwback
- **Nexus determinations**
 - Economic nexus becoming more common
 - Web “Cookie” Nexus
- **Additions and Subtractions Validity**
 - Illinois Bonus Depreciation
 - Add-Back/Subtractions of PTET
- **IL Replacement Tax**
 - Management Agreements
 - Reasonable Allowance for Compensation



Gross receipts tax

- Based on revenue — not profit
- Applies in various states: DE, NM, OH, OR, TN, TX, WA
 - No P.L. 86-272 protection
 - Don't forget about Locals including West Virginia
- Audit focus: Sourcing and nexus
- Common mistakes
 - Nonfiling
 - Tax base
 - Proper reporting groups (consolidated, combined, or separate)



Sales & use tax

- Review of tax collected and remitted
- Use tax compliance
- Exemption documentation
- Nexus: Physical presence or \$100,000 in sales
- Common mistakes
 - Chicago Personal Property Lease Transaction Tax
 - Intrastate verses Interstate Sales Sourcing
 - Failure to track economic nexus
 - Taxability of product differences between states
 - Keeping up to date with tax changes
 - No use tax accrual



Other audit risk areas

Unclaimed property

Intangible property which a customer, employee, or vendor has “abandoned” due to not exercising control over the property after a specified period of time. Property must be “escheated” to the state. Failure to follow requirements can result in large penalties.

Withholding

Multiple types of withholding:

- Employee wage withholding.
- Pass-through entity withholding.

Payroll related taxes

Unemployment insurance filing and tax is a separate requirement from traditional payroll tax.

- Don’t forget workers compensation either.

Audits are not limited to traditional taxes



Unclaimed property

- Dormancy periods
- Long lookback periods
- Large penalties
- Low rate of compliance
- **Examples of unclaimed property**
 - Unredeemed gift cards and gift certificates
 - Dormant brokerage or bank accounts
 - Uncashed checks
 - Wages not deposited



Withholding and payroll related taxes

Employee withholding

- Failure to close accounts once company starts using a PEO or ceases paying payroll
- Failure to properly withhold in multiple states for employees that travel for work
- Penalties can escalate quickly
- Ensure company is registered for unemployment and workers compensation

Pass-through withholding

- Requirement at entity level to withhold tax for specified partner/shareholder types
- Potential joint liability with partner for tax
- State can impose penalty for failure to withhold
- Can be avoided in some states with PTET election or filing composite return
- Not required in all states or all entity types

Tips to Not Forget

- Auditors are people too
- The “Local” in State and Local
- Alternative paths may exist

Contact your presenters



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Q&A