Audit Equity and Process Simplification Act

Summary

Typically, a state tax auditor does not review every transaction in an audited period. Instead, the auditor uses a sample of transactions to ascertain an underpayment or "error rate." The auditor then projects the error rate over the audited period to arrive at an amount of tax due.

Auditors generally endeavor to review accounts that may include tax underpayments, as reviewing certain tax-paid accounts are not efficient. Although this practice works well for assessments, it does not provide an equal opportunity to identify and obtain credits for taxes paid in error. To procure reimbursement for overpayments, taxpayers must file refund claims for individual transactions on which taxes paid were excluded by auditors in the audit scope. State auditors are then obligated to audit voluminous transactions and documents to approve the refunds.

This Act provides for a fair and reasonable refund process, which will allow for the reallocation of resources and should help generate significant cost savings for the state and its taxpayers.

Model Legislation

{Title, enacting clause, etc.}

Section 1. This Act may be cited as the Audit Equity and Simplification Act.

Section 2. {Statement of legislative intent.}

WHEREAS, the state utilizes sample and projection techniques to assess sales or use tax on tax underpayments;

WHEREAS, it is agreed that the Department of Revenue's use of sample and projection methods to assess underpaid taxes has been found to be an acceptable alternative to performing detail audits;

WHEREAS, tax overpayments, like underpayments, typically involve thousands of transactions, among hundreds of thousands of transactions of non-errors, and the use of the same sample and projection methods in verifying overpayments will result in similarly efficient use of state and taxpayer (large and small) resources;

THEREFORE BE IT RESOLVED that it is the intent of the legislature through this Act to provide for a method by which taxpayers may use sample and projection techniques to determine tax overpayments in the same manner used by the Department of Revenue to sample and project tax underpayments.

Section 3. {Eligible Taxpayers.}

A. Eligible taxpayer means:

1. A person with a valid sales or use tax permit who has erroneously remitted tax on the purchase or use of tangible personal property and/or taxable services; or

2. A person who has purchased items for use in this state and has erroneously paid sales tax to a permitted retailer or use tax to the state.

Section 4. {Refund of Overpayments.}

B. An eligible taxpayer may obtain a reimbursement for all amounts determined to have been overpaid by either:

1. Taking a credit on one or more sales tax returns; or

2. Filing a claim for refund with the Department of Revenue within the limitation period as specified by statute.

Section 5. {Refund Audit Method.}

An eligible taxpayer may use a projection based on a sample of transactions to estimate the amount of tax overpayments. The Department of Revenue shall adopt guidelines specifying procedures for estimating and claiming a credit or refund under this Act. Such guidelines must be the same or substantially similar to the methods used by the Department of Revenue to assess tax. An eligible taxpayer shall use such guidelines to sample and to project overpayments of sales and use taxes. An eligible taxpayer shall provide documentation and any records pertaining to the refund request, including the method of estimation, to the Department of Revenue upon request.

Section 7. {Effective date.}

This Act shall become effective Month x, 20XX of the following year in which the Act is enacted.