Hot Audit Issues and Trends

Agenda

• Tax Base
• Bundling Challenges
• COE
• Audit Tone
• 911s and line charges
• Situsing
• Miscellaneous
Tax Base

• Wireless PPUs
  – Certain jurisdictions using PPU to source, AND tax, everything
  – Mostly a city issue…..for now

• Surcharges in the tax base
  – System limitations
  – Aggressive positions
Tax Base

• NYC 186(e)
  – Colocation
  – Dark fiber

• Chicago lease tax challenges
  – Tower space
Tax Base

• Pennsylvania …..the saga continues….

  – GRT
    • Tax base – “messages transmitted”
    • Bad debts – never “received”
    • Resale – “subject to” – doesn’t say actually registered and paying
    • Accrual to cash basis – accounts receivable have not been “received”
    • Dark fiber

  – Sales Tax
    • Challenges to COE exemptions and refund claims
    • Mixed use equipment – “predominantly”

Are you kidding me??
Bundles

• Pros and Cons of using safe-harbor versus traffic study
  – Taxing jurisdictions challenges when changing over to traffic study

• What study is needed….and is relevant
  – Nationwide, statewide or something else?

• How to allocate or validate the value?
COE

• Voice vs. Data vs. Internet
  – OH, PA, MO
• Lots of implications regarding the characterization and the shift in usage patterns
• Impact of IFTA
• Texas refund provisions
Audit Tone

• Audits that “feel” like jeopardy assessments
  – CA, TX, MI

• Increased scrutiny on exemption certificates
  – Needing 100%
  – Denying on technicalities
  – Tax specific forms
    • NY 186(e)
    • IL TET
The Taxing Tightrope

Department of Revenue audits vs. Consumer Complaints

– Unfair Competition Claims
  • Loeffler v. Target Corp., 2014 WL 1714947 (Cal.) May 1, 2014

– False Claims Act Complaints
  • Illinois shipping

– Customer Class Actions
Line Charges

• 911s
  – Line count challenges
    • How to Classify Access Lines
    • Situs Issues
    • Inbound only lines
    • Max capacity & high capacity issues
    • Increased complexity from VoIP products

  – Lifeline subscribers
Situsing

• Inside-outside city limits (MO, AL, WA)
  – Cities databases aren’t always consistent with 3rd party locational products
  – Remedies???
    • Property tax registers
    • Water records

• Complications with emerging IP based products
Miscellaneous

• Payment Applications
  – NY, CA, PA

• Contract auditors
  – Confidentiality concerns
  – Contingency fee
  – TX Muni fee audits
  – AL trends via real estate information
Questions????
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