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When you have a sales tax problem,
we are the solution!

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When to Call Your Attorney with a Sales Tax Problem

Everybody makes jokes about attorneys until they actually need one. But the law gives attorneys a very special privilege no other professional is granted. They can openly discuss and exchange documents with their clients since their work is covered by attorney-client privilege. This means that almost anything you tell them or give them is never subject to subpoena or discovery by the government.



Accountants and CPAs, in general, are not protected by privilege. However, courts have upheld that an accountant's work for an attorney on a client's matter is also generally protected under the shield of privilege.

A "Kovel Letter" is an engagement letter between an accountant and an attorney. The Kovel Letter should discuss what services the accountant is providing and for what client. The attorney should be involved in the work completed by the accountant. However, a Kovel Letter cannot "put the cat back in the bag." A Kovel Letter provides attorney-client privilege for an accountant's work but only prospectively. Any work that was done in the past and prior to working under an attorney does not receive privilege.

Sales Tax Defense has worked under a Kovel Letter many times to ensure its work receives attorney-client privilege. Working with attorneys, we can step in and assist with representing a client in a sales tax audit or disputing an assessment. We get a Kovel Letter from the beginning and because we usually do not have existing relationships with the attorneys' clients, there is no concern that prior work will be subject to discovery.

While the majority of sales tax audits do not become criminal matters, New York State IS increasing its criminal investigations. If you are being audited and do not know whether an attorney should also be hired, speak with us. Based on our extensive experience and knowledge, we can give you our opinion on whether it is safe to proceed or whether your attorney should be involved before the "Cat gets out of the bag."



Success Stories Client Owes NYS \$60,000+

Rarely would one say that owing the government more than sixty thousand dollars is a success. However, I think this particular matter should be categorized as a success. Not because the audit division originally wanted more than \$400,000 from this contractor and that as a result of a Bureau of Conciliation & Mediation Services Hearing the assessment was reduced by almost \$350,000. Rather, because I believe every person and every business should pay its fair share.

We meet with many potential clients on a monthly basis. Almost all of them ask if we can make the assessment go away or get it cancelled. To almost all of them I say "NO." Many businesses make tax mistakes. Those mistakes mean money is due to the government. While we strongly believe that many audit assessments overstate the amount due, there is usually something due on an audit.

I never promise a client that they will owe nothing. Rather we promise to get the best result reasonably possible. In the particular matter mentioned above, we were able to prove that the contractor's work should be treated as a capital improvement. Accordingly, no tax was due on his revenue. However, he ended up owing use tax on his purchases. He certainly owed a lot less than if he was assessed on his sales, but he still owed something.

No one likes to pay taxes, but we should remind our clients that we all have to pay our fair share. Failure to do so can result in tremendous tax bills or even criminal prosecution. However, it's equally important to understand the law and pay NO MORE THAN YOUR FAIR SHARE. If you or your client are not sure how a transaction should or should not be taxed under the Sales Tax Law please call us so we can research it for you!

About Us

We are a dedicated team of tax professionals who have committed our careers to helping businesses and fellow professionals with tax problems. Since the only work we are focused on is solving tax problems, businesses never have to be concerned that we will try to sell them other services they do not need. And professionals never have to be concerned with us encroaching on their client relationships, because we view you, our fellow professional, as our client.

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