



# NAVIGATING SALES & USE TAX AUDITS

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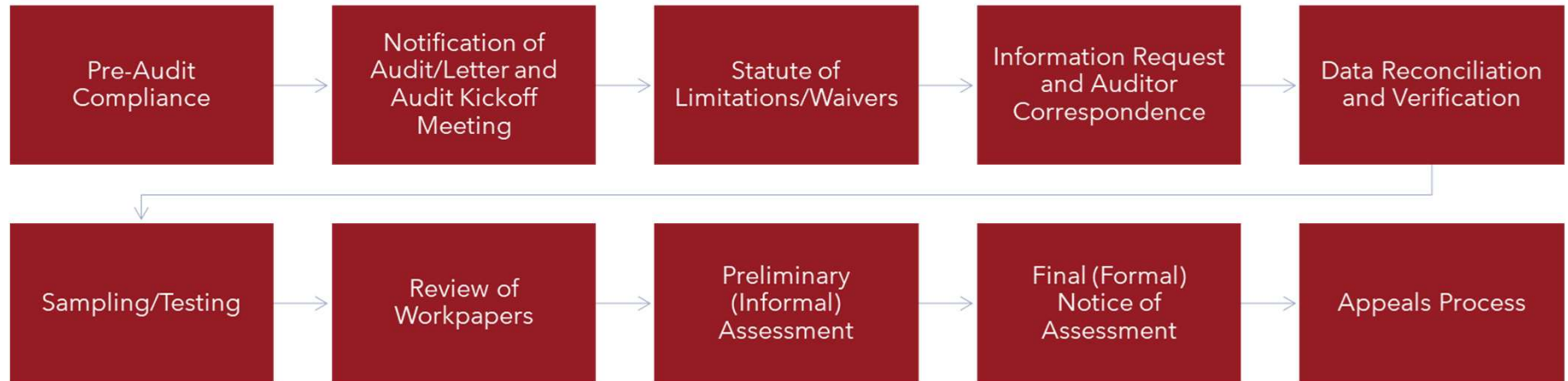
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# Audit Timeline



# Pre-Audit Compliance

- Know your business, your customers, what you sell and what you buy
- Keep an organized record of invoices for periods open by statute
- Ensure exemption certificates are current and properly filed
- Maintain support for any manual adjustments
- Retain detail for managed compliance agreements
- Review your state for any law/policy changes and/or tax agency publications and/or rulings
- Confirm that you are registered with the proper taxing authorities and collecting and paying tax at the correct rate(s)

# Audit Notification (State)

- No formal notification procedures outlined in state statute
- Taxpayer should require the auditor to provide a written notification of the audit that includes the following:
  - Date of notification
  - Audit period
  - Type of taxes to be audited
  - Name and contact information of auditor
- Managed audits (LA Revised Statute 47:1541(D))

# Audit Notification (Parish)

- Local collectors are required by law to send notification by certified mail (LA R.S. 337.26(D)) which includes the following:
  - The nature of the audit
  - Name and contact information of the firm or person initiating the audit
  - Notification of taxpayer's right to a copy of the audit contract if audit will be conducted by a private contract auditor
  - Summarize remedies available if audit findings are contested
  - Describe interest, penalties, and other costs that taxpayer may be liable for
  - Advise that taxpayer may request a multi-parish audit

## Audit Notification (Parish)

- If a private contract auditor is to conduct the audit, they may not contact the taxpayer until the required statutory notification has been sent by the collector
- The statute also provides that “the taxpayer shall be notified of the name, office address, and office telephone number of each auditor assigned to the audit”
  - This is normally accomplished by a letter from the audit firm sent subsequently to the notice sent by the taxing authority

# Audit Notification

- Review the notification letter and respond in a timely and appropriate manner.
- Be professional and polite.
- Schedule a meeting or conference call to kick off the audit.



# Audit Kickoff Meeting

- During meeting establish procedures / plan:
  - Who will handle the audit internally?
  - Confirm audit period and jurisdiction(s)
  - Establish a timeline for the audit
  - Discuss a review method (sampling, etc.)
  - Discuss waivers & extensions
  - Create on-site procedures
  - Obtain audit supervisor's contact information
  - Virtual audit?

# Statute of Limitations / Waivers

- “Prescription” = “Statute of Limitations”
- Do you sign a waiver at the beginning of an audit?
- Do you ever not sign a waiver?
- Use signing waivers as leverage
- Always review all waivers in place – Mistakes happen

# Information Request

- Create a plan and contact person
- Have documentation readily available
- Confirm, review, and reconcile data before sending to auditor
- Don't provide more than requested—auditors often request superfluous documentation
  - Keep record of all requests and data sent

# Auditor Correspondence

- Appoint internal team responsible for handling audit and/or hire outside help
- Be professional and cordial
- All correspondence in writing
- Confirm and retain records of receipt
- Calendar deadlines; inform auditor of potential delays in advance
- Schedule regular status update calls to keep audit process moving forward

# Data Reconciliation and Verification

- Provide only the data auditor requests; limit to AR and/or AP data if possible
- Verify that data reconciles to tax reporting
- Confirm that data relates only to jurisdiction / legal entity under audit
- Note any law changes
- Review any past audits
- Make sure audit methodology and timeline is reasonable

# Sampling / Testing

- What are the auditing jurisdiction's laws, rules, and general views regarding sampling? Will they require a sampling agreement?
- Statistical vs. Block Sample vs. Detail
- How many “groups” (assets / expenses / tax or no tax / etc.) are being reviewed for the audit period?
- Include tax paid items in sample to ensure overpayments will be part of the audit findings
- Other Impacts: Extraordinary Items, Consistent Activity, etc.

# Overpayments / Refunds

- If sampling is used, overpayments within sample population should be projected into total population the same way underpayments are projected
- If overpayments exist outside of the population from which the sample was drawn, they can still be used to offset the audit findings
- In both cases, the taxpayer must take the initiative to find overpayments—the auditor will not do it for you!

# Overpayments / Refunds

- Healthcare facilities have many opportunities to find refunds!
  - Prescription drugs (state exempt / possible partial local exemption)
  - Single-patient-use medical devices (state / possible partial local)
  - Prosthetics / orthotics (state / possible partial local)
  - Ostomy / ileostomy devices (state / possible partial local)
  - Blood / human tissue (fully exempt)
  - Staff and patient meals (fully exempt\*)
  - Medicare / Medicaid (fully exempt\*)
  - Outpatient chemotherapy drugs / infusion drugs (fully exempt\*)
  - Immovable property construction/repair/maintenance (MRIs??)



# Review of Workpapers

- Identify potential errors or opportunities for reduction in assessment amount.
- Some assessments may require additional support to get the auditor comfortable with removing. The more information you provide on the front end, the quicker the audit process will be.
- Failure to maintain records may result in estimated assessments using information other than taxpayer's records.
- Examine the accuracy of the auditor's calculations on identified items throughout the audit workpapers.
- Ensure that any penalties and interest are calculated at the correct rate(s) and for the correct periods of time.
- Confirm that any overpayments identified within the audit period are included within the auditor's workpapers.
- Make sure there are no items on the workpapers that fall outside of the audit period.

# Notice of Intent to Assess

- First formal step in the assessment process is for the Collector to mail to the taxpayer a “Notice of Intent to Assess” letter
- Under Louisiana law, the taxpayer has 30 days to act
  - This applies to both state audits (LA R.S. 47:1562(B)) and parish audits (LA R.S. 47:337.48(B))
- The taxpayer may either file a written protest with the Collector, pay the assessment (in full or in part), or do nothing
  - Doing nothing will necessitate entering into a formal protest process if disagreements with the audit findings still remain after the 30 day due date
- Filing a written protest at this stage will prolong the 30 day due date
  - It may also result in a hearing with the collector

# Preliminary (Informal) Assessment

- As a taxpayer, what should you do?
- Are there any items still being contested on the audit workpapers?
- Contact auditors and discuss what additional documentation is needed
- Make sure the audit period is not outside the statute of limitations
  - If an audit is ending, determine if it's in your company's best interest to sign a waiver. This could gain you some favor with the auditors later.
- Keep track of how responsive you are with the auditors
  - **Deadlines are critical!**

# Notice of Assessment

- At the conclusion of the 30 day period from the NOI, the Collector will mail to the taxpayer a “Notice of Assessment” letter
- Under Louisiana law, the taxpayer has 60 days to act
  - This applies to both state audits (LA R.S. 47:1565(A)) and parish audits (LA R.S. 47:337.51(A))
- The taxpayer may either:
  - Pay the assessment
  - Appeal to the Louisiana Board of Tax Appeals (BTA) for redetermination
  - Pay under protest and file suit or file a petition with the BTA

# Notice of Assessment

- Don't ignore! The 60 days is a strict time period in which a taxpayer must act
- Have negotiations complete (or as complete as possible) before this point
- Make sure everything that was agreed upon is correct, including refunds in the audit
- Taking no action results in the assessment going final and the loss of all rights to appeal
- Know your options
  - Pay the assessment
  - Appeal to BTA for redetermination of the assessment
  - Pay under protest and file suit or BTA petition

# Penalty Abatements

- Always start with the assumption that you will get relief from some or all of the penalty assessed
- Once agreement is reached on the audit findings, pay the tax and interest, but not penalty
- A letter requesting abatement of penalty may be submitted concurrently with the tax and interest payment
- Factors to note in the penalty abatement request letter:
  - First time audit (if applicable)
  - Cooperation with auditors
  - Plans to remediate errors revealed

# Appeals and Disputes

- What's next if the audit process ends and there are still unsettled issues?
  - First and foremost, **know your filing deadlines!**
  - Settle and pay everything you agree with; appeal only the specific amount(s) still at issue
  - Do you have to “pay to play” (i.e., pay under protest)?
  - Where do you appeal (e.g., collector / district court / Louisiana Board of Tax Appeals)?
  - Should you hire an outside representative (consultant / CPA / attorney)?

# Court Cases

- *Iasis Glenwood Regional Medical Center, L.P. v. City of Monroe (2022)*
  - Purchases made for Medicare patients can be exempt from Louisiana parish tax if a satisfactory connection can be made from the purchased item to a Medicare patient
- *West Jefferson MRI, LLC vs. Lopinto (2019)*
  - An MRI or similar machine can be considered immovable property with the right set of facts
- *Lafayette General Medical Center, Inc. vs. Louisiana Department of Revenue (2019)*
  - LA constitutional exemption for “prescription drugs” includes medical devices





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