Riding the Refund Rollercoaster

TeleStrategies
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Agenda

• Introduction
• Identifying refund opportunities
• Scoping phase
• Filing the refund claim
• Audit review – common procedural challenges and other roadblocks
• Filing refunds directly with vendors – Pros/Cons
• Best practices
• Other considerations
Introduction

- State claims versus vendor claims
- What makes telecommunications companies unique
Refund Lifecycle

- **Identify Opportunity**
  - Tax law changes; unbundling nontaxable charges; billing miscalculations

- **Scoping**
  - Identify materiality, time and effort to recognize

- **Filing claim**
  - Gathering necessary data and documentation; following state-specific filing procedures

- **Refund review**
  - State/vendor review. Supporting substance of position and procedural support requirements.

- **Remediation**
Identifying Refund Opportunity

- Company designated personnel/group
- Common tax exemption categories
- Tax law changes
- Unbundling nontaxable products and services
- Tax billing system mapping errors, tax category mistakes, or tax calculation errors
- Reviewing purchases and sales sides
- Sourcing considerations (e.g., software)
Scoping phase

- Materiality
- Open periods
- Offsetting exposures
- Merits – strong vs weak legal position
- State filing procedures and burden of proof requirements
- If customer, whether to seek from state or from vendor directly
- Internal capability versus outsourcing
- Balancing factors
  - Time and effort
  - Burden/benefit
  - Risk/reward
- Remediation plan
Filing the refund claim

• Filing a ‘perfected’ claim
  - Legal standing
  - Legal merits
  - Refund estimates versus actual
  - Data/documentation requirements at claim submission stage
  - Reimbursing customers
  - Statute of limitations (tolling requirements)
Audit review – common procedural challenges and other roadblocks

- Customer reimbursement requirements
- Overwhelming data/documentation support requirements
- Customer invoice requirements
- Reconciliation of sales tax return to individual customer invoices
- Overlap/conflicts with existing audits/liabilities
- ‘Equal’ taxpayer treatment (e.g., no sampling)
- Unsophisticated state tax departments
- Refund Denials on ‘technicalities’ (substantive or procedural)
- Refund Scope – transactional chain issues
- Time delay tactics
Filing refunds directly with vendors – Pros/Cons

• Off state radar
• Obtain reimbursement for multiple states/jurisdictions without filing multiple claims
• Data/document access limitations from filing directly with state
• Vendor credits – faster, easier
• Vendor ‘SoL’?
Best Practices

• Constant communication - Engage the state refund reviewing staff early & often.
• Follow procedural requirements to extent reasonably possible
• Be flexible – accept credits in lieu of cash. Know when to escalate to next level
Other Considerations

- Trust taxes vs. Gross Receipts taxes
- Interest
- Form of refund – cash vs credits
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Jamie works extensively with both local and national communications clients on a wide range of issues including tax automation consulting engagements, multi-state transactional tax determination analysis, nexus reviews, transactional tax bad debt reviews, reverse audits, negotiating voluntary disclosure agreements, and audit defense assistance.

Jamie formerly served as the Assistant Director, Consumption Taxes at XO Communications where he led the consumption tax team responsible for: consumption tax compliance; research and planning; audits; billing system issues; Sarbanes-Oxley compliance; customer care tax related inquires; development of taxation requirements for new product launches; and other miscellaneous consumption tax initiatives.

Prior to XO, Jamie was part of PricewaterhouseCoopers’s National SALT InfoComm Tax practice, having spent time in the Tysons Corner and Atlanta offices. Prior to Jamie’s experience at PricewaterhouseCoopers, Jamie worked for Teleglobe Communications, and Cable and Wireless USA where he focused mainly on tax compliance issues, billing system automation, and product taxation research.

Jamie has a B.S. in Accounting and an M.B.A. from the University of Maryland and is a licensed C.P.A in the states of New York, Maryland, Virginia, and Georgia.
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Rob is a Manager in the State and Local Tax practice and has worked in PwC's New York office since 2007. He is a member of PwC's Indirect Tax Practice, assisting with complex transactional tax issues for national and international communications clients on a wide range of issues including FUSF review, tax automation consulting engagements, multi-state indirect/transaction/telecom tax determination analyses, nexus reviews, bad debt reviews, reverse audits, negotiating voluntary disclosure agreements, and audit defense assistance. Rob has a JD/MBA from the University of Connecticut and an LL.M. in Taxation from New York University School of Law.

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Thank you.