



[About Us](#) | [Services](#) | [What is Sales Tax](#) | [How We Work](#) | [Success Stories](#) | [Seminars](#) | [FAQS](#)

WHEN THE TAX DEPARTMENT GIVES YOU BAD ADVICE

A business owner has many laws to follow, laws established by the Tax Department, the Department of Labor, the Internal Revenue Service. These agencies issue guidance and advice and one would think you can rely on such guidance and advice without being harmed in the future. Well, that is not exactly correct...

On January 7, 2016, the New York State Tax Department issued guidance saying that certain wineries that produce less than 150,000 finished gallons of wine a year no longer have to file a sales tax return. This is due to the fact that the law recently changed regarding the sales tax

requirements for wineries. As a winery you would think, great, this cuts down on paperwork and saves on administrative costs. However, the other side of sales tax that many people forget is use tax. When you make a purchase, and the seller does not charge you sales tax on a taxable item, you owe a use tax to the State.

When you file a sales and use tax return, it starts the statute of limitations running. The State has three years from when a return is filed to go back and audit the period covered by the return. When a winery does not file a return, the statute of limitations does not begin. If a winery purchased new tables, chairs, and wine glasses six years ago and did not pay sales tax, the State can walk in today and say use tax is due plus interest. Our recommendation: file sales and use tax returns.

Another situation where you get advice from the Tax Department that cannot always be relied upon is when you call the general information line with a taxability question. The information line will route you to the sales tax unit. Those who answer the phone are basically help desk representatives; they are not auditors, accountants, or attorneys. They will answer your taxability question based on their knowledge. However, what they do not tell you is that their advice is not binding; it is simply their best guess. If you implement that advice and the State comes in and does an audit and says that advice is wrong, there is nothing that can be done.

What is good advice? Good advice is to file sales and use tax returns timely with full payment. Good advice is to request an advisory opinion, which is *binding* written guidance from the Tax Department, if you have a taxability question. Good advice is to file for a voluntary disclosure if you realize a mistake was made. A voluntary disclosure is when you inform the Tax Department of tax liability before the Tax Department contacts you. In exchange for coming forward, the Tax Department will waive all penalties and agree to no criminal prosecution.

If you received advice from the Tax Department and want a second opinion or want to review your situation, please call Sales Tax Defense! We are here to help!



A \$325,000 REFUND 3 YEARS IN THE MAKING



In certain situations, the New York State Tax Department will allow you to make a purchase without paying sales tax. For example, when manufacturing product for sale, the State allows you to purchase utilities used in the manufacturing process, exempt from sales tax. In 2013, Sales Tax Defense submitted a refund claim for a business that was paying sales tax on electricity used in manufacturing food.

We completed electrical surveys, which included an itemized list of every machine and the kilowatts used by each machine. We calculated how much electricity was used in manufacturing versus how much was used for other aspects such as office

ABOUT OUR FIRM



We are a dedicated team of sales and use tax professionals who have committed our careers to helping businesses and fellow professionals with sales and use tax problems. Since the only work we are focused on is sales tax consulting, 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,

equipment and overhead lights. The Tax Department argued the refund amount due is substantially less than what was claimed. As we were going back and forth with calculations for nearly two years, we suddenly got a letter in the mail denying our refund claim in full.

our fellow professional, as our client.

We requested a Bureau of Conciliation and Mediation Services hearing. At the hearing, the Tax Department admitted a refund was due but argued that we were only entitled to \$138,000. The refund unit disputed the accuracy of our surveys, arguing that some of the information we provided was wrong but could not explain what the right information was. After nearly three months at the hearing level, with the help of the conciliation conferee, we were able to settle the claim for a refund amount of \$325,000.

WHEN YOU HAVE A SALES TAX PROBLEM, *WE ARE THE SOLUTION!*

CALL: **631-491-1500**

CONTACT US!

“

“Mark Stone is the Babe Ruth of NYS sales tax info #LITPS”

-Tweeted by Anthony Lauro

MORE TESTIMONIALS

Phone: 631-491-1500

2106 Deer Park Avenue

Deer Park, NY 11729



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

[Update](#) / [Unsubscribe](#)

© Sales Tax Defense LLC