

SIMA

Snow Business

The official publication of the Snow & Ice Management Association | www.sima.org



PROCESS & PASSION

Top-notch culture sprouts
from Silvis Group's
farm roots PAGE 8



DAMAGE DUE DILIGENCE

Preseason site walkthroughs,
training and contracts tie together
to help limit damage claims PAGE 20

A man in a dark jacket and pants stands with his back to the camera, looking at a massive, towering wall of papers that fills the left side of the frame. The papers are stacked high and appear to be slightly blurred, suggesting a large volume of documents. The background is a dark, textured blue.

AUDITS

When the Tax Man Cometh

Snow and ice management companies share their accounts of navigating the audit process and the lessons they learned



A LOT OF TIME, EXPENSE AND WORRY RESULTS IN A CLEAN BILL OF EMPLOYMENT TAX HEALTH

BY RICK KIER, CSP // Contributor

The letter came by regular mail on June 5. At first we thought it was just about another routine business matter like a new way to file our return or some new tax we needed to pay. We quickly realized, however, that we had been “selected for examination” — the IRS’ nice way of saying we were going to be audited.

The only hint of the reason for the audit was the subject: Employment Tax Examination. Our “examination” was scheduled for July 3 ... happy holiday! I had been scheduled to be on vacation that week and was pleased to see that they had included a way to contact the IRS and change the date if that one was not convenient. My first thought was maybe July 2013?

When I spoke with the examining officer, I not only changed the date but also took the opportunity to ask why we had been chosen. He was very nice and explained that it could be one of several things or that it was random based on the size of our company and employment activity. We talked briefly about the items on the list of required documents and what we could provide to meet each request.

Documentation requirements

Enclosed with the initial letter was IRS Form 4564, which spelled out the requested records and information broken into two groups: 1) Items we were to provide a copy of to the IRS and 2) Information we should have available at the interview (see below).

Enclosed with the letter was a publication

explaining our rights as a taxpayer, which included having representation by someone (such as a lawyer or accountant) at the audit. Having never been through anything like this, we decided to have our certified public accountant take part.

The worst part of the entire experience was not knowing how bad it might be. We are the kind of company that dots our I’s and crosses our T’s. We always follow the law to the fullest extent and never take shortcuts. We don’t pay anyone under the table, we pay all of our taxes, do all our work “on the books” and don’t play games when it comes to doing things right.

Nevertheless, we worried that there might be something we did not know or something that had slipped past us. Would the IRS try to tell us that our snowplow subcontractors were really employees and we owed thousands in unpaid taxes and benefits? Would they try to say that our managers were not really exempt and we owed them overtime going back three years? It is times like that when our minds wander in all sorts of crazy directions, and worry can overwhelm a person. Would this audit be the end of our company?

Digging in

In any crisis, the best course of action is to figure out what needs to be done and do it. I set up a spreadsheet with all of the required documents for the years requested and included a column for who in the company was to provide the documentation and a place for my approval once I had seen the documents and confirmed they were ready for audit.

Continued on page 37

REQUIRED DOCUMENTS

1. Copies to the IRS:

- Business brochure and company phone directory
- Form 1120 US corporate income tax returns (2011-13)
- All Form W-2 and Form 1099 (2011-13)
- All documents relating to payments, draws, loans, reimbursements, etc., to owners

- All subcontractor agreements for worker-issued Form 1099, including a list of the workers’ names, addresses and type of work performed (2011-13)
- Chart of accounts, purchase journal and trail balance (2011-13)
- Check register
- Business credit card statements
- Any New York employment-related audit reports (2010-14)

2. Available at the interview:

- General ledger
- Bank statements and canceled checks (if included by bank)
- Employee handbook
- All worker payroll and vendor personnel files, including W-4s, I-9s and worker contracts

KIER // AUDITS

Continued from page 33

My plan was to have everything they asked for ready and neatly organized for the examiner. I had no idea if it would help with the outcome of the audit, but I was darn sure it would not hurt. Plus, the preparation kept me from worrying about what was going to happen. At the least, I knew we were totally prepared for this audit on the day the interview took place.

Keep in mind, you can't make stuff up or draft missing documents out of thin air. You really have to have all of the required documents in place long before you ever know your audit is going to happen. Of course, having them and putting your hands on them can be two different things. We did have to do some digging through files to find everything and get it into one place. There were a few anxious moments, but in the end we had all of the required documents. I was very glad we had always followed all the rules and had done everything expected of us (at least as far as the paperwork was concerned).

Reckoning day

On the day of the "interview" (another nice IRS term for "audit") the examiner came to our office with file in hand. He was very friendly and he answered all my questions about what they were looking for. It seems that some contractors pay people under the table, treat some employees like subcontractors, fail to pay all the required payroll taxes and even

INSIGHTS

Collect business cards, insurance coverage and signed contracts for each subcontractor and make sure they invoice you for any work completed.

Make sure you have professional representation, either an attorney or accountant, with you during the audit.

Put a record keeping and filing process in place that allows you to easily access all the files you may need during an audit.

collect payments without reporting the income and paying income taxes. He explained that he was primarily there to investigate possible employment tax issues but that he was authorized to examine any federal tax issues.

I noticed that in his file he had

screenshots of our website pages. Clearly, he had been doing his homework. I asked if he had any reason to believe we had done anything wrong. He indicated that he was not aware of anything but the examination hadn't started. My CPA

Continued on page 38

PROFESSIONAL GRADE
BRINE
PRECISE 23.3% SALT CONCENTRATION

CONTINUOUS PRODUCTION

10¢ PER GAL.

Brine Xtreme PRO

Continuous production - up to 6,000 GPH
100% automation & repeatability
Plug and play

NEW!

Brine Xtreme TRUCK FILL PRO

The modular, stand-alone outdoor filling station
Stack up to 3 products
Secure data logging / remote access / multi-user
Plug and play
Works with Brine Xtreme Ultimate Mobile Unit and Brine Xtreme Pro

NJPA AWARDED CONTRACT

CONTRACT: 080114-HPI

Membership is FREE. No obligation.
Join today at: www.njpacoop.org

MVP MEMBER VERIFICATION PROGRAM NTEA

Henderson

Call toll-free or visit us online:
(800) 359-4970
www.hendersonproducts.com

Continued from page 37

asked a couple of questions about procedure the. After all our questions were answered, it was time to start the audit.

Under the microscope

One by one we went through the list of documents that had been requested. The examiner asked many questions about various people and subcontractors. What did they do for the company? How long do they work? Who calls them into work? How do they get paid? How are they trained? Who inspects their work? There were a lot of questions about our managers and their job duties. There were even more questions about the snowplowing subcontractors. There was no question he was trying to figure out if they were classified incorrectly and were really employees. I was well prepared with the subcontractors' business cards, invoices, contracts and other proof that they were in fact, valid independent contractors.

At that moment, I thought back to my studies for the Certified Snow Professional designation. I was glad I had learned the proper way to hire a subcontractor and that I had taken the time to do it right all those years ago. Then suddenly, the examiner told us he was done for the time being and would take our documents back to the IRS district office and do some research. He told us that depending on what he found, it might be a few days to six months before we heard from him. He left our office without providing even the slightest hint as to whether we were in trouble.

Our audit took place on July 14. We waited until October 14 for the outcome. It made for a very anxious summer. A one-page letter arrived and reported: "We have examined your employment tax returns for the above tax period and made no changes to the tax you reported. This is the final notice you will receive regarding the examination."

We were thrilled that we had done nothing wrong. There would be no fines, no penalties, no handcuffs, no going out of business! Still, it might have been nice if they said something like "Nice job, good records, you run a clean ship."

The costs of the audit

Looking back at the whole experience, it was a huge drain on me and the organization as a whole. We spent about 50 man hours pulling together all the documents. We paid our CPA about \$2,000 for his involvement and advice. In the end, it all worked out OK, but the drain emotionally, financially and in terms of man hours was unfortunate. The good news was that our years of doing things the right way had paid off. ❄

Rick Kier, CSP, is owner of Pro Scapes Inc. in Jamesville, NY. He is a founding member of SIMA and a member of the Snow Business Editorial Advisory Committee.



CUSTOMER'S AUDIT TRIGGERS ONE FOR US

BY JIM HORNUNG JR., CSP // Contributor

It is safe to assume that as your business grows, the amount of oversight and the potential for audit will grow with it. In the last five years, Elbers Landscape Service has been through audits for sales tax, Department of Labor prevailing wage, unemployment tax, workers' compensation and liability insurance. This article focuses on our experiences with a sales tax audit.

Our audit was based on a simple check of our operations, and was not initiated because of any suspected wrongdoing on our part. One of our regular customers was being audited, and because we do a large volume of business with them, our invoices showed up repeatedly. As we hadn't been audited since the 1980s, we were "randomly" selected for an audit by the New York State (NYS) Department of Tax & Finance. They were specifically looking for "underpayment of sales and use tax."

Their lack of knowledge about our business was based on both the complexity of our business and our industry. ... We had to spend significant time and money explaining the different types of customers, style of billing and divisions within our company.

Our initial response upon being notified of the impending audit was to contact our accountant. However, the audit was to be less about accounting and more about communicating with the auditor and educating him about our business, how we kept records, etc. So, instead, we hired a tax attorney to assist us throughout the process. The cost was considerable;

INSIGHTS

Organized customer and subcontract records are key since your company may be audited based on data collected in their audit.

Ignorance is not a defense. If you aren't well-versed in tax law and regulations, hire someone to fill this role.

Stay calm and realize that the auditors are just doing their job. If you've done yours well and above board, you shouldn't have anything to worry about.