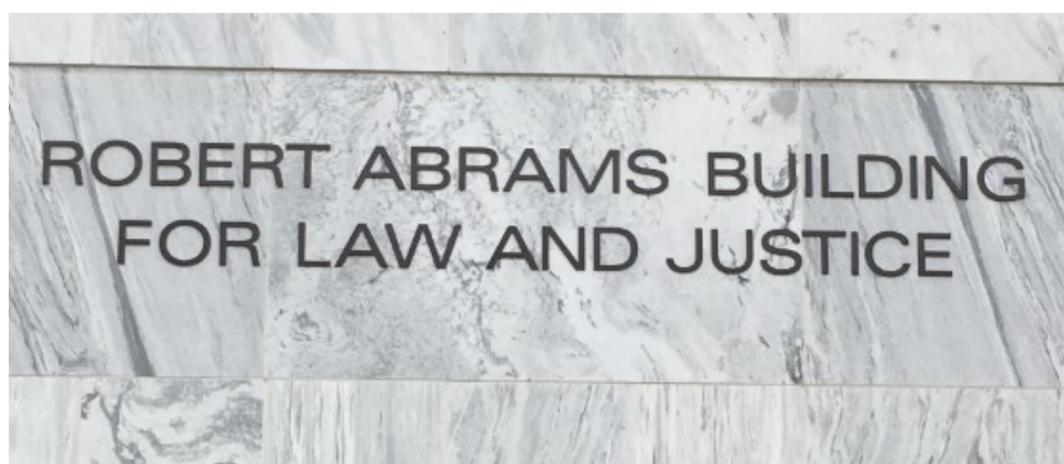




FIGHTING FOR OUR CLIENTS ALL THE WAY TO ALBANY AND BACK!



How many people know that a sales tax audit can be fought all the way through the New York court system and even through the federal court system? Well, we do!

We recently represented a company before the New York State Appellate Division, Third Department. The court sits in Albany. A panel of five judges hear your 10 minute argument, throwing questions at you throughout your time on the podium. While this may seem like a good time, there is an entire appeals process you must go through before getting to the Appellate Division.

Let's admit it. You are not always going to agree with the auditor. In fact, you are probably lucky if you agree with the auditor at all. That is why the New York State Department of Taxation and Finance has an appeals process.

Once an audit is closed, the Tax Department will issue a Notice of Determination to both the taxpayer and the taxpayer's legal representative. You have a strict 90 day deadline from the date on the notice to request a Bureau of Conciliation and Mediation Services ("BCMS") hearing. A BCMS hearing is arbitration/mediation. The decision is binding on the Tax Department but not on the taxpayer. This is your first level of appeals.

If you don't agree with the BCMS hearing officer's decision, you can appeal it to the Division of Tax Appeals. The case will be assigned to an attorney in the Tax Department's Office of Counsel and the hearing is conducted similar to that of a trial. An Administrative Law Judge hears testimony. Witnesses are put on the stand and questioned. Documents are entered into evidence. Closing remarks are made. This is your second level of appeals.

If you do not agree with the judge's decision, you can petition that the case be reviewed before the three-judge panel at the Tax Appeals Tribunal. No witnesses are put on the stand and no evidence is presented. You will have 15 minutes to argue your position, using only the record as evidence. The record is everything that was previously argued and put into evidence at the Division of Tax Appeals. This is your third level of appeals.

From there, it is to the Appellate Division in the New York State court system. Significant fees are involved to appeal a case to the Appellate Division and it is not the right choice for every case. This is your fourth level of appeals.

A case can then be appealed to the Court of Appeals, the federal courts, and theoretically, even to the United States Supreme Court. The appeals process takes years and throughout this entire time, interest and possibly penalties continue to accrue.

We can help you or your client navigate the appeals process or even advise you on when to stop appealing. Or even better, call us before the auditor knocks on your door and we can help you avoid the problems that get you before the judge. An ounce of prevention is worth a pound of cure...

RESALE CERTIFICATES ARE NOT END ALL BE ALL



We always recommend, when making a taxable sale, either charge your customer sales tax or collect a certificate. No excuses! As long as you satisfy the requirements of receiving a PROPER exemption or resale certificate, the certificate will completely relieve you from liability of collecting the

ABOUT OUR FIRM



We are a dedicated team of sales and use tax

completely relieve you from liability of collecting the tax. However, more often than we wish, we will encounter a company that made a sale for resale, but did not go that extra step in collecting a resale certificate.

We represented a subcontractor that did repair and maintenance work for a company. The company billed the bank/mortgage company. The subcontractor was providing services for resale but did not collect the necessary resale certificates. Of course, as it happens, the subcontractor gets audited by the Tax Department for sales tax. Since we could not rely on resale certificates, we proved through other means that the subcontractor's work was for resale. After several months of back and forth, the Tax Department came back with no tax due!

While we can succeed without them, we cannot emphasize enough, collect and keep all exemption/resale certificates!

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.

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

CALL: **631-491-1500**

CONTACT US!

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Mark and Joe, you did a great job yesterday at the BCMS Conference. You anticipated arguments to be made by the Department of Taxation and were prepared with good counter-attacks. Because of your analyses, we were able to make arguments that brought the issues into a light more favorable to the client. Again...Nice Job!

-Barry

MORE TESTIMONIALS

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