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NEW YORK
STATE OF
OPPORTUNITY.

Department
of Labor

Data Sharing for Effective Audits

THE QUESTIONS...

How do we make audits more effective?

How do I avoid burdening compliant employers with audits?

How do I leverage the data I have (or can get)?

How do I best leverage staff?

How do I meet standards (TPS, effective audit measure, agency expectations)?

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GUIDANCE AND SUCCESSFUL PRACTICE FOR EFFECTIVE AUDITS

- Employment Security Manual, Appendix E, Sections 3679 and 3681 discuss the selection of audits.

States are encouraged to maintain audit selection criteria that include indices that reflect potential noncompliance such as high employee turnover, sudden growth or Decrease in employment, type of industry, location (geography) of employers, prior reporting history, results of prior audits and adjudicated determinations.

To ensure that all employers are included in the audit selection process, States are encouraged to randomly select 10% or more audit assignments from the total universe of contributory employers.

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GUIDANCE AND SUCCESSFUL PRACTICE FOR EFFECTIVE AUDITS

- U.S. Department of Labor, Office of the Inspector General Final Report No. 03-99-006-03-315, Adopting Best Practices Can Improve Identification of Noncompliant Employers For State UI Field Audits (1998):

OIG believes that one of the most powerful tools available is analysis of IRS Form 1099 Miscellaneous Income data.

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GENERALLY RECOMMENDED ACTIONS

- Use industry experience. Select audits based on North American Industry Classification System (NAICS) codes where your experience with those codes show a higher probability for misclassification and/or unpaid contributions.
- Select employers for a second/periodic audit based on past audits that showed high levels of non-compliance.
- Work with existing misclassified task forces.
- Use Internal Revenue Service (IRS) data (there's lots of it).
- Work with other agencies (Workers' Compensation, Motor Vehicles, Revenue, Licensing).
- Work with your Labor Market Information shop to identify emerging and declining industries in the state.
- Convert investigations to audits where called for.
- Select a small percentage of employers at random.
- Data crunch (source codes, other data points).

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HOW OFTEN?

Audits take time to play out.

One year of data is generally insufficient.

Set a reasonable data evaluation schedule (every 2 to 3 years).

Learn, modify, grow, repeat.

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WORKING WITH THE IRS

- The IRS has tons of data available to states to assist in compliance efforts.
- This data adds value.
- There is a cost:
 - Confidentiality compliance is a high, but not insurmountable, bar.
 - Hands on staff primarily dedicated to this exchange adds cost but also adds value.
 - Suggestion regarding systems.
- You need two key and one optional agreement.
 - General Agreement (KEY)
 - Implementing Agreement (KEY)
 - Questionable Employment Tax Practices (QETP) Agreement (OPTIONAL)

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WHAT THE AGREEMENTS BRING

- General Agreement:
 - An ability to talk and cooperate in general. Precursor to all other agreements.
- Implementing Agreement:
 - Gets you access to the Governmental Liaison Data Exchange Program (GLDEP).
- QETP Agreement:
 - Gets you more access and even better data.

Regardless of the agreement, IRS data can only be used for 'tax administration,' not for benefits programs (excepting Treasury Offset).

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WHERE TO GO IRS AGREEMENT SHOPPING?

- Contact your local IRS Governmental Liaison.
- If you do not know who that is, contact:
 - East Chief, Eric Ruf: 615-250-5269, Eric.Ruf@irs.gov
 - West Chief, Bill Maier: 408-283-1777, Bill.C.Maier@irs.gov
 - Headquarters Chief, Brytten Rice: 763-347-7366, brytten.m.rice@irs.gov
 - Associate Director, Michael Oser: 508-513-3568, michael.j.oser@irs.gov

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GLDEP OFFERINGS...

- The Program has 20+ data offerings. We like:
 - Levy Extract – comes monthly, aids collection of contribution debts.
 - 1099 File – annual, audit selection
 - Employer Wage Data Match - quarterly, audit selection
 - Military Combat Zone Extract – avoids violation of the Sailors and Serviceman's Act.
 - A combination of the Business Master File (BMF), Business Return Transaction File (BRTF), Individual Master File (IMF), and Individual Return Transaction File (IRTF) to obtain 1099K information – annual, audit selection.
 - Potentially Dangerous Taxpayers lists – ad hoc.
- We tried:
 - Federal Employer Identification Number (FEIN) – not effective in NY's case.

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QETP OFFERINGS...

- We get and use:
 - SS8 - IRS Determinations of Employment Status.
 - RAR – copies of IRS audit findings.

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RESULTS

IRS Data Use Cumulative Totals 2007 to the 2nd Quarter 2019

	Workers Reclassified	Change in Total Wages	Contributions Due	Cases Completed	Cases Referred
RARs	1,386	\$35,870,014	\$636,678	233	979
SS8s	11,996	\$147,122,094	\$3,427,700	533	1,550
1099 MISC	186,134	\$4,256,927,502	\$42,010,237	14,450	-
Total:	199,516	\$4,439,919,610	\$46,074,615	15,216	2,529
	Levies Served	Successful Levies	Amount Collected:		
<u>Levy Extract</u>	42,563	13,745	\$34,739,618		

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IN TURN

- We have shared data on over 12,500 audits and investigations since 2010.
- We also share data on all employers ever registered and their current status (active, out-of-business).

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DATA IN CONTEXT

- Between 2015 and 2018, audits based on 1099s:
 - Found 151% more misclassified workers.
 - Found 81% more in unreported wages.
 - Found 91% more in contributions due.
 - Are 21% more effective (70% have findings versus 58% in regular audits).
- These audits do tend to take more time – currently about 21.5% more time (12 versus 9.88 hours).

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SECRET SAUCE

- Each IRS data source is evaluated in different ways.
- New York will be happy to privately share information on the formulas and processes used to evaluate data.

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