

Compliance Agreements

The Michigan Department of Treasury will enter into a written Compliance Agreement with the taxpayer to whom a direct pay authorization has been granted. The Compliance Agreement offers a new and greatly simplified method of determining the taxpayer's use tax liability on certain purchases. The benefits of this method, which has already been accepted for use with relatively large clients, are substantial to both the taxpayer and the tax administrators.

Under this method, the taxpayer and the state agree to a specific "flat percentage" to be applied to the purchases to determine the taxable purchases. This varies greatly from the burdensome traditional method, which requires the taxpayer to track every single item it purchases to ascertain whether the item is taxable and what rate of tax applies. At the same time, state administrators are also faced with the laborious task on audit of examining those same items and frequently challenging the treatment of individual purchases on an item-by-item basis. This method is outdated and requires significant amounts of resources of both parties

The flat percentage would be based on the use of historical values for taxable purchases and total purchases made by the client. This percentage will be calculated using mutually agreed upon statistical sampling techniques that would result in an acceptable level of confidence in the accuracy of the estimated percentage. This percentage would be multiplied by the total amount of purchases and then the tax rate to arrive at tax liability.

The benefits of this approach are obvious. It would greatly reduce the record-keeping burden in that the taxpayer would not be required to track taxable and nontaxable purchases. Also, the state's administrative burdens would be lessened as the need for costly and time-consuming tax audits would be eliminated. Moreover, having such an agreement in place would lessen the likelihood of expensive and time-consuming litigation over the application of tax to specific purchases.

Additionally, such agreement would provide certain safeguards to protect the interests of both the taxpayer and the state. First, the state and the taxpayer would mutually agree upon the statistical method to be used. Second, the statistical sample would be re-determined on a specific schedule, such as once every two to four years. Finally, upon proper advance notice, the agreement could be modified if either the taxpayer or the state believes that the method is consistently and substantially inaccurate in application.

Our firm provides the information in this whitepaper for general guidance only, and does not constitute the provision of legal advice, tax advice, accounting services, investment advice, or professional consulting of any kind. The information provided herein should not be used as a substitute for consultation with professional tax, accounting, legal, or other competent advisers. Before making any decision or taking any action, you should consult a professional adviser who has been provided with all pertinent facts relevant to your particular situation. Tax articles in this e-newsletter are not intended to be used, and cannot be used by any taxpayer, for the purpose of avoiding accuracy-related penalties that may be imposed on the taxpayer. The information is provided "as is," with no assurance or guarantee of completeness, accuracy, or timeliness of the information, and without warranty of any kind, express or implied, including but not limited to warranties of performance, merchantability, and fitness for a particular purpose.