



## Tax Law Alert

A Corporate Department Publication

April 2011

To comply with certain U.S. Treasury regulations, we inform you that any federal tax advice contained in this document is not a covered opinion as described in Treasury Department Circular 230 and therefore cannot be relied upon to avoid any tax penalties or to support the promotion or marketing of any federal tax transaction.

This document is intended to provide general information for clients or interested individuals and should not be relied upon as legal advice. Please consult an attorney for specific advice regarding your particular situation.

**David A. Tumen**

Chair of Tax Practice Group  
614-227-2260  
dtumen@porterwright.com

**Mark A. Snider**

614-227-2150  
msnider@porterwright.com

Please see our other publications at  
<http://www.porterwright.com/pubs>.

### Ohio Department of Taxation to Focus on Use Tax Compliance

Companies of all sizes that do business in Ohio should be aware of new enforcement efforts by the Ohio Department of Taxation to increase use tax registration and collection. The Department is seeking to raise revenues first by encouraging businesses to participate in a voluntary disclosure program that applies reduced taxes and penalties, and then by increasing use tax enforcement statewide.

The Ohio use tax is a counterpart to the Ohio sales tax. The use tax applies when a taxable good or service is purchased and used in Ohio but the Ohio sales tax was not paid on the transaction. Common examples occur when an Ohio business makes purchases on the Internet or from an out-of-state vendor and does not pay Ohio sales tax.

#### The Carrot — Voluntary Compliance Program

Similar to a long-standing voluntary disclosure program, the Department currently is offering taxpayers the ability to register for the use tax going forward and reduce exposure for past unpaid use taxes. The program is a way for taxpayers to come into use tax compliance without facing the sometimes agonizing realization that the taxpayer possibly has unlimited exposure from past noncompliance.

Under the voluntary compliance program, taxpayers must register as a use tax filer and generally must pay back use taxes and interest for the past four years. In exchange — absent fraud — the taxpayer avoids having to calculate or pay use tax for years prior to the look-back period and does not have to pay the normal 15% penalty for unpaid use taxes. The Department may still audit returns filed through the special program.

#### The Stick — Stepped-up Enforcement

Starting this summer, the Department plans to begin an aggressive enforcement program under which it will try to find businesses that are subject to use tax reporting and payment but currently are not doing so. One tactic to be used is cross-referencing taxpayers who are registered for other Ohio taxes, such as employee withholding or commercial activity tax, but who are not registered for the use tax. The Department plans to send

notifications to up to 400,000 Ohio businesses. Currently, fewer than 20,000 Ohio businesses have active use tax registrations.

Taking notice of Ohio's use tax voluntary compliance program now could save businesses significant back use taxes and avoid costly and time-consuming audits.