

OHIO CONSUMER'S USE TAX AMNESTY IS ENDING SOON - MAKE SURE YOU TAKE ADVANTAGE OF THE UNPRECEDENTED OPPORTUNITY!

Businesses with presence in Ohio have an unprecedented opportunity to eliminate multiple years of Ohio Consumer's Use Tax ("CUT") liability, penalty, and potentially interest through Ohio's CUT Amnesty. But, this opportunity will end May 1, 2013.

What is Ohio Consumer's Use Tax and how does it apply?

Ohio CUT is imposed against a consumer on purchases of taxable products or taxable services where the seller did not collect Ohio sales tax when the product or service was purchased. If sales tax is not properly collected, Ohio consumers must pay the CUT directly to the State. Many businesses and most individuals are unaware of the CUT and the separate return required to be filed. The CUT is intended to protect Ohio retailers and vendors by prohibiting a consumer from avoiding paying Ohio sales tax by merely purchasing items online or from another state and then importing the taxable products or services to Ohio.

In today's business environment, many businesses are purchasing taxable products and services (software, office supplies, computers, etc.) from merchants who are not required to collect Ohio sales tax. As a result, CUT liability is created for the purchaser if sales tax is not charged and collected on these taxable products and services.

ZHF Observations:

- The clients we have assisted in completing CUT Amnesty were surprised by the amount and type of purchases made without the payment of Ohio sales tax.
- While businesses may believe there is more than enough time to meet the May 1, 2013 deadline, the steps to properly determine CUT liability can be complex and take a significant amount of time. Also keep in mind that it is critical to make the proper taxability determinations when reviewing your purchases as any amounts paid as part of CUT Amnesty are nonrefundable.

Eligibility for CUT Amnesty:

CUT Amnesty is available to any consumer who was not issued a CUT assessment prior to September 29, 2011 by the Ohio Department of Taxation ("ODT").

Tax periods included and benefits of participation if the participant was not registered for CUT as of June 1, 2011:

- Participants must remit CUT due for periods from January 1, 2009 through the last day of the month preceding the month in which the amnesty has been requested. For example, if a participant requests CUT amnesty in March 2013, the participant would have to pay any outstanding CUT liability from January 1, 2009 through February 28, 2013.
- CUT, penalty, and interest from periods prior to January 1, 2009 will be forgiven and penalty and interest for the amnesty period will also be forgiven.
- No criminal prosecution for those who participate.

Note: Participants registered for CUT prior to June 1, 2011 will receive the same benefits as above except the participant will owe interest on the amounts remitted under the CUT Amnesty.

If I choose to participate, how much am I required to pay?

Participants must pay the full amount of CUT for which the participant has outstanding liability prior to May 1, 2013 unless a payment plan is requested. If a payment plan is requested, the participant and ODT may enter into an interest free payment plan for the delinquent CUT.

What if I choose not to participate in Consumer's Use Tax Amnesty?

ODT has identified a list of approximately 300,000 taxpayers not registered for CUT, but potentially should be registered. Consumers that do not participate will be at a very high risk of being audited. ODT will be permitted to assess tax, interest, and penalties for any CUT due on or after January 1, 2008.

If I do not want to participate in CUT Amnesty, can I request a voluntary disclosure agreement?

Until May 1, 2013, a request for a voluntary disclosure agreement will only be accepted if a consumer is not eligible to participate in CUT Amnesty. If a consumer is eligible, the consumer must participate in the amnesty.

Ohio's CUT Amnesty offers important potential benefits, but businesses and individuals should completely evaluate their situation and options before signing up for the amnesty program. The complete benefits of CUT Amnesty could raise some questions that can only be answered by the careful analysis of each potential participant's factual situation.

Our State and Local tax professionals have considerable experience representing individuals in front of the Ohio Department of Taxation. We help individuals and businesses understand the complicated tax statutes, rules, and information releases and help quantify potential exposure or refund opportunities. Further, our State and Local tax professionals are experienced in assisting businesses in determining its CUT liability and applying for CUT Amnesty.

If you have questions about this alert or Ohio's CUT Amnesty, please contact:

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