

## Reverse Audits for Corporate Taxpayers: Best Practices for Identifying Sales Tax Refunds

TUESDAY, SEPTEMBER 8, 2020, 1:00-2:50 pm Eastern

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# Reverse Audits for Corporate Taxpayers

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September 8, 2020

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# SALES AND USE TAX REVERSE AUDIT

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## **TOM SMITH**

Partner, State & Local Tax Services  
SW Regional Leader

### **EXPERIENCE**

Tom has over 30 years of experience specializing in state and local taxation. Tom grew up on a ranch in Eastern Oklahoma and focused on the oil and gas industry for many years. In the late 90's Tom found himself in the Southeast for several years living in Atlanta and spending a lot of time in Nashville, Tennessee. During those years he developed significant expertise in the healthcare industry and still serves many of those clients today.

Although Tom's career began as an auditor for the Texas Comptroller of Public Accounts, Tom transitioned into public accounting spending nearly 15 years working in the Big Four. Tom joined Coopers and Lybrand as a senior in 1996 after the merger with PriceWaterhouse, Tom moved onto a regional position with Ernst & Young working in Memphis, Nashville and Atlanta. Tom was with KPMG from 2001 through 2010 where he led the indirect tax practice for the Dallas Business Unit his last two years. Tom joined HoganTaylor in 2010, and from that point until June of 2014 built a practice which reached over 10 professionals. Tom joined BDO on July 1st of 2014 as a partner and the new leader of Southwest's SALT practice. Tom also brought most of his team with him from HoganTaylor.

### **PROFESSIONAL AFFILIATIONS**

American Institute of Certified Public Accountants  
Oklahoma Society of Certified Public Accountants

### **EDUCATION**

B.S., Accounting, Northeastern Oklahoma State University

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## KATHERINE GAUNTT

Managing Director, SE Leader, STS-SALT Sales & Use Tax

### EXPERIENCE

Katherine is a nationally recognized indirect tax expert with over thirty years of experience specializing in management and administration of sales and use, property, gross receipts and excise taxes. For the last fifteen years, Katherine has served as a sales and use tax consultant in both public accounting and boutique consulting firms for multi-billion-dollar global companies as well as small technology start-ups. Prior to becoming a consultant, Katherine managed the indirect tax functions for companies in the pharmaceutical, hospitality, technology and distribution business sectors. Additionally, Katherine held dual corporate management positions in Tax, Treasury and Risk Management for a Fortune Global 500 company. This combination of consultative and direct operational experience gives her a unique business-oriented perspective with a strong team approach in the execution of indirect tax solutions.

Katherine provides indirect tax services to many business sectors including Construction, Employment Services, Financial Services, Healthcare, Hospitality, Manufacturing, Nonprofit and Technology. Katherine leads teams through complex sales and use tax engagements involving nexus evaluations, exposure analysis, process implementation/improvement, audit defense, M&A due diligence, voluntary disclosures, and reporting efficiencies. Her extensive experience in multistate sales tax for multiple business sectors with companies of all sizes is reflected in a holistic and pragmatic approach to tax compliance. Not only are immediate needs met, but Katherine offers her client opportunities to optimize their tax function, recover overpaid taxes and identify potential tax trends that may impact your business.

Katherine is a published author and frequent speaker on indirect tax issues. Since joining BDO she has conducted internal and external training and published a monthly Wayfair blog from January 2018 through September 2018.

### EDUCATION and LICENSES

B.A., Biology, University of Tennessee

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## **TONY NAGORSKI, J.D.**

State & Local Tax Senior Manager

### **EXPERIENCE**

Tony is a senior manager in the State and Local Tax services practice at BDO. Tony has nearly 10 years of sales and use tax experience within State and Local Tax, covering all industries and states. He primarily advises clients on sales and use tax planning, controversy, compliance, and process matters.

Prior to joining BDO, Tony held a senior manager position at a Big Four firm. Tony secured multi-million-dollar refunds for clients during reorganizations and structuring work and worked tirelessly in the defense of audits for clients with multi-state footprints.

Tony has presented on numerous expert panels related to sales tax matters, he provides guidance to the Minnesota Department of Revenue on position changes and pending legislation and assists with reviews of technical bills in the State legislature on sales tax matters.

### **PROFESSIONAL ASSOCIATIONS**

Minnesota State Bar Association  
Illinois State Bar Association  
Institute for Professionals in Taxation

### **EDUCATION**

J.D., Law, University of Saint Thomas  
B.S., Accounting, University of Saint Thomas



## Today's Discussion

- Reverse audit landscape and value
- Best practices for identifying tax overpayments
- Best practices for recovering identified overpayments
- Considerations for managing internal stakeholders, external consultants and/or state representatives throughout the project
- Taking steps to avoid future overpayments and implement quality control measures



## Reverse Audit Landscape

- Reverse audits started in the 80's.
- In the 90's, large accounting firms first began doing reverse audits.
- Many companies have moved this process in-house.
- In the last 10 years many local and regional firms have begun performing refund services.
- Several large specialty firms exist that mainly limit their work to reverse audits.
- We recommend that accounting firms exercise caution before pursuing this business because of the risks involved.



## Reverse Audit Value

Taxpayers realize value in the form of cash refunds or credits.

In addition, they realize prospective tax savings by correcting errors that give rise to overpayments.

Important: Need to understand the risks!

1. Assure a cost benefit relative to the work performed (internally and externally)!
2. Risk of spurring an audit!



## Using an Outside Firm? Professional Fees

1. Hourly
2. Contingent Fees
  - Based on the actual tax savings received as a result of the findings of the state or local taxing authority, so there are no out-of-pocket costs to the client.



# Best Practices for Recovering Overpayments

## The Reverse Audit Process





# Preliminary Review: Rules For Identifying Tax Overpayments

1. Focus on industries where there are existing state incentives/opportunities:
  - a) Manufacturing
  - b) Healthcare
  - c) Energy - E&P & Mining
  
2. There can always be an exception to rule number #1.
  - a) Non-profit healthcare
  - b) Universities
  - c) Any company!
  
3. Narrowly-tailored refunds:
  - a) Technology studies
  - b) Advertising
  - c) Recent changes in law



## Preliminary Review: Objectives

- The goal for the preliminary review is to limit up-front investment by quantifying issues and value.
- During the review you should:
  - Gather your ideas regarding what areas of review you are seeking.
  - Discuss areas of review with employees at your company.
  - Tour facilities and ask questions.
  - Reconcile tax paid.
- Depending on the size of the operations, the preliminary review will take one or two days.



## Preliminary Review: Process

- Testing should be done to determine if there is an opportunity.
- Sampling can be used to test invoices.
- Identify people with sales tax responsibility (accounts payable).
- Determine their level of training and expertise.
- Ascertain what documentation is maintained for use tax accruals.



## Records to Review

- Sales and use tax returns, and corresponding workpapers
- Accounts payable detail
- Chart of accounts
- Lease Contracts
- Schedule of vendors
- Prior sales and use tax audits
- Internal sales and use tax guidelines and manuals



## Detailed Review

Technologies available to build the refund claim once you identify an issue:

- MS Access
- Alteryx
- Scanners
- Ocular Scanning
- Direct Access to Imaged Files



## Detailed Review

- Methodology: Sampling vs. detailing – some states allow sampling.
- Some states have required forms.
- Goal is to gather all necessary documents and paperwork to support the claim before we exit your facilities.
- Photographs of equipment are taken.



## Detailed Review

Organization is key in the filing of refund claims.

Utilize:

- Significant Tracking and Review
- Assemble Checklists
- Standardized Packages

Identify underpayments/risks and net against refunds.



## Refund Claim Package

Content varies based on state and tax type.

Important to coordinate all correspondence with the taxing authorities and vendors, if applicable, for the purpose of securing the refunds and credits.

Assign unique identifiers and track the transactions in a database.

Multiple copies created.





## The State's Review

The Department of Revenue will assign an auditor to review the claim.

There will be meetings, conferences, and/or hearings, to the extent permitted by state law, in connection with the refund claims.

Records requested and level of review varies by state:

1. Detailed review v. sample
2. Return reconciliation
3. Invoice review, contract review, proof of payment, etc.

## Steps taken to avoid future overpayments and implement quality control measures

ROOT CAUSE of OVERPAYMENTS	Systems & Processes	People	Taxability/Rates	Other (e.g. Bundling)
Overpaid Use Tax	X	X	X	
Overpaid Sales Tax			X	X
Product/Service Mixed Transactions			X	X
Decentralized Purchasing/AP	X	X		
Timing/Progress Payments	X			X
Usage Exemptions	X	X	X	X
Entity Exemptions			X	

# Questions?

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