

MCE SALT Solutions, LLP
5154 Crown Pointe Drive
Medina, OH 44256
www.mcesalt.com

TAX ALERT:

Ohio Department of Taxation to Pursue Businesses for Unpaid Use Tax

The Ohio Department of Taxation (“Department”) has recently announced that they will be contacting and investigating approximately 380,000 businesses that are not registered for use tax. Use tax applies to the purchase of goods and services and is due when the purchaser has failed to pay sales tax directly to the vendor. The following common scenarios can trigger a use tax obligation:

- Companies that purchase goods or services from a vendor/supplier located outside of Ohio;
- Manufacturer’s or assemblers who have erroneously claimed exemption on things used in their processing operations;
- Service companies (i.e., law firms, accounting firms, ad agencies, contractors, landscapers, medical service providers, etc.) who have failed to pay tax to vendors;
- Internal consumption of inventory for promotional or give-away purposes.

In short, it is likely that a business who does not regularly file use tax returns is exposed for use tax. The Department estimates that they will recover millions of dollars of unpaid use tax through this initiative.

The Department’s current audit policy is to audit any company that is not registered to remit use tax for a seven year look-back period and to levy a bill that includes tax, interest and a 15% penalty. Under the Department’s new collection initiative, any business that comes forward prior to August 1, 2011 and voluntarily pays its use tax bill will only be liable for tax and interest for a three year period.

After the August 1 deadline, the Department will send notices to taxpayers advising them that they must remit any unpaid use tax (including interest) for the prior four years. Taxpayers that fail to respond to the notice, will be issued an estimated bill or audited by Department agents for the prior seven years for tax, interest and full penalty.

In summary, by requesting a voluntary disclosure agreement (“VDA”) prior to being contacted by the Department, a taxpayer can:

- Avoid a seven year audit by the Department;
- Limit its liability to the prior three years with complete abatement of the 15% penalty;
- Avoid the disruption that is unavoidable when Department auditors come on-site to audit a taxpayer’s books and records;
- Avoid a costly and time consuming appeal process to protest overstated estimated assessments.

MCE’s tax professionals are former Department auditors who specialize in sales/use tax consulting, and are well versed in the Department’s audit policies and procedures related to use tax matters. Further, MCE has the expertise to identify and recover overpayments of tax (i.e., sales tax paid in error to vendors) which may serve to offset a company’s use tax liability. MCE’s seasoned professionals will also guide you in establishing a go-forward compliance procedure that will allow you to minimize and efficiently determine your future use tax obligations.

Please call Randy Cole (440.585.5600) or David Muchewicz (330.723.9973) to discuss any questions or concerns you may have regarding use tax obligations. You may learn more about MCE at <http://www.mcesalt.com/>.