

VTCPA: I would very much appreciate it if you would share the following message with your membership.

Fellow CPAs,

Hello from the Tax Department. I am reaching out to discuss Individual Use tax obligations (line 27). If you have limited time or a short attention span, here is the takeaway:

**Please be prepared and prepare your clients for increased attention and compliance activity around individual use tax (line 27) from the Tax Department beginning immediately.**

But more on that later.

First, I want to thank those of you have reached out to me with constructive input for the Tax Department during my first few months as Commissioner. Although I haven't been able to respond to every one of you individually (yet), I want to assure you that each and every comment has stuck with me and has resulted in some fruitful discussions here at Tax and even some immediate impact. A few examples include:

- Robust discussions about NRW-there must be a better way and I am committed to finding it and executing it (thanks Rick Wolfish and Cathy Attig);
- feedback that helped us in considering prospective changes (calibration) of a "discovery" program our auditors were undertaking (thanks Jim Bessette, Joe Pieciak);
- continued discussion and tweaking of NOIAs (Notice of Intent to Assess);
- the Appeals process;
- and Use Tax, the subject of this email.

We are in an untenable situation when it comes to Use tax compliance among individual income tax filers. 90% of Vermonter's report no Use tax obligation and actually certify to that effect on line 27 of the IN-111. While the compliance rate among professionally prepared returns is slightly higher (12%), it shouldn't alleviate any of our concern. While I admit that a small portion of that 90% may actually never shop in NH or buy something mail-order or online, I think we can all agree these statistics do not represent today's reality for a NH bordered state that is peppered with UPS trucks delivering e-commerce goods! If we collected just \$10 of Use tax each from those 90%, we would double our Use tax collections. One sure way to help prevent the need for new taxes in this state is to collect all the taxes that are actually due, that is a clear mission of this Department and a priority of mine.

But my concern over this situation actually has little to do with money, and more to do with equity and a level playing field. Like most CPAs interested in keeping their license in good standing and doing the right thing, I report and pay my obligation. I have heard from others (including preparers) that simply feel like suckers when they find out that they are in a tiny minority, sometimes paying hefty table driven Use tax as a safe harbor. Imagine standing in line to pay at the grocery store with 9 others, while 90 people casually stroll out with their free groceries with no consequence! The other concern is our Vermont based businesses and thus our economy, and your clients. Bricks and Mortar business is at an immediate 6% disadvantage when it comes to competing with online retailers who are not collecting. The Use tax helps level that playing field in line with Vermont law. Constitutional issues have prevented Vermont and other states from doing much about it when there is no nexus. There are pending cases and hope that Congress or the SCOTUS could change the environment, but in the meantime, compliance with our crystal clear Use tax obligations is the best method to increase equity and fairness to VT business and taxpayers. I have asked my Compliance section to bring me plans and

ideas to make a significant change in the compliance rate and culture around individual Use tax. Cynics and auditors among you understand that auditing a zero number is challenging and resource intensive. However, that will not deter this Department from fixing this equity issue. Our plan will put emphasis on education and voluntary compliance, and we hope to include opportunities to easily amend just line 27 of prior year returns in Vtax. But I am not naïve, and I understand that if Vermonters and preparers really believe that we cannot or will not audit individual use tax, the Department will not be successful. Therefore, we must audit.

I understand you all dutifully counsel your clients about line 27, but simply cannot force them to report and are compelled to take their word for it. I had a long discussion with a preparer who is really torn up about this issue and I sympathize. I am hoping my clear message in the press, above, and in the legislature about this issue helps you communicate to your clients that the environment has changed, and that there is risk here if they falsely certify. You can show them the attached press release and information sheet. If it were my practice, I would document my communications with clients about this issue, particularly for those who continue to certify no tax due. As far as other efforts, I am working with House Ways&Means and the Joint Fiscal Office to adjust the use tax table downward, hopefully for TY2017. This is necessary because a rough estimate is that Amazon sales account for about a 1/3 of online activity. With Amazon collecting as of 2/1/17, the math is clear. Without any change, the statute dictates that the table amounts will increase by a rate of double CPI, so this is a priority this session.

Thanks for your attention to this matter, and don't worry, this is not the only issue I am working on, and I understand there are other areas that from your perspective require equal and greater attention, some of which I listed above. Keep the feedback coming and thank you for all you do for Vermont and Vermonters during this busy season!

Take care,

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