

What You Need to Know About Sales and Use Tax

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An increasing amount of building owners and management companies are being audited by states for Sales and Use tax compliance. These audits are resulting in firms being assessed for thousands of dollars in taxes, interest, and, in some instances, penalties.

There are two main reasons that these assessments are so high. First, many real estate and management companies do not file Sales/Use tax returns, so there is no statute of limitations on the period to be examined. For non-filer's, most states will audit the past six years. For routine filers, the statute is usually three years. Tax exams can be quite tedious and time consuming, and invoices for an exam will be needed for the past six years. If you do not have all of your invoices for the past six years and cannot provide proof that you paid the Sales/Use tax, then the state has the right to assess the tax, even if you did pay it.

The second reason for the large dollar assessments for building owners is the state initiative cracking down on what qualifies as a capital improvement. Merely issuing a certificate will not render the whole job tax exempt. In every capital improvement job there are always taxable elements. Some examples are carpeting, signage and window treatments, among others. When the state audits the contractors, they review the contracts and make a list of building owners who have had major

renovations done, and refer the company for audit.

The popularity of buying goods on the internet from out-of-state vendors is also a troublesome area for many. While this type of purchasing, as well as catalog purchases, are likely to save money, it could also trigger a Sales/Use tax liability. When purchasing goods it is important to keep in mind the actual physical state location of your vendors. If the vendor does not have nexus in your home state, then they are not required to collect or remit the Sales tax. However, it is still your responsibility to remit the Use tax to your home state.

Being in compliance is essential, but can be challenging given the ever-changing laws governing tax. To ensure that you are acting in compliance, speak to your Anchin relationship partner or Sharon Ackerman, Tax Director, at 212.840.3456 or sharon.ackerman@anchin.com.