

MTC Audit Process: How do MTC Audits Actually Work?

Joel Waterfield

Dale Busacker

Agenda

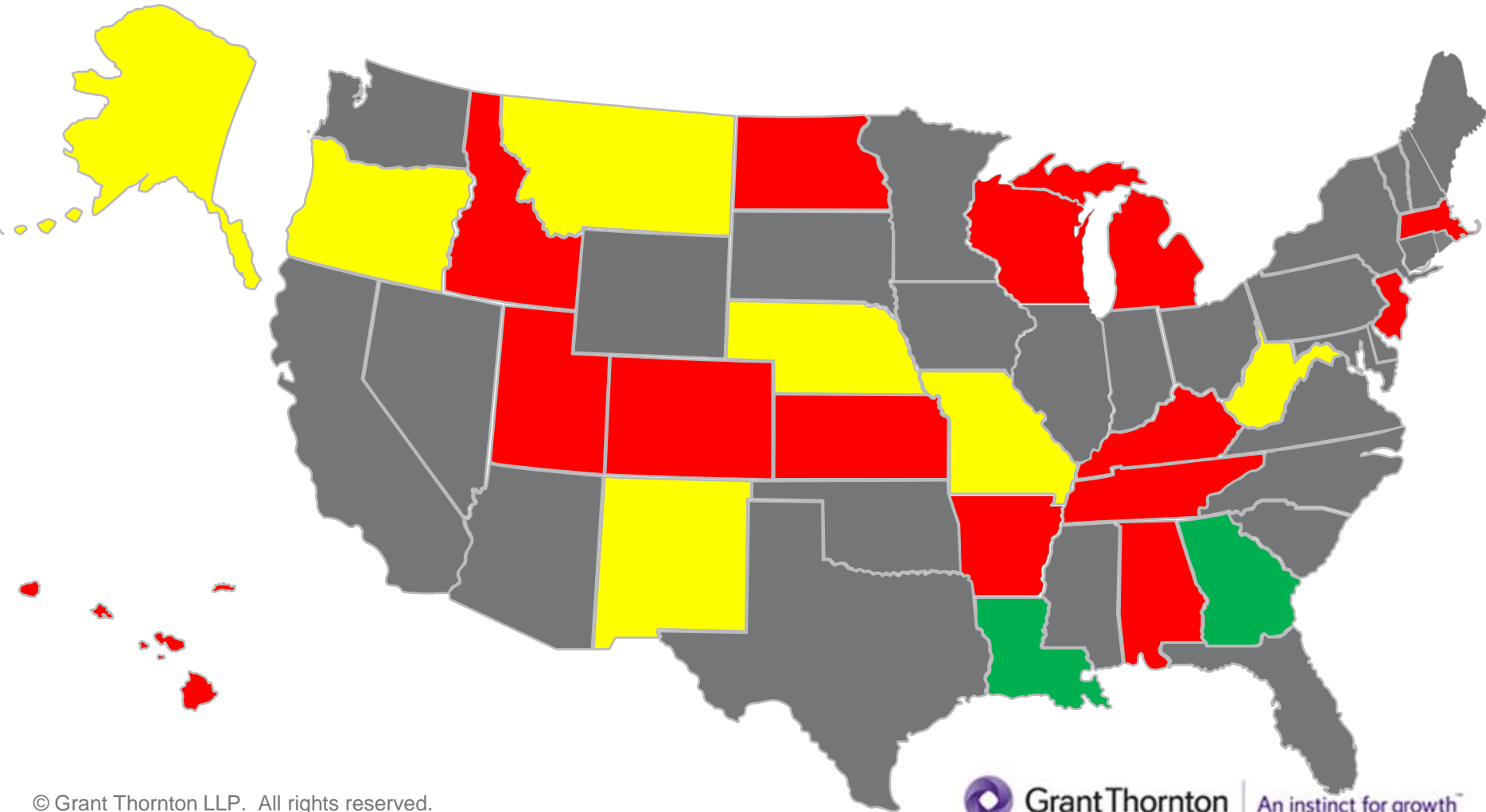
- MTC Joint Audit Program Vital Statistics
- How are Companies selected to participate in the Joint Audit Program
- Income and Sale & Use Tax Joint Audit Process
- Thoughts and Comments from Companies that have experienced the Joint Audit Program
- How might the Joint Audit Process be improved?

MTC Joint Audit Program Vital Statistics

MTC Joint Audit Program Vital Statistics

- Currently there are 23 participating States and the District of Columbia.
- Currently 14 States and the District of Columbia Participate in both the Income/Franchise and Sales & Use Tax Program.
- Currently 7 States Participate in only the Income/Franchise Program.
- Currently 2 States participate in only the Sales & Use Program

MTC Joint Audit Program Vital Statistics



MTC Joint Audit Program Vital Statistics

- Number of Audits Completed? The equivalent of 1,647 State Income and Sales and Use Tax Audits have been completed over the last 5 years.
- Reported average hours to complete an individual state audit over this period was 59 hours

MTC Joint Audit Program Vital Statistics

- Number of MTC Auditors? Currently 16 but 20 positions exist.
- Two Each of Income/Franchise Supervisors and Sales & Use Tax Supervisors.
- Six each of Tax Auditors for Income/Franchise and Sales and Use Tax

MTC Joint Audit Program Vital Statistics

- Typically 10-15 states participate in any one Joint Audit
- Each Sales Tax Auditor will be involved in 4-6 cases at any one time.
- Each Income/Franchise Auditor will be involved in 2-3 cases at any one time.

How are Companies selected to participate in the Joint Audit Program

How are Companies selected to participate in the Joint Audit Program

Each State that participates in the MTC Joint Audit Program has a representative on the MTC Audit Committee.

Responsibilities:

- Oversight of MTC Audit Program
- Audit Selections
- Provide Direction to the MTC Audit Program on State Policy Regarding Audit Issues.

How are Companies selected to participate in the Joint Audit Program

Each State that participates in the MTC Joint Audit Program has a representative on the MTC Audit Committee.

Oversight Activity:

- Review Audit Director's Periodic Status Report
- Provide Direction to MTC Auditors on Complex Audit Issues
- Provide State Specific Audit Training to MTC Audit Staff.
- Provide Forum for Taxpayers to Discuss Audit Issues.

How are Companies selected to participate in the Joint Audit Program

Primary Process:

- July: Audit Director Sends out Audit Nomination forms
- September: States Return Audit Nomination Candidates
- November: Audit Director Distributes Summarization of Audit Candidates
- February: States Supply Information on All Audit Candidates.
- March: States Select MTC Audit Inventory by a Voting Process

How are Companies selected to participate in the Joint Audit Program

Secondary Process:

- MTC National Nexus Program Refers Audits to MTC Audit Committee.
- Taxpayers May Request an MTC Joint Audit through the MTC Audit Committee.

Income and Sale & Use Tax Joint Audit Process

Income and Sale & Use Tax Joint Audit Process

Income Tax Joint Audit Process:

- MTC Audit Director Assigns an Audit to an MTC Auditor from Audit Inventory
- States Decide Whether to Participate in the Audit and Return Signed Audit Authorization
- Auditor Contacts the Taxpayer and Arranges and Audit Appointment
- Auditor Conducts Field Audit Work at Taxpayer's Location.
- Auditor Completes Field Work and Supplies Taxpayer with Audit Schedules.

Income and Sale & Use Tax Joint Audit Process (cont'd)

- Auditor Discusses any Proposed Audit Adjustments with Taxpayers
- Taxpayer Reviews Proposed Audit Adjustment
- Taxpayer may request Meeting with MTC Audit Supervisor, MTC Audit Director, or MTC Audit Committee at any Point During the Audit Process.
- Audit Supervisor Reviews Audit Schedules and Report
- Individual State Audit information sent to corresponding State in the audit as a recommended audit finding.

Income and Sale & Use Tax Joint Audit Process (cont'd)

- Each State Reviews its own Completed Audits.
- Each State determines action to take from audit (accept or change).
- Each State sends out Notice of Assessment (Refund) to Taxpayers.
- Taxpayers may protest the Audit results directly to States or request Multistate Alternative Dispute Resolution (Projects Developed Jointly by States and COST).

Income and Sale & Use Tax Joint Audit Process (cont'd)

Sales Tax Joint Audit Process:

- Basically the same as the Income Tax Process with the following additional procedures.
- Computer Audit Specialist accompanies the Auditor on the first field audit trip.
- Request Electronic Records from the Taxpayer.
- Convert Taxpayer's Electronic Records to readable files for the Auditor

Thoughts and Comments from Companies that have experienced the Joint Audit Program

Thoughts and Comments from Companies that have experienced the Joint Audit Program (cont'd)

- **General Comments:**
 - Company that has undergone two MTC audits feels the process has improved dramatically.
 - Company thought the Program was inefficient for both the Company and the States

Thoughts and Comments from Companies that have experienced the Joint Audit Program

- Auditors:
 - Auditor was either not familiar with the different state rules or purposely applied incorrect tax application in certain states.
 - Auditors requested long waivers (year in length) and then didn't complete the audit until the very end of the extended period, leaving the Company little to no time to review the audit report prior to it be sent to over a dozen states.

Thoughts and Comments from Companies that have experienced the Joint Audit Program (cont'd)

- Auditors:
 - Auditor took the position that a portion of their corporate structure was a sham for separate reporting states but respected the same corporate structure for a state like New Jersey.
 - Auditor was higher caliber than typically provided by individual states.
 - Auditor did not initially provide an audit work plan identifying milestone dates.

Thoughts and Comments from Companies that have experienced the Joint Audit Program (cont'd)

- States Part in the Joint Audit Program
 - Some states dramatically changed the audit report agreed to by the company and the MTC auditor.
 - Process has been very slow. The audit period reaches back over a decade yet some states have yet to issue final audit reports.
 - States did not review the audit reports to ensure the audit report assessed items that were in agreement with state laws.

Thoughts and Comments from Companies that have experienced the Joint Audit Program (cont'd)

- Information Request:
 - As different states have different statute of limitations, it makes the data mining inefficient.
 - Information request was generic (not state specific) which ensured that the review would not be state specific.
 - Information request was too broad as a result the total request numbered greater than 15K pages of information.

How might the Joint Audit Process be improved?

How might the Joint Audit Process be improved?

- More individual State Training to ensure the MTC auditor is more aware of the nuances of the different states they represent.
- Work plans issued at the commencement of the audit that have milestones with dates for the Company, the MTC Auditor and the States to ensure the audit progresses as planned.
- Better Communication between the MTC Auditors and the State representative in order to reduce "Re-Audits" when the audit report is sent to the State.

How might the Joint Audit Process be improved? (cont'd)

- Refine information request that allow for purposes of efficient retrieval of information (same look back period) and to minimize the amount of documents requested.

Who does the Joint Audit Program benefit the most?

Who does the Joint Audit Program benefit the most?

- States:
 - States with Little to No travel budget.
 - States who do not employ Out of State Auditors or keep Out of State Offices.
 - States who have Small Audit Departments.
- Companies:
 - Companies that would like to resolve discreet issues in multiple states at one time.
 - Companies that have enough personnel to deal with multiple states at one time.



Grant Thornton

Tax Professional Standards Statement

This document supports Grant Thornton LLP's marketing of professional services, and is not written tax advice directed at the particular facts and circumstances of any person. If you are interested in the subject of this document we encourage you to contact us or an independent tax advisor to discuss the potential application to your particular situation. Nothing herein shall be construed as imposing a limitation on any person from disclosing the tax treatment or tax structure of any matter addressed herein. To the extent this document may be considered to contain written tax advice, any written advice contained in, forwarded with, or attached to this document is not intended by Grant Thornton to be used, and cannot be used, by any person for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code.