



COMMONWEALTH of VIRGINIA

Department of Taxation

June 9, 2017

Mr. Josh Cohen
Ryan, LLC
Three Galleria Tower
13155 Noel Road, Suite 100
Dallas, Texas 75240

Dear Mr. Cohen:

I want to thank you for your letter dated May 15, 2017 providing comments on the draft Guidelines for Retail Sales and Use Tax Refund Claim Procedures.

In general, your comments note how the Guidelines could affect refund claims including new burdens for customers, vendors, and the Department's auditors. You suggest that the Guideline's procedures should be replaced by an assignment of right to refund procedure. Under such a process, customers could seek a refund directly from the Department after obtaining an assignment of right.

I recognize that the Guidelines are both detailed and comprehensive. However, given the size of many refund claims and the potential negative impact on revenues of the state and Virginia's local governments, we believe the process is not unnecessarily complicated. In fact, we believe the refund claim procedures outlined in the Guidelines actually differ little from the assignment of rights procedure you advocate.

In developing the Guidelines, the Department did not include an assignment of rights procedure because it does not provide the detailed information about the vendor's allocation of the local option sales tax necessary for the Department to correct the distribution of revenue to affected local governments. As you know, the proper allocation of the Local Sales Tax is critically important to Virginia localities.


Additionally, you expressed concern that the Guidelines do not allow for the review of refund claims using sampling. However, the Guidelines simply did not address this review technique and nothing contained in the Guidelines would prohibit the use of sampling. The Department will use sampling in appropriate circumstances.

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Finally, you suggest that the Guidelines somehow prohibit the use of current protective claims remedy. I would note that protective claims, appeals and other administrative remedies provided for in Chapter 18 of Title 58.1 of the *Code of Virginia* are not affected by the new refund procedures. As a result, such administrative remedies are still available.

Again, thank you for taking the time to offer comments on the Guidelines. If you have any questions, please contact Mark Haskins, Director, Policy Development Division, at (804) 371-2296.

Sincerely,



Craig M. Burns
Tax Commissioner