

EXHIBIT B

PROPOSED MODEL AUDIT SAMPLING AUTHORIZATION STATUTE  
And  
ACCOMPANYING REGULATION

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Statute

Audit Procedures.—

For purposes of administering this act, the Department may, when examining returns or records and making assessments or refunds, use statistical sampling techniques or other sampling techniques when such other techniques are reasonable.

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Regulation

Audit Procedures.—

1. For purposes of administering this act, the Department is authorized to use judgmental, probability and statistical sampling techniques.

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a. Judgmental sampling means any approach to sampling where the sample is selected based on convenience and judgment, showing characteristics where some elements of the population are subjectively favored over others, or where the chance of selection is unknown.

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b. Probability sampling means any approach to sampling where the sample units are selected into the sample based on known probabilities, and includes any sample using a method in which every element of a finite population has a known but not necessarily equal chance of being selected.

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Deleted: a. The taxpayer's records are substantially complete, but so detailed, complex or voluminous that an audit of all detailed records would be impracticable or unreasonable; or

c. Statistical sampling means any approach to sampling that has the following characteristics:

- i. Use of probability sampling techniques to select the sample; and
- ii. Use of probability theory to evaluate the sample results, including measurement of sampling risk.

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2. The use of sampling techniques is reasonable under either of the following circumstances: ~~where~~

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~~would be impractical~~

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~~technique~~  
a. It can be objectively shown with [insert your state's percentage] percent confidence that the difference between the results from a sample and audit using equal, complete coverage for all population units is within a [insert your state's percentage] percent margin of error; or

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b. Where the state, prior to selecting the sample, has provided to the taxpayer in writing that sampling will be used during the audit examination, and the taxpayer has not provided written and timely objection to the use of sampling methods before the sampling commences. The [insert your state's tax agency] must provide [insert your state's notice requirements] written notice prior to selecting the sample. Such notice should include the description of the records to be sampled, sample size, sample technique and extrapolation methods in the event the sample uncovers tax adjustment errors.

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3. Notwithstanding section 2(b), the [insert your state's tax agency] shall make a reasonable effort to reach agreement with the taxpayer providing for the means and techniques to be used in the sampling process; however, the failure of the [insert your state's tax agency] to reach an agreement with the taxpayer shall not preclude the [insert your state's tax agency] from using sampling techniques to audit a taxpayer's records.

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