Loudoun County Audit Program & Appeal Process

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Purpose of Audit Program

The purpose of an audit program is to ensure that all taxpayers are assessed fairly and equitably.

- Bring all businesses into compliance
- Correct errors in a timely manner
- Ideal audit = accurate assessment

Audit Program

The audit process requires an auditor to have reactive skills and flexibility to respond quickly to changing events and requirements.

However…

Reactive environments are not suited to audit planning.

Therefore…

Balance between proactive environment and reactive skills

- **Control what you can (PLAN AHEAD!!)**
- **Respond logically and in a timely manner to the rest**

Audit Program

Three important components of an effective audit program are…

Planning

Structure

Consistency

Audit Planning

How many audits can we handle?

1. Locality
2. Staff Resources
3. Audit Parameters
4. Technology Resources
5. Potential for Appeals**

***Inclusion of Taxpayer Appeal Rights required per §58.1-3703.1(5)c*

Audit Planning

When should we schedule audits?

1. Take advantage of the cyclical nature of your work.
2. Ensure dedicated time for auditors to handle complicated audits.
3. Use past experience to guide estimated time for completion of audits.
4. Stagger audits so that auditors are not faced with a large number of determinations at one time.

Audit Planning

Who should we audit?

1. Are you able to audit every business in your locality on a regular schedule?

   If not, you should have a logical reason for conducting an audit on a particular business.

2. What is your rationale for auditing a particular business?

   1. Audit Recommendations

      Derived from Non-filing Reports, Variance Reports and recommendations from other divisions based on irregularities uncovered in the course of business.

   2. Audit of Specific Classifications

      Determine types of businesses that are of particular interest or concern and audit as a group.

   3. Audit by location

      Simplifies field component, but complicates the audit process due to varying business classifications addressed simultaneously.

Audit Structure

1. Documentation
2. Track all phases of the audit.
3. Clearly record all correspondence and events.
4. Make documentation available to all applicable divisions or individuals, not on a personal drive.
5. Track potential audit liability

   For large audits (or appeals), inform the appropriate individuals of the possible impact to the budget.

All of the above mentioned points rely heavily on having a system or process capable of handling the audit program.

Audit Consistency

1. Ensure that all auditors are following the same process.
2. Establish thresholds for approval when volume of concurrent audits is high.
3. If you start an audit process, be sure to follow through.
4. Use audit documentation for reference in conducting future audits.

Murphy’s Law

1. No matter how much you plan, coordinate and follow up, something will inevitably change your process.
2. Rely on your skill to adapt and be flexible given any situation.
3. Keep in mind that the greater control you exert during calm times will translate into a sense of direction and purpose during busier times and smoother operations in the long run.
4. Finally, remember that “Increase in Audits = Increase in Appeals”

Therefore, you will need a streamlined and well documented appeal process…..

Business Tax Appeals

In order for an appeal to be filed, an "assessment" must first occur.

An assessment is a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to written notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be. An assessment includes a return filed on behalf of the taxpayer by the local assessing officer. Va. Code §58.1-3700.1

Business Tax Appeals

Depending upon the basis of the request, taxpayers are eligible to submit either an appeal or an administrative appeal.

- An appeal of a business tax assessment may be submitted to request an amendment, reclassification, or correction of the assessment. Va. Code §§58.1-3980 - 58.1-3989

  An appeal application for review to the Loudoun County Commissioner of the Revenue may be filed within three (3) years from the last day of the tax year for any paid assessment or within one (1) year from the date of assessment, whichever is later. Va. Code §58.1-3980

- If the assessment is the result of an "appealable event", an administrative appeal may be filed to request an amendment, reclassification, or correction of the assessment. Va. Code §58.1-3703.1(A)(5)

  An administrative appeal application for review to the Loudoun County Commissioner of the Revenue may be filed within one (1) year of the date of an appealable event or within one (1) year from the last day of the tax year, whichever is later. Va. Code §58.1- 3703.1(A)(5)

Business Tax Appeals

An “Appealable Event” is…

One of the “events” below	Due to any of the following reasons
○ an increase in the assessment of a local license tax ○ the denial of a refund ○ the assessment of a local license tax where none previously was assessed	○ examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment ○ determination regarding the rate or classification applicable to the licensable business ○ assessment of a local license tax when no return has been filed by the taxpayer ○ denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license
VA Code §58.1-3703.1(A)(5)(a)	

Standard Request - Audit & Appeal Acknowledgement Letters

Per Virginia Code §58.1-3703.1, adequate records should be kept by every person who is assessable with a local license tax to support their filings. Listed below are the business records and related information that we are requesting to perform our review:

1. Complete and signed copies of Federal and state tax returns, including all related schedules, with proof of filing, for the calendar years 2014, 2015, 2016 and 2017 for BUSINESS NAME.
2. Breakdown of revenue generated from all sources on a calendar year basis for the years 2014, 2015, 2016 and 2017.
3. Complete list of business tangible personal property owned or used by BUSINESS NAME that was located in Loudoun County on the first of January for the calendar years 2014, 2015, 2016 and 2017. This list should include description, original capitalized cost and year of purchase for each asset, including those that were expensed or fully depreciated under I.R.S. regulations. Please also include any leased equipment along with the name of the leasing company and pertinent lease agreements.

Standard Format - Determination Letter

1. FACTS
   - Why the business was reviewed
   - Date our office sent audit letter or sent appeal acknowledgment letter
   - Documentation and information requested
   - Date all documentation and information was completely received
2. ANALYSIS
   - BPOL Code - §58.1-205 Definition of Gross Receipts
   - Additional Code references
   - Discussion
   - Supporting public documents
   - BPPT Code - § 58.1-1100 Property Reserved for Local Taxation
   - Additional Code references
   - Discussion
   - Supporting public documents
3. DETERMINATION
   - Simply stated conclusion based upon analysis/discussion

Notice of Taxpayer Appeal Rights

Any person or business assessed a business, professional and occupational license, machinery and tools, business tangible personal property or a consumer utility tax may seek a review of his or her assessment.

1. Local Administrative Appeal

The taxpayer may request a review of a local license tax assessment, by the Commissioner of the Revenue, within 1 year from the last day of the tax year for which such assessment is made, or within 1 year from the date of the appealable event, whichever is later.

2. State Appeal of Local Tax Assessments

Following an administrative appeal, within 90 days of the date of the Local Assessing Officer's determination, an administrative appeal may be submitted to the State Tax Commissioner. If new issues are present, within 30 days of the appeal notice provided to the State Tax Commissioner, the appeal to the State Tax Commissioner may be recalled and an administrative appeal filed requesting to address new issues, restarting the process.

3. Application for Correction of Assessment to the Circuit Court

Utilization of this appeal process in no way affects a taxpayer's ability to seek remedy for an erroneous assessment in Circuit Court. The taxpayer may seek remedy in Circuit Court in addition to the appeal process or in placement of the appeal process. To seek remedy in Circuit Court, the taxpayer must file the Application for Correction of Assessment with the Clerk of the Circuit Court, within 3 years of the last day of the tax year for which any such assessment is made, within 1 year of the assessment date, or within one year from the Tax Commissioner's Final Determination, whichever is later.

Questions & Contacts

If you would like to see the Loudoun County Appeal Process, you may access it on the County website at www.loudoun.gov/index.aspx?nid=3948.

If you have questions about our audit program/process or regarding any of the documents we spoke about today, we would be happy to speak with you. Please feel free to contact us.

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