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TAX
DEFENSE**

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

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POA Wars

In order to represent a company before the New York State Department of Taxation and Finance, a representative must submit a signed Power of Attorney ("POA") form. The Power of Attorney form must be signed by an authorized officer or member of the company. Furthermore, unless the representative is a Certified Public Accountant or attorney licensed in New York State, the officer or member signing the Power of Attorney form must have his signature notarized.



There are many reasons to submit a Power of Attorney form. Our firm does it to represent a company on audit or assist in resolving a tax problem. An accountant may submit one to discuss a company's filings with the Tax Department. However, when a Power of Attorney form is submitted to New York State, it (generally) overrides all previous Power of Attorney forms unless the option to retain prior representatives is selected. In our experience, submitting multiple POAs leads to the state inadvertently cancelling the POA the client wants retained. This forces the intended representative to submit another POA.

This leads to what we call POA wars.

Undergoing an audit is stressful. It may lead to one partner blaming another for any monies found to be due, especially in sales tax audits where sales tax is often a personal liability. Each partner may have their own representative, and each representative may submit a POA for the business. When one POA overrides the other, it leads to representatives continually submitting new POAs, fighting to be the one that remains on the Tax Department's system. Furthermore, New York State is not permitted to disclose who is a company's Power of Attorney, therefore one representative does not even know who the other is.

In our experience, rather than partners blaming and fighting each other, the end result is better when partners work together to minimize any audit exposure. If an amount is found to be due under audit, we always encourage partners to work it out amicably between them rather than accrue additional professional fees fighting with each other. Furthermore, our firm is always willing to work with other representatives because we find that bouncing around ideas can only result in a better strategy.

Sales Tax less Ugly...?

The New York State Department of Taxation and Finance has withdrawn TSB-M-12(5)S, which stated that Botox treatments and other cosmetic procedures were subject to sales tax.



Success Story

A hotel in New York City was audited by the New York City Department of Finance for sales and use tax. The audit was completed and the Department found that the hotel owed \$460,000 in tax plus interest for a total bill of \$550,000. However, before the hotel could agree to the audit findings, a new management team took over operations and requested that Sales Tax Defense review the audit findings and dispute the amount due.

After reviewing the auditor's work papers and discussing the audit with hotel management, we discovered that the Department was assessing tax on many expenses that we felt were nontaxable and on sales of room rentals that we felt were legitimately rented by tax exempt entities. We requested documentation from the hotel, argued the taxable status of many items, and in the end, we were able to significantly reduce the tax due on expenses and sales.

Furthermore, there was some confusion over what sales tax the hotel remitted during the audit period and what sales tax should have been remitted. We requested that the hotel do a complete reconciliation of taxable and nontaxable sales for the three year period. We argued with the auditor that this reconciliation was correct.

The hotel's prior management had also hired its own representative for the sales tax audit. We discussed the audit with this representative, bounced around ideas, and he assisted us with obtaining documentation. Overall, we were able to reduce the amount due from \$550,000 to \$31,000, which represents a savings of \$519,000!

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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