

## Controlling the Way in Which We Respond



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In the words of that great philosopher Snoopy, "When you can't control what's happening

around you, challenge yourself to control the way in which you respond." We are currently living in a crazy and challenging time due to events we cannot control. Unfortunately, COVID-19 did not allow the SALT world to press the pause button. Therefore, as Snoopy said, the key is how we respond.

It goes without saying that compassion, patience, and yes, some humor are all required to navigate the SALT world in the COVID-19 era. Managing the SALT function can be a challenge in normal times but now taxpayers, tax advisers, and tax administrators alike are adjusting to working remotely in the new virtual world. The changes in the workplace environment coupled with COVID-19-driven changes in tax administration policies require an additional emphasis on both communication and organization.

Organization is a key element in navigating the challenges we all face. From the taxpayer's and tax adviser's perspective, there is a clear need to develop procedures that track and implement the new extended filing and payment changes, the tolling/suspension of statutes of limitations, the use of electronic signatures, and the determination of whether employees working remotely change the nexus footprint or impact withholding requirements. Decisions are required on the need to use the extended filing and payment due dates. The analysis that contributed to those decisions should be documented and retained. While there is a short-term impact to using the extended due dates there may also be long-term implications at the time those filings are audited.

While it is always vital that one monitor the statutes of limitations, the tolling or suspension of

the statutes in several states takes on new importance for determining the timely filing of refund claims, amended returns, and more importantly, whether assessment notices have been timely issued. The tolling or suspension of the statutes themselves raises issues related to whether broad executive orders provide authority to suspend the statutes. Similarly, some state courts have issued blanket orders extending filing dates for pleadings. In some instances, those orders extend to independent tax tribunals. The fact that a blanket order has been issued extending the due date for pleadings may not extend the due date for the initial filing that provides the tribunal or court with jurisdiction over the matter, thus creating traps for the unwary. Understanding and tracking the changing landscape of statutes of limitation and filing requirements is an important element in the management of the SALT function.

Most taxpayers have procedures in place addressing who has the authority to sign specific documents. Working remotely raises numerous challenges, including how to obtain signatures on those documents. It is important to maintain a list of which states will accept electronic signatures and what, if any, types of documents cannot be signed electronically. Existing corporate procedures may need to be adjusted to allow authorized individuals to sign documents electronically. While several states have addressed whether employees working remotely as a result of COVID-19 will change a company's nexus footprint or require withholding changes, other states have not issued any guidance or have indicated the decision will be made on a case-by-case basis. The lack of guidance and inconsistent state positions result in taxpayers having to assess potential risks and possibly temporarily change procedures.

While the immediate focus may be to develop procedures to deal with the changes in the administration of taxes, there is also a need to reevaluate audit procedures. Most audits will be handled remotely for the foreseeable future. Information will be transmitted electronically. As a result, there may be a need to adjust audit procedures to address such items as audit responses, how supporting documentation will be provided, and when waivers will be granted.

Agreements with auditors that all notices should be sent electronically are essential. However, just as states have reviewed their authority to revise signature requirements, there may be a need to determine if there is authority to allow assessment notices to be sent electronically.

Organization is essential, but the most important factor in navigating this crazy time is communication. Communication of policies, practices, and agreements is important because the tax team members are not likely to all be in the same location. There also should be continued communication with management regarding potential risks and decisions being made to mitigate those risks. Communication between the taxpayer and the various tax auditors is also required to ensure the audit process continues efficiently. While we cannot control the COVID-19 events, we can challenge ourselves to adopt measures to proactively respond to the events.

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