

# Know what's taxable

## You're probably paying too much Ohio sales tax on purchases

INTERVIEWED BY ADAM BURROUGHS

It can be hard for Ohio businesses to understand their sales tax obligations because of a lack of clarity as to what's taxable and what's exempt. That uncertainty can mean paying much more than needed on services and equipment, some of which can cost millions of dollars.

"Businesses need to ask whether something is taxable before making a purchase," says Steven Dimengo, managing partner at Buckingham, Doolittle & Burroughs, LLC. "Most businesses don't think about it. It's an overlooked area that's an underdeveloped opportunity for savings."

There are many exemptions that potentially can apply based on subtleties concerning your facts. Identifying those can make some large purchases non-taxable. But leveraging that opportunity requires a strategy.

*Smart Business* spoke with Dimengo about how to identify tax exemptions and save money.

### HOW CAN BUSINESSES UNDERSTAND WHEN SALES TAX APPLIES?

The first place to start is with major purchases, whether equipment or services, and scrutinize whether sales tax needs to be paid. There's a presumption that if it's tangible personal property it's taxable unless an exemption exists. Services are the opposite. Services are presumed to be non-taxable unless they're statutorily identified as taxable. Purchasers need to look closely at their major purchases and determine if there is an opportunity to claim an exemption.

For example, Ohio has a very rich exemption for equipment used in manufacturing. But it's very precise as

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to what qualifies and what doesn't. It's the same for packaging materials and equipment. Take, for example, toothpaste. The tube that holds the toothpaste is exempt from tax, as is the carton in which the tube is packaged and the boxes that hold those cartons. But the boxes on a pallet are only exempt from tax if there's a strap or shrink-wrap that goes over the pallet. There's an exemption for the material securing the boxes to the pallet and there's also an exemption for shrink-wrapping equipment, as well as the pallet.

### WHEN IS THE TIME TO IDENTIFY POTENTIAL EXEMPTIONS?

Sales tax can and should be scrutinized when an invoice is received, but it's better to know if there are sales tax responsibilities before a purchase is made. To do that, companies should go through their accounts and do an audit from a high level to identify where sales tax is being paid. Pinpoint where sales tax exemptions can be applied, outline those exemptions and give instructions to their purchasing department not to pay sales tax on those items.

If an invoice is received for a purchase and sales tax is included on an exempted item, give the vendor an exemption certificate and exclude the tax from payment. Because of the procedural rules for sales tax compliance, vendors are protected from not collecting sales taxes when an

exemption certificate is provided, even if the exemptions cited are wrong. When that's the case, the state will only assess the purchaser.

### HOW CAN COMPANIES GET REFUNDS FOR INCORRECTLY PAID SALES TAX?

It's important that companies don't just accept that everything they purchase is subject to sales tax. They should do their own research on what's taxable. Companies that find evidence that they've incorrectly paid sales tax on an item could just stop paying the sales tax on all future purchases. Or they could file for a refund where they paid unnecessary sales tax.

To pay sales tax that wasn't, but should have been, charged by a vendor, file a use tax return directly with the state. That can help the offending company avoid a future audit because the state sees the filing as an effort to comply. For the same reason, if the company is audited, it's less likely a penalty will be assessed. It's also important to know that if a use tax return is filed, the state can only go back four years to audit.

It's easier for companies to deal with sales tax payment requirements up front by going through all accounts and making determinations consistent with general guidelines that relate to that account. A specialist working in this area could quickly determine which items require sales tax to be paid, saving a company time and money. ●