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## Success Story: Being Prepared for a Tax Fight Avoids Litigation

New York State Tax Department auditors can be unrelenting when they have taken a tax position. It is often next to impossible to change their minds once something is deemed to be taxable. Here are two examples of how we helped clients this month:



A Company completed a very large capital improvement project which included renovation of a pier and waterway. New steel and concrete was installed. The waterway was dredged to allow larger boats to pass through. The Company spent millions of dollars on this project, which was clearly a capital improvement. Therefore, no sales tax should be due.

The Tax Department completed a sales and use tax audit of the Company. It accepted that renovation of the pier was a capital improvement but argued the dredging was not. The Company's accountant was unsuccessful at getting the Tax Department to alter its position.

Sales Tax Defense completed research and prepared and submitted a response to the Tax Department's argument. We prepared to go to a hearing and litigate the matter. Several weeks later, the Tax Department responded that they will accept the dredging as a capital improvement. This saved the Company approximately \$321,000!

Another Company leases office space to tenants. It allowed, but did not require, the tenant to use (for no charge) whatever furniture was in the office space. Any different or additional furniture must be provided by the tenant. The Tax Department conducted a sales and use tax audit. It argued that the Company was renting furniture and was required to charge its tenants sales tax on the rental of furniture. The Company had not been charging its tenants sales tax, therefore, the Tax Department argued the Company was responsible for paying the tax.

The Controller of the Company was unable to persuade the Tax Department that it did not rent furniture, it rented office space. We met with the auditor and his supervisor and spent several hours debating the issue. They refused to accept that the Company did not rent furniture. We requested to speak to their manager and again prepared to go to a hearing and litigate this matter. Two weeks later, we were informed Tax Department will no longer pursue tax on the transaction. This saved the Company tens of thousands of dollars!

## Top Ten Signs You Have a Sales Tax Problem

**#10** You have a BIG sign at your business that reads "CASH ONLY".

**#9** You run your business out of an RV which you move every night so the government cannot find you.

**#8** Your accountant is also your car mechanic.

**#7** Your books and records consist of comic books and Brittany Spears albums.

**#6** You have 4 years of unopened bank statements and letters from the government in your desk drawer.

**#5** You think Nexus is only a hair care product.

**#4** You were born prior to 1970 and your parents are filing your taxes.

**#3** This is the first time you have ever heard of "Use Tax".

**#2** A NYS tax collection agent just pad locked the front door of your business.

**#1** A criminal investigator from the tax department just handed you a subpoena.

Sales Tax is not a joke. If you do it wrong you could lose your business or even go to jail. If you are not sure what to do, call us, **before** the government calls 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.

Sales Tax Defense LLC | Phone: 631-491-1500 | [info@salestaxdefense.com](mailto:info@salestaxdefense.com)  
[www.SalesTaxDefense.com](http://www.SalesTaxDefense.com) | 2106 Deer Park Avenue, Deer Park, NY 11729

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