



[About Us](#) | [Services](#) | [What is Sales Tax](#) | [How We Work](#) | [Success Stories](#) | [Seminars](#) | [FAQS](#)

SALES TAX: GUILTY UNTIL PROVEN INNOCENT



The United States of America was founded on the belief that people are innocent until proven guilty. Our legal system was built on that foundation and people cherish the thought that it is actually true. However, anyone who has handled a New York State sales tax audit or has had dealings with the Tax Department regarding sales tax knows that an ideal may not always be true in practice.

The Tax Department has recently instituted a new policy of collection agents conducting a "soft contact" on taxpayers who **may** owe money *in the future*. That is correct. The taxpayer may not currently owe the State a single penny, but if there's a likelihood that taxes are due in the future, a collection agent will come knocking on your day just to inform you of the possibility.

When a sales tax audit has been conducted and an assessment is issued, the taxpayer has 90 days to protest that assessment. If the taxpayer does not protest the assessment, the amount will become legally due after the 90 day period has expired. However, a taxpayer may very likely receive a visit from a collection agent during this 90 day period just to *politely* inform them that taxes will be due in the near future and how does the taxpayer plan to pay it? It is as if the collection agent already assumes you are not going to pay or protest the assessment.

Another instance of "guilty until proven innocent" occurs when an auditor uses an estimation technique to come up with sales. New York State law requires that every business keep certain books and records that will substantiate its sales and expenses. If these records are not kept, the State is permitted to use any reasonable means to estimate gross and taxable sales. These techniques range from using a rent factor (assuming sales are a certain percentage of rent) to a utility factor (assuming sales are a certain percentage of utilities) to the auditor's own experience with similar businesses. Furthermore, when you compare the different techniques, it is very coincidental how the auditor always uses the technique that arrives at the greatest amount of tax due.

The auditor will also assume such facts as a body shop always doing repair work when it does a State inspection, a deli always doing catering, and a contractor never paying sufficient tax on its purchases, even if these facts may not be true. Suddenly, the business finds itself with an estimate of sales or purchases that is hundreds of thousands of dollars more than could ever be in reality. Often the State's response is simply – prove us wrong. Guilty until proven innocent.

If you or your client find yourselves in any of the above situations, contact us. We can often help or at the very least, advise you what other planets in our solar system do not yet have NYS collection agents and therefore are good places to hide.

SUCCESS STORY: IRS LIABILITY SETTLED!



A client came to us owing \$160,000 in trust fund penalties to the IRS, stemming from payroll tax liabilities of two businesses. One business was currently closed but one business was still operating. The client was not able to pay this liability, especially considering that he was required to pay maintenance and child support to an ex-wife.

He came to us to see if there was any way to settle his liability. Sales Tax Defense submitted an Offer in Compromise to the IRS. We argued that the maintenance and child support payments should be subtracted from his available monthly income. After showing that maintenance and child support was a court order, the IRS agreed and the amount due was compromised to \$9,500. This was a 94% reduction!

Furthermore, the IRS allowed the client to pay the amount due over five monthly installments. A success for the client!

ABOUT OUR FRIM



We are a dedicated team of sales and use tax professionals who have committed our careers to helping businesses and fellow professionals with sales and use tax problems.

Since the only work we are focused on is sales tax consulting, businesses never have to be concerned that we will try to sell them other services they do not need. And professionals never have to be concerned with us encroaching on their client relationships, because we view you, our fellow professional, as our client.

To
Mark Stone
& STAFF.

THANK YOU FOR
ALL YOU DID WITH NYS
AUDIT! YOU + YOUR STAFF
DID WHAT OTHERS COULDN'T
DO IN 5 YRS. THANKS
AGAIN!
SUSAN + BILL

A Season of Thanks

One of the best feelings around Thanksgiving is knowing that we help clients find relief with their sales tax problems.

To Mark Stone & Staff,

"Thank you for all you did with NYS Audit! You & your staff did what others couldn't do in 5 years. THANKS AGAIN!"

-Susan & Bill

Thank you Susan and Bill for your kind words!

WHEN YOU HAVE A SALES TAX PROBLEM, WE ARE THE SOLUTION!

CALL: **631-491-1500**

CONTACT US!

“

“Mark,
We really settled.... Gordon and I are blown away. I'm not kidding when I tell you (and I have witnesses – my entire office) that when I hung up the phone I had tears streaming down my face. Thank you!”

-Brian B, CFO

MORE TESTIMONIALS

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