You Can’t Stick Your Head in the Sand

Although we are in the midst of autumn and the days of summer have passed, we still encounter people who would rather stick their head in the sand and face the cold winds of reality. But it is time to get off of the beach. It is time to realize that a federal government shutdown does not close New York State. We said over a year ago that it is easier and cheaper to fix a leaky pipe than to wait until a larger problem forces you to replace an entire wall. This still remains true.

New York State will mail many different types of notices to a taxpayer. There is the “you have been selected for a sales tax audit” letter. Enclosed with this letter is a list of documents that the State’s auditor wants to see. If this letter is ignored, documents not provided, and meetings not scheduled, the State does not simply go away. The State will use what information it does have, possibly just income tax returns, and make up a number that is due. This number is almost always extremely high.

Then there is the Notice of Determination. Surprisingly, this is still considered a “good” notice because if you are receiving this, it means you still have a chance to fight New York State. The Notice of Determination is sent by certified mail and lists what the State thinks the taxpayer owes in taxes. However, there is a strict 90 day deadline to protest this notice and request a hearing. If you refuse to accept the certified mail, if you do not open the letter, if you do not know about the 90 day deadline, it does not matter. On the 91st day, the tax becomes legally due and your rights to fight it become severely limited.

There is also a Notice and Demand for Payment. Unless you reached a settlement with the auditor and was expecting this notice, this is usually the “bad” notice. This notice means the tax is legally due (either because you agreed to pay it or you did not file a protest). If you had ignored all previous notices because you thought things would just get better, this notice is a sign that the State does not go away. The Notice and Demand for Payment is what is mailed after the 90 days to protest has expired.

If you stick your head in the sand and ignore the multiple New York State Tax Department notices, phone calls, and visits, it will result in bank levies, liens on assets, and New York State Tax Department notices, phone calls, and meetings not scheduled. The State does not simply go away. The State will use what information it does have, possibly just income tax returns, and make up a number that is due. This number is almost always extremely high.

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When you receive a notice, it is important to understand the next steps:

1. **Notice of Determination**
   - This notice is sent by certified mail and lists the amount the State thinks you owe in taxes.
   - You have 90 days from receipt to protest the notice and request a hearing.

2. **Notice and Demand for Payment**
   - If you do not file a protest, this notice means the tax is legally due.
   - You have 30 days from receipt to pay the tax or file an appeal.

3. **Case Study**
   - A recent case involved an audit of a business's sales tax. The auditor used an error rate to assess the tax liability.
   - The business disputed the auditor's findings, using the State's own audit manual to argue against the auditor's methodology.
   - The audit was then applied to the company's sales for the entire period.
   - The result was a savings of $143,000.

4. **Contact Us**
   - For more information, contact us at 631-911-1500 or info@SalesTaxDefense.com.
Nov. 21, 2013 12:30 PM - 1:30 PM  LITPS  
Crest Hollow Country Club  
8325 Jericho Turnpike  
Woodbury, NY

Dec. 12, 2013 8:30 AM - 10:30 AM  NYSSCPA Queens Chapter  
St. John’s University  
Bent Hall, Room 277

This newsletter is not intended to be used as tax, legal or accounting advice