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In this installment of A Pinch of SALT, Matson and Kapsalis examine when state tax audit information requests become unnecessarily extensive or stray beyond the issues under examination and how taxpayers can challenge those requests without obstructing a legitimate audit.

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Introduction

Few pejoratives spark ire for auditors or heartburn for taxpayers like "fishing expedition": Auditors do not like being accused of conducting one, and taxpayers under audit like even less being its subject. Merriam-Webster defines "fishing expedition," in the sense used to criticize a tax audit, as "an inquiry . . . that is unnecessarily extensive or unrelated to the issues." This article examines when state tax audit information requests become unnecessarily extensive or stray beyond the issues under examination — and how taxpayers can challenge those requests without obstructing a legitimate audit.

The Purpose of Audits

The overarching purpose of every state tax audit is determining whether the correct amount of tax has been reported and paid. States express this purpose in various ways, but New Jersey provides a representative example: "The purpose of a tax audit is to verify that a taxpayer has filed returns properly and paid the correct amount of tax."[1] Most states also emphasize broader goals for their audit efforts, such as enhancing voluntary compliance, educating taxpayers, deterring evasion, or ensuring everyone pays their proverbial "fair share."

More important, however, is knowing why a state is auditing you. In most states, the audit will begin with a conference with the taxpayer. Even if this is not done as a matter of course, a taxpayer under audit should insist on one. At this initial meeting, an auditor should explain the audit process, including any formal requirements regarding standard deadlines for responding to information requests, provide information on taxpayer rights and responsibilities and, critically, describe the scope of the audit. By the end of the initial meeting, the audit's scope should be mutually understood by the auditor and taxpayer.

And it is worth asking for specifics. In some states, taxpayers have a right to know why they were selected for audit. Florida, for example, includes in its statutory taxpayer bill of rights the "right to obtain simple, nontechnical statements

[1] New Jersey Division of Taxation, "Audit" (last visited Oct. 9, 2026).

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which explain the reason for audit selection."[2] Alabama's version is even more direct: The taxpayer has "the right to know the criteria and procedures used to select taxpayers for an examination."[3]

The scope of an audit informs the relevance of information sought by the state during the audit. An auditor seeking information outside the scope of the audit is the first indication that a fishing expedition may be underway. Of course, verifying the correctness of returns filed and determining the proper amount of tax due requires an examination of books and records and other information. This is ultimately why an audit is initiated and why it always starts with states requesting things.

Auditor Requests for Information

States vary widely in the specificity of their taxpayer recordkeeping requirements. For corporate income tax, for example, Minnesota and Vermont provide no detailed guidance on record maintenance and production.[4] At the other end of the spectrum, California and New York enumerate categories of records and impose detailed requirements by tax type.[5] Kansas provides a broad, highly detailed list comprising 72 items.[6] Most states, however, simply require taxpayers to maintain all records necessary to determine the correct tax liability.[7]

But almost all states request information in the same basic way: through information document requests. An IDR is the principal written mechanism by which a state tax auditor asks a taxpayer to produce records, data, explanations, or other information needed to examine a return and determine the correct tax liability. IDRs may range from routine requests for tax returns, workpapers, general ledgers, invoices, and organizational records to more targeted inquiries concerning particular transactions or positions reflected on the return. In some states, the initial engagement or appointment letter also functions as starting an IDR by listing required records, and other states use "pre-audit" questionnaires before there has been any other initial engagement.[8] Regardless of how the process starts, information requests are the building blocks of the audit process.

Although terminology and procedures vary by jurisdiction, an IDR ordinarily identifies the information sought and establishes a deadline for production, usually followed by supplemental requests as the audit develops. Because IDRs define much of the audit's practical scope, taxpayers should evaluate each request for clarity, relevance to the taxes and periods under examination, burden, privilege, and consistency with the stated purpose of the audit before responding. And taxpayers should monitor IDR response deadlines carefully. A 30-day response period is common, although some states allow 60 days for an initial request accompanying an engagement or appointment letter.[9] Auditors and taxpayers often can agree to adjust these deadlines when circumstances warrant. Whatever period applies, the taxpayer should calendar each due date and document any agreed extension.

Relevance

Relevance is the Pole Star of navigating information requests. Requested records, data, explanations, or other information should be relevant to the scope of the audit. Auditor curiosity, intuition, or paranoia does not establish relevance. In the audit context, relevance exists when the requested information has a reasonable connection to determining the taxpayer's correct liability for the tax types and periods under examination. The standard is generally broader than whether a document will ultimately prove an adjustment, but it is not unlimited: The request must serve a legitimate audit purpose and seek information that may shed light on the accuracy

[2] Fla. Stat. section 213.015(5) (2026).

[3] Ala. Code section 402A4(2) (2025).

[4] *See* Minn. Stat. section 270C.32 (2025); Vt. Stat. Ann. tit. 32, section 3201 (2025).

[5] *See, e.g.*, Cal. Code Regs. tit. 18, section 1698, and section 19032(a)(5); and N.Y. Comp. Codes R. & Regs. tit. 20, section 39.1 and section 533.2.

[6] Kan. Admin. Regs. section 92-12-65 (2025).

[7] *See* Ind. Code section 6-8.1-3-12(c) (2025); Mich. Comp. Laws section 205.3(a) (2025); Or. Rev. Stat. section 305.190(1) (2025).

[8] *See, e.g.*, Wisconsin Department of Revenue, Publication 501, "Field Audit of Wisconsin Tax Returns" (May 2022).

[9] *See, e.g.*, S.D. Codified Laws section 10-59-7 (2025).

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of the returns, rather than merely satisfy unsupported curiosity.

Why Relevance?

The relevance standard comes from the ultimate backstop of state information seeking: subpoena enforcement. Most states have administrative subpoena or summons authority.[10] A state agency can issue an administrative subpoena to investigate facts related to its duties (that is, to further its audit). If a taxpayer refuses to comply with a subpoena, a state agency can seek court enforcement. A state court can order the taxpayer to comply with the subpoena, including demands for books and papers or testimony.[11] Ultimately, failure to comply with the court's order can lead to a finding of contempt.[12]

But state agencies do not have free rein in issuing subpoenas. The U.S. Supreme Court in *United States v. Powell* identified four foundational requirements for enforcement of an IRS summons: (1) The investigation must serve a legitimate purpose; (2) the inquiry may be relevant to that purpose; (3) the information sought must not already be in the agency's possession; and (4) the agency must have followed the required administrative steps.[13] Although these requirements are not especially demanding, the Court emphasized that a taxpayer "may challenge the summons on any appropriate ground," including that it was issued for an improper purpose or in bad faith.[14] These are commonly known as the *Powell* factors.

The *Powell* factors, which have been applied by many state courts, provide a good benchmark for understanding the requirements for the enforcement of a state agency's subpoena.[15] In applying the *Powell* factors, the Delaware Supreme Court has stated that a challenge to a subpoena as being overbroad ultimately comes down to reasonableness.[16] The reasonableness standard looks to the relationship between the nature, purpose, and scope of the inquiry, which must be "adequate, but not excessive."[17] In other words, the request contained in the subpoena must not only be relevant but also be proportional to the inquiry being conducted.

In Tennessee, for example, a taxpayer was not in contempt when it legitimately challenged a summons "so broadly worded" that it raised questions as to reasonable compliance.[18] Even cases that don't explicitly rely on the *Powell* factors still conduct an implicit proportionality analysis. The Oregon Supreme Court's upholding of a lower court's enforcement of a subpoena for out-of-state records in *Department of Revenue v. Universal Foods Corp.* is illustrative, because the court concluded that the order was "carefully tailored and limited" such that it was not unreasonable.[19]

As discussed earlier, a court may incorporate proportionality into the substance of its analysis by weighing audit scope, production burden, and the purpose of the inquiry when determining whether a subpoena is reasonable. But the analysis begins with relevance: Subpoena authority is not a license for a fishing expedition, and the same relevance principle should guide information requests at the audit level.

[10] *See* Ind. Code section 6-8.1-3-12(c); Mich. Comp. Laws section 205.3(a); Or. Rev. Stat. section 305.190(1).

[11] *See* Or. Rev. Stat. Ann. section 305.190(2).

[12] *Green v. State ex rel. Department of State Revenue*, 390 N.E.2d 1087 (Ind. App. 1979).

[13] *United States v. Powell*, 379 U.S. 48, 57-58 (1964). *Powell* reflects the general rule applicable to a typical subpoena or summons; however, more specific provisions can supersede the *Powell* requirements if they apply to the type of summons at issue. *See United States v. Church of Scientology of Boston Inc.*, 933 F.2d 1074 (1st Cir. 1991) (rejecting the argument that the *Powell* relevance standard applies to the examination of church documents under the IRC's "Church Tax Inquiries and Examination" provision).

[14] *Powell*, 379 U.S. at 58 (internal quotation omitted).

[15] *See Department of Revenue v. Continental Illinois Bank & Trust Co.*, 326 N.E.2d 453, 457 (Ill. App. 1975) (stating that Powell's "prerequisites" for obtaining enforcement of a summons "should apply equally" to the state). *See also Department of Finance v. AT&T Inc.*, 253 A.3d 537 (Del. 2021); *Roberts v. Gulf Oil Corp.*, 195 Cal. Rptr. 393 (Ct. App. 1983); *Union Pacific Railroad Co. v. Looney*, 729 P.2d 1063 (Idaho 1986); *Lassiter v. Landrum*, 610 S.W.3d 242 (Ky. 2020); *Cascio v. Beam*, 594 S.W.2d 942 (Mo. 1980); *Township of Alexandria v. Latter House of Glory Inc.*, No. 007294-2023 (N.J. Tax Ct. Apr. 1, 2025); *State v. Beno*, 298 N.W.2d 405 (Wis. Ct. App. 1980); *People ex rel. Babbitt v. Herndon*, 581 P.2d 688 (Ariz. 1978); *Atchison, Topeka & Santa Fe Railway Co. v. Lopez*, 531 P.2d 455 (Kan. 1975).

[16] *Department of Finance v. AT&T Inc.*, 253 A.3d 537, 549.

[17] *Id.*

[18] *State Department of Revenue v. Moore*, 722 S.W.2d 367, 377 (Tenn. 1986).

[19] *Department of Revenue v. Universal Foods Corp.*, 862 P.2d 1288, 1292 (Or. 1993). Oregon permits a broad inquiry into relevant information, but it "must be no broader than the needs of the particular investigation." *Id.* at 1293 (internal quotations omitted).

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Applying Relevance in State Audits

Relevance is strongest when the requested information is directly connected to specific entries on a tax return. In that circumstance, the connection between the request and the taxpayer's correct liability for the taxes and periods under examination ordinarily will be clear. However, information need not conclusively establish an adjustment to be relevant; it is enough that the material may reasonably shed light on the accuracy of the return or another issue properly within the audit's scope.

Requests may become functionally overbroad when they extend beyond the years, entities, transactions, or tax issues identified at the outset of the audit; lack a discernible nexus to the liability under examination; or impose a burden disproportionate to the request's legitimate audit purpose. These indicators should not be applied mechanically. An audit commencement letter or initial records list may be preliminary rather than exhaustive, and the auditor may reasonably expand the inquiry as facts uncovered during the examination reveal additional issues. Even so, an expanding audit should remain anchored to a legitimate purpose, with a reasonable connection between the additional information sought and the taxes, periods, or transactions under review.

For that reason, objections to an IDR are most persuasive when they do more than label the request a fishing expedition. A taxpayer should identify the specific portion of the request that exceeds the audit's stated or reasonably developed scope, explain the burden of production, and show why the requested material is unlikely to shed light on the issue being examined. The objection should also account for the state's audit process. Remember, an initial request does not limit later inquiries, and the statutory authority to conduct examinations of books and records means the initial relevance determination is by the agency rather than the taxpayer as recordkeeper. Some states have specific rules in place that can help. For example, California regulations require information requests to be "relevant and reasonable," and the auditor must explain relevance when asked. And Oregon provides a useful, but specialized, example: There is an objections process that applies to formal written interrogatories used to determine the liability of a taxpayer with business income taxable both within and outside Oregon.[20] The department's interrogatory request must explain the nature of its inquiry, the use to be made of the information, and the taxpayer's statutory appeal rights. A taxpayer may answer or state signed reasons for objecting; if the taxpayer refuses or fails to answer, the department may apply to the Oregon Tax Court for an order compelling an answer. The statute therefore provides a judicial checkpoint before disputed interrogatories are compelled.

Framing the objection in terms of relevance to the particular audit issue, proportionality, and the state's own rules gives the auditor a practical basis to narrow or clarify the request and creates a stronger record if the dispute later reaches subpoena enforcement. It is generally more effective to identify the precise concern and propose a workable alternative than to object categorically or decline to respond.

Common Areas of Dispute

Requests for information from other jurisdictions are a recurring source of friction in multistate audits. In an income tax examination, another state's return may be relevant when it helps the auditor test whether the auditing state's throwout or throwback rules apply. But relevance should be assessed state by state and issue by issue. The fact that a taxpayer filed elsewhere does not, by itself, make every out-of-state return relevant to the liability under examination, particularly when the filings reflect different tax bases, reporting methods, entities, or periods. A taxpayer therefore should ask the auditor to identify the issue that the requested returns are expected to illuminate, and consider whether schedules, reconciliations, or other targeted records could supply the pertinent information without disclosing entire returns.

Workpapers prepared for or furnished to another state raise similar concerns. Those materials may contain useful factual analyses or reconciliations, but they also may reflect positions taken under another jurisdiction's law,

[20] Or. Rev. Stat. section 305.195.

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confidential taxpayer information, settlement discussions, or attorney and accountant input that requires separate privilege review. Before an audit begins, multistate taxpayers should establish a response protocol for cross-jurisdictional requests: Identify who will collect and review the materials, confirm that the request is tied to a defined audit issue, preserve applicable privileges and confidentiality protections, and determine whether a narrower production can meet the auditor's legitimate need. A prompt, issue-specific response is generally more effective than either reflexively producing the full multistate file or objecting without offering a practical alternative.

Conclusion

Information requests are the building blocks of a state tax audit, but their proper scope remains tied to the audit's purpose. Taxpayers should identify the taxes, periods, entities, and issues under examination at the outset and evaluate each IDR against that framework. A request that moves beyond those boundaries is not necessarily improper, because an audit may reasonably develop as new facts emerge. Even so, the auditor should be able to explain how the requested information may bear on the taxpayer's correct liability, and the burden of producing it should remain proportionate to that legitimate audit purpose.

The objective is not to obstruct the audit, but to distinguish legitimate information gathering from an unnecessarily extensive or unrelated inquiry. A persuasive objection should identify the portion of the request at issue, explain its limited connection to the audit, describe the burden of production, and propose a narrower means of supplying relevant information when possible. Governing state procedures also matter: Some jurisdictions require an auditor to explain relevance, while others may provide an administrative or judicial mechanism for resolving disputed demands. By responding promptly, preserving objections in writing, and grounding them in relevance, proportionality, and applicable state law, taxpayers can cooperate with the examination without treating every request as unlimited. ■

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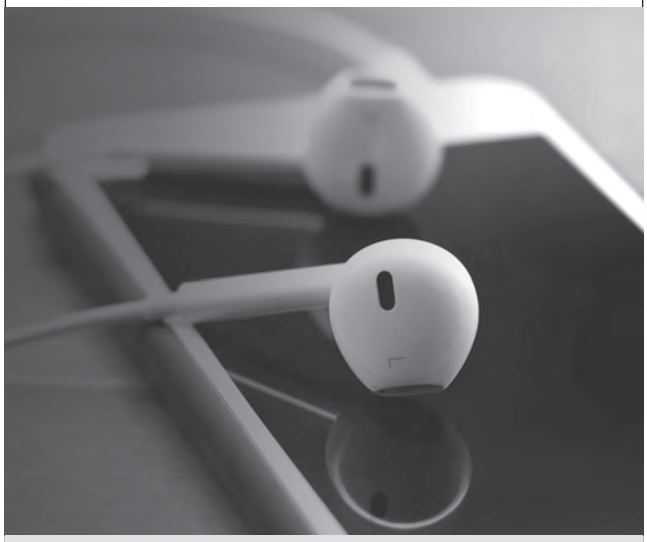

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