



# TAX EXECUTIVES INSTITUTE, INC.

## State and Local Tax Policy Statement Regarding Audit Procedures

State and local tax audits should be conducted using these general principles:

- Audit work should be performed transparently and collaboratively.
- The auditor should apply the law to the facts in a fair and impartial manner.
- Audit issues should be resolved at the lowest level possible.

### Issue-Focused Auditing

- The auditor and taxpayer should exchange information regarding key personnel responsible for the handling or the management of the audit (names, positions, phone numbers, and email addresses).
- The auditor should develop a formal audit plan and determine the issues to be audited early in the audit.
- The auditor should provide the taxpayer with a written list of the issues he or she has identified.
- The auditor and the taxpayer should establish timeframes for conducting the audit:
  - Dates for starting and completing the audit,
  - Dates for requesting waivers,
  - Time for the taxpayer to respond to information requests and preliminary conclusions reached by the auditor,
  - Time for the auditor to issue follow up requests for information or to respond to the taxpayer's responses, and
  - The auditor's review of the taxpayer's amended returns and/or claims for refund.
- The auditor and the taxpayer should establish an agreed timetable for

resolving each issue. This timetable should provide deadlines for:

- Identifying the issues to be examined,
  - Developing the taxpayer's facts relevant to the resolution of the identified issues,
  - Identifying the administrative or judicial precedents relevant to the resolution of the identified issues,
  - Discussing the identified issues with the taxpayer, and
  - Attempting resolution of the identified issues.
- The auditor and the taxpayer should adhere to agreed deadlines to the extent possible. The auditor and the taxpayer should communicate regarding unplanned delays and modifications to agreed deadlines.
  - The auditor should employ a formal tracking process, similar to that used for federal information document requests ("IDRs"), to track auditor requests for information and taxpayer responses.

#### Factual and Legal Development

- The auditor should prepare and provide to the taxpayer a complete written statement of all relevant facts the auditor is using for his or her determination, including the source of the auditor's facts.
- The taxpayer should have to concur or disagree with the facts as described in writing by the auditor and to provide additional evidence to support a contrasting view of the facts. The goal of factual development is not to agree the facts; it is to provide a process through which both parties focus on the facts and to provide a record for review.
- Each information or document request should identify the issue for which the request is associated.
- The auditor should identify in writing the key legal precedents he or she is relying upon. The taxpayer should respond in writing with any additional key legal precedents not identified by the auditor and upon which the taxpayer is relying.
- The taxpayer and the auditor should discuss the facts and key legal

precedents on each issue.

#### Resolution of Issues

- The auditor and taxpayer should determine at the earliest point possible whether issues can be resolved at the audit level.
- The auditor and the taxpayer should acknowledge that resolving an issue can mean that the parties agree to disagree, and that a higher level of authority, within or outside the taxing authority, must weigh into the process.

#### Training

- States should provide formal training to auditors on:
  - Issue-focused auditing principles,
  - Federal and state corporate tax laws,
  - Generally accepted accounting principles, and
  - Industry-specific terms, practices, and issues.

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