SALES AND USE TAX BULLETIN 2013-01

Issued: May 28, 2013

[Editorial Note: Sales and Use Tax Bulletin 2013-01 replaces *Sales Tax Information Bulletin relating to Audit Examinations* **(Sales Tax Bulletin 2004-02)** Issued on May 03, 2004.**]**

Stratified Random Sampling in Audits, Managed Audits, and Audit Appeals

The purpose of this bulletin is to provide guidance to taxpayers involved in sales and use tax audit examinations and those taxpayers proposing resolution of sales and use tax issues through an agreed-upon managed audit process. In order to provide fair and efficient administration of audits and related appeals, in certain circumstances the Department will project both underpayments and overpayments based upon a stratified random sample of computerized records.

The Department may issue a credit for any overpaid sales tax to a vendor or use tax during the audit period if the overpayment is discovered either through the auditor's own examination or from information supplied to the auditor from the taxpayer on a complete basis.

A stratified random sample may also be used to establish the overall net liability or net credit if the taxpayer meets the following requirements:

1. The taxpayer is currently under audit by the Department or has entered into an agreement with the Department to conduct a managed audit to address sales and use tax compliance issues prior to audit selection.

2. Verifiable electronic purchase records are made available to the Department to facilitate a stratified random sample of both underpayments and overpayments.

3. The volume of records supports the need for use of sampling procedures.

4. An agreement is reached by the Department and the taxpayer on the use of the sampling method and procedures. The sampling agreement will include providing the population electronic records to the Department, verification of the population, and stratification and selection of the sample by the Department.

5. Sufficient evidence is provided to allow the Department to determine whether the taxpayer has underpaid tax, that no tax is due, or that tax is overpaid for each transaction in the sample. This includes (i) a copy of the source document for the transaction, (ii) proof of payment, (iii) a valid reason for exemption with adequate documentation, if the exemption reason requires additional

documentation, and (iv) taxpayer's attestation that no credit memo, tax refund, or any similar reimbursement for tax overpayment was provided to the taxpayer.

A taxpayer may file a petition for refund:

1. Requesting the review of the denial of any credit in the audit within 6 months after the date of the assessment or within three years of actual payment of the tax, whichever is later, or

2. Requesting a refund of monies paid as a result of an assessment within 6 months after the actual payment of the assessment.

When reviewing a refund petition involving a projection, the Board of Appeals will observe the following procedures:

1. The Board will only project an overpayment if it relates to a sample selected by the Department during an audit or during an agreed-upon managed audit process.

2. For transactions that are included in the test sample, the petitioner must provide the electronic records used in developing the sample and a detailed electronic sortable spreadsheet listing all of the transactions at issue. The electronic records provided must include the sample number assigned to the transactions contested.

3. For transactions that are outside of the test sample and within the population tested, the petitioner has the burden to prove that the credit requested exceeds the amount of credit granted due to the audit projections.

4. For transactions that are outside of the test sample and outside of the population tested, the petitioner must provide documentation for each transaction, such as copies of original invoices, and other information requested by the Board.