Use Tax Compliance Teleconference

March 20, 2007

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I. Why Corporations Should Care About Use Tax

A. It's the law

B. It falls under the scope of SoX

C. It could translate to substantial dollars (i.e. expense) to the company

D. It could affect business units' operating budgets

E. It could affect the corporation's overall profit margin

F. It can make the tax department look good or bad

G. Note: A company's "use tax" compliance usually goes unnoticed until something happens (e.g. a big audit assessment – remember Tyco – or a big refund claim)

II. How To Get Organized For Use Tax Compliance

A. First, get to know your business (how and where you conduct it)

B. Know what you buy (and try to know who your big vendors are)

C. Research in detail the law on what you buy (create a tax guideline/matrix for your department and others to use)

D. Be an expert in your company's/industry's exemptions
(some laws/regs may be interpretative, so that requesting a ruling or an advisory opinion may be appropriate; use discretion)

E. Develop internal controls to ensure you are paying the correct tax
(i.e. tax memos to the field, written tax procedures, tax matrices, etc.); be professional in what you write and know your audience)

F. Become buddies with the AP, accounting and legal departments (networking with the other business units will also be important)

G. Get good sales/use tax software (Vertex, TaxWare, etc.)

H. Develop a good review process for your tax returns

I. Develop a good audit process for external audits

J. Develop a tax-estimation tool if you pay bills by credit card (P-card)

K. Get yourself a good IT person to assist you in all of the above

III. Considering A Purchasing Company

A. A purchasing company can be a good option to bring use tax compliance in-house

B. You become a "reseller" of your goods and services

C. You give resale certificates to your vendors (this makes you the retailer)

D. Upon resale, "you" calculate sales/use tax on your transactions, not the vendor

E. The purchasing company gets return discounts (small benefit)

F. You eliminate the need to accrue tax (system automatically charges tax)

G. You no longer issue industry-type exemption certificates to your vendors, but rather issue an exemption certificate to the purchasing company

H. The system is highly automated, which makes compliance and audits much easier to handle

I. Also, getting historical transaction data for your transactions is simple (this makes looking for refund claims or performing reverse audits much easier. And, once you determine an exposure item, it's easy to calculate the tax due)

J. You now know how much money you pay in use tax (before a purchasing company, sales/use tax was added to the expense of the item)

K. Contractor-type invoices are problematic

L. Basically, your "use tax" destiny is totally in your hands (this could be a good thing if you set it up and maintain it right, or a bad thing if you set it up wrong and don't maintain it properly)

M. Note: Setting up a purchasing company requires a lot of research from systems, tax, accounting and legal perspectives. Not all transactions will work within a purchasing company, but most do. Technology is key, and you will need a fulltime IT person to assist you in your day-to-day activities. If you do it right, it will take approximately 12 months or more to build. he results can be extraordinary from a compliance, audit and tax planning perspective

IV. Use Tax Audits Are A Big Responsibility For The Tax Department

A. Get organized

B. Plan the date(s) accordingly so that you can have the right amount of resources available to handle the auditor(s)

C. Be professional from beginning to end (get everything in writing and act like you really know your stuff and are very organized and ethical)

D. Perform a pre-audit of your transactions for identifying potential exposure items, refunds or offsets

1) Note: If you have a big refund claim, you may need to figure out how and when to present it to the auditor; timing may make a difference in attitude

E. Make sure you are satisfied with the audit technique
(most states are going from bulk sample audits to statistical (stat) sample audits, and in most cases a stat audit is not satisfactory

1) Note: A bulk/stat audit doesn't always properly represent the company's compliance for the audit period. If you feel the audit findings are not indicative of how you pay your taxes, ask for a new or expanded sample

F. Don't make it easy to sign extension waivers, especially if it is not your fault. Give a six-month extension at most, and advise that the audit must get finalized by the end of this extended period

G. Discuss the specifics of the audit up-front with the auditor
(e.g. the selected sample months – if a bulk audit, the different stratas; if a stat audit, generally four to five stratas and the number of invoices)

1) Determine how credits, offsets, refunds and "extraordinary items" are to be handled

H. Discuss the interest calculation for assessing and for refunds

I. Carefully review the auditor's workpapers (they make mistakes too)

J. Have fun – This is the best part of the job