

June 28, 2012

Received a letter from Brandy Robillard, Tax Examiner II, stating there would be a State of Vermont three (3) day audit beginning August 13, 2012 for the period June 1, 2009 through June 30, 2012. Debbie and I flew our accountant, Merlin, in for this audit from Wisconsin, footing his lodging, food, air fare and transportation expenses. Days 1 and 2 were a no show from the auditor, Brandy, but she did show on day 3 (August 15, 2012) at 9am.

Brandy took boxes and boxes of documents off premises to review in her home office, which was very uncomfortable due to privacy issues.

Another issue we had was that our computer only captured cash sale data for six months, so Brandy had to project her sales data. (Procedures have now been put in place to capture cash sales data for a year. We went through a computer upgrade).

Another problem was that Brandy was working on more than one audit at a time and it took weeks sometimes for her to get back to us for/with information.

There was a no-show again for the exchange of records on September 7, 2012 by our auditor Brandy.

There were verbal statements made by Brandy, to us, which was very disheartening in the end as they were things like, we "would not be assessed interest or penalty," "would not get audited for at least 3 years," we "took S-3 Tax Exemption Certificates in good faith and that was our only responsibility" and asked if we "wanted to waste any more time or just pay as our tax liability would be less than \$500.00 a year so less than \$1,500.00 to pay." This was during our face to face meeting with Brandy on November 7, 2012.

We contacted Bruce Bierbaum, Brandy's supervisor, in November, 2012 because our final work papers Brandy gave us on November 8, 2012 were not as she had stated in our exit interview with Brandy. There were four tabs of data in excel format. The first tab, S-3 Tax Exemption Forms, were discussed in detail, but the other three tabs (Untaxed Taxable Purchases, Untaxed Cash Sales & Unsupported Credit Card Purchases) were never discussed in our November 7th meeting. Our tax liability became much more than \$500 per year or \$1,500.00 for the three year period and was now \$5,629.30 with interest and penalties attached.

Two months later (January 7, 2013) we received an email from Bruce Bierbaum, who advised he would review the audit case file and contact us to schedule a meeting to discuss our issues. Numerous phone calls to Bierbaum went unanswered and we finally heard from Bierbaum again on February 1st. A meeting was set up for February 14, 2013 for Mediation.

Another 5 weeks passed before we heard from Bierbaum about Mediation. In his email to us on March 22, 2013, he was unable to finish the adjustment and would schedule time to finish it Monday. I instructed our bookkeeper to not contact Mr. Bierbaum again and to wait for their response.

Nine (9) months later, December 14, 2013, we received a letter from James Whitehouse, Assistant Director of Compliance. He was unaware of our Mediation with Bruce Bierbaum so we had to schedule another Mediation with him for January 3, 2014. Four and a half (4 ½) months later there was no resolution so we requested a formal hearing on May 14, 2014.

February 12, 2015 - Formal Hearing Day

My wife, Debbie, my bookkeeper and I all testified about the complexity of the sales tax laws and the many exemptions and feel we should not have to police the sales tax laws. Propane, Sugaring and gloves have all been made taxable now in the store as the laws are too complex to monitor. I.E.

gloves are taxable if used as protective gear, but non-taxable for general use. Sneakers for children playing soccer are taxable because they have cleats, but sneakers for children who play basketball are not taxable because they have no cleats. Sugaring has had many changes over the years and is now, according to Brandy, taxable to people making a profit, but non-taxable to people who are not. Propane is non-taxable to a person using a personal account, and taxable to businesses using a business account for the same gas grill fill. We were told by Brandy that propane is taxable to businesses, even if being purchased for personal use. It makes no sense. There is no way employees cashing up the customers are going to ask what the use of the purchases are for to determine if they are taxable or not. The same goes for farmers. Farmers use to be nontaxable, because they were a farm. Now, Farmers are taxed unless the merchandise bought is directly used in the production for sale of tangible property. When this law changed is beyond me, but we as the police for the State of Vermont, were not informed until the audit.

In Conclusion:

- This audit was extremely stressful.
- We always collected Sales Tax for the State of Vermont, with no commission fee paid to us, in Good Faith. Our intentions were always good, but difficult to collect tax due to the double standards of the tax department and our interpretation of the tax laws.
- Our tax liability was less than 1% of sales and our expenses to accommodate the tax audit were more than the tax liability.
- There should be ONE S-3 Tax Exemption Certificate Form, not the 8 that exist.
- The application of the sales and use tax law is too complex.
- The conduct of the Tax Department is unacceptable, making promises they can not keep. Breaking appointments, being no-shows, being unavailable, working on more than one audit at a time and taking secure documentation off premises.
- The duration of the audit by personnel is also unacceptable, since a 3 day audit has turned into a nightmare beginning June 28, 2012 and ending March 9, 2015.
 1. We started June 28, 2012 to December 28, 2012 with Tax Auditor, Brandy Robillard
 2. November 7, 2012 to March 27, 2013 with Tax Field Examination Supervisor, Bruce Bierbaum (It should be noted our 1st appeal was February 14, 2013).
 3. Nine (9) month lapse
 4. December 14, 2013 to May 28, 2014 with Assistant Director of Compliance, James Whitehouse.
 5. January 3, 2014 was our appeal with James Whitehouse.
 6. On May 14, 2014 we requested our 3rd appeal. The results were unsatisfactory to us.
 7. Our third appeal was before Hearing Officer, Emily J. Bergquist, on February 12, 2015 and we received the Determination on March 9, 2015. An interesting note was we were told the hearing would be informal, yet we were sworn in, our testimony was recorded and exhibits were presented to us.
- We feel if we are collecting Sales Tax for the State of Vermont to the best of our ability, we should not be penalized, when we did this in Good Faith.
- Sales and Use Tax should be simple enough for both the people of the Tax Department and the people you want to collect the tax from to understand the policy.
- Go to a flat rate tax. This move would be pro-business for the State of Vermont. This would make our sales tax more favorable with New Hampshire and lower than all our other neighboring states.

- Tax everything and there would be no confusion and those that are tax exempt can file for their tax refund at year end, with the exception of State, Federal and Municipal Governments, Churches, Schools and scientific organizations.

We were made to feel like we had done something unlawful or committed a crime. Even though there was no intent and collected tax in good faith. Most people are honest, which goes back to education.