

(1) **SCOPE. Safeguarding state tax return information is critical. All tax returns, forms, and supporting documents filed with the department, are confidential. Specific information filed with the department relating to a taxpayer is not public information. Return information use is restricted solely for the purpose of tax administration, collection, and enforcement purposes and access shall only be allowed to employees of the department and authorized persons as defined in this rule.**

(a) ~~It is unlawful for any person (other than the taxpayer or the taxpayer's authorized representative) to print, publish, or disclose, without the written permission or approval of the taxpayer, in any manner any information pertaining to a particular tax returns except as follows: without written authorization from the Commissioner or as otherwise provided by law. The law provides for the exchange of tax returns and return information between the Department and certain other entities. This regulation applies to the inspection of all tax returns and return information by persons other than employees and/or agents of the Alabama Department of Revenue, unless confidentiality of returns and/or return information is addressed under separate statute.~~

**1. Upon an order of any court.**

**Note: A subpoena or an administrative order is not sufficient for the release of tax information.**

**2. The exchange between the department and authorized tax officers of foreign, federal, state, municipal, or county governments solely for tax administration purposes upon approval of the commissioner.**

(2) **Definitions.** The following terms have the meaning ascribed to them for purposes of this **rule regulation**, unless the context clearly indicates otherwise.

(a) **Inspection.** A review of tax returns and/or return information **allowed under §40-18-53, Code of Ala. 1975.**

(b) **Return.** Any tax or information return or report, ~~declaration of~~ estimated tax **payments**, claim or petition for refund or credit, or petition for reassessment or protest that is required by, or provided for, or permitted, under the provisions of the tax laws of this state **whether filed on paper or filed electronically.**

(c) **Return Information.** **With the exception of provisions 1. and 2. below, any information that is derived from any return or any supporting documents such as the A taxpayer's identity, the nature, source, or amount of his their income, gains, losses, formulary apportionment factors, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, deficiencies, over-**

assessments, or tax payments, whether the taxpayer's return was, is being, or will be, examined or subject to other investigation for processing. This term also includes any other data received, recorded by, prepared by, furnished to, or collected by the ~~D~~department whether acquired by audit, or by any other person means under the laws of this state with respect to a tax return or with respect to the determination of the existence, or possible existence of liability (or the amount thereof); provided, that this information will be used only for administration, collection, or enforcement of the tax laws, including tax, additions to tax, penalty, interest, fine, or other imposition, or offense.

1. "Return information" does not include, ~~however, data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. "Return information" also does not~~ statistical information, nor does it include information obtained from the Internal Revenue Service (IRS), ~~the d~~Disclosure of IRS information of which is prohibited by the terms of the agreement between the IRS and the department~~Service and the Department~~.

2. For purposes of ~~the sales and use tax~~ Sales Tax and Use Tax, "return information" ~~shall~~ also includes whether the taxpayer is authorized to use a direct pay permit and any information related thereto; and the names of customers and any other relevant information related to specific sales and use tax transactions, ~~or information acquired by audit of taxpayers' records.~~

(d) Statistical Information. Any aggregate tax information which is compiled ~~and/or~~ assembled in a form that cannot be reasonably associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(e) Authorized persons. Any duly authorized tax officers of the department or of another Alabama state, municipal, or county governmental agency, federal government agencies, any association of state government tax agencies, who has been ~~and any state government tax agencies of other states~~ authorized to request, inspect, or receive tax returns, forms, and supporting documents or return information through the official custodian of the records.

**Note:** Tax officers are defined as employees and elected officials of the tax agency and do not include contractors of the tax agency.

(f) Official custodian of the records. The ~~D~~department Disclosure Officer ~~and/or~~ other designated ~~D~~department employees.

(g) Verifiable electronic means. This term refers to tax information which is requested or submitted through ~~telecommunication channels (i.e., facsimile machines, file transfer protocol (FTP), or modems)~~ electronic transmissions that has some means of verification as to the authority of the party requesting or submitting the tax information.

~~(3) PURPOSE. The purpose of this regulation is to authorize the inspection of tax returns and return information in the custody of the Department by authorized persons.~~

~~(4)(3) Procedure. (a)~~ An agreement to allow inspection of tax returns and return information or an exchange of tax returns and return information must be approved by the Commissioner or their his delegate.

~~(b) (a)~~ An agreement may provide for the inspection or exchange of information for a specific return, or may provide for the regular or routine exchange of returns or information on such basis as the parties may agree.

~~(c) (b) Unless prior arrangements have been made and approved by the Commissioner or his delegate, Requests for tax returns and/or return information by authorized persons other than employees and/or agents of the Department shall~~ must be either in writing or by verifiable electronic means and must indicate, if available, ascertainable the following:

- ~~1. the tax administration~~ Reason for the exchange;
- ~~2. the~~ Name and address of each taxpayer for whom tax returns and/or return information is requested;
- ~~3. the taxpayer's~~ Social security number and/or federal identification number, if available;
- ~~4. the~~ inclusive dates for tax information requested, when applicable; and,
- ~~5. any other information which may deemed necessary to help facilitate the exchange, such as taxpayer's legal name, business name, address, and/or a Department tax identification number(s).~~

~~(d) (c)~~ Any agreement approved by the Commissioner or their his delegate shall be valid for the term specified in such agreement, or as may be mutually agreed to by the parties. An agreement may be canceled or revoked at any time by the Commissioner or their his delegate upon due notice to the other party. An agreement will be revoked immediately if confidentiality of information is violated. Any such agreement will automatically be revoked if the other party terminates the reciprocal privileges of the ~~D~~epartment.

~~(e) (d)~~ All agreements entered into by the Commissioner or their his delegate pursuant to this regulation rule shall be available for public inspection in the ~~office of the Department's~~ Disclosure Officer's office.

~~(f) (e)~~ Inspection of income tax returns, forms, and supporting documents and/or ~~income tax return information~~ by county and municipal representatives or by

federal agencies, other than the ~~Internal Revenue Service~~ IRS, is prohibited. Inspection by other authorized persons is allowed, provided that each party allows the ~~D~~department the reciprocal privilege of inspecting income tax returns and receiving income tax information. Inspection of income tax returns, forms, and supporting documents and/or income tax return information in possession of the ~~D~~department by any person, other than authorized persons, is prohibited except upon order of a court.

~~(g)~~ (f) Authorized persons accessing tax returns, forms, and supporting documents through the department shall must sign a Nonemployee Confidentiality and Disclosure Statement acknowledging the ~~D~~department's confidentiality statute provisions and a copy of. ~~T~~the signed Nonemployee Confidentiality and Disclosure Statement shall be kept on file with the ~~D~~department, and a copy of the signed agreement will be kept on file with the other Alabama state, county, or municipal governmental agency. Authorized persons allowed to receive or disclose tax information under an exchange of information agreement with the department must sign a Nonemployee Disclosure and Exchange Statement acknowledging the department's confidentiality statute provisions. A copy of the signed Nonemployee Disclosure and Exchange Statement must be kept on file with the state, county, or municipal governmental agency.

~~(h)~~ Inspection of aggregate tax information by county and municipal representatives shall be allowed on an annual basis for any one type of tax, unless additional requests are approved by the Commissioner or his delegate.

~~(i)~~ Inspection of business privilege tax or franchise tax returns and/or return information by county representatives will be allowed only upon specific authority of the Commissioner or his delegate.

~~(j)~~ (g) The ~~D~~department may issue a good standing certificate of compliance to a requesting person with respect to whether an entity has any outstanding liabilities for state taxes administered by the department and whether the entity is up to date with all required state tax filings as of the time of the request. A fee as prescribed in §40-2A-10 must accompany each certificate request, a corporation's business privilege tax or franchise tax returns. For purposes of this regulation, a good standing certificate shall disclose whether the entity doing business in Alabama has filed all Alabama business privilege tax or franchise tax returns due and paid the taxes associated with these returns. This certificate may be issued for business privilege taxes on entities, except nonprofits, general partners and sole proprietors, or domestic and foreign franchise taxes on corporations and shall not include actual tax amounts due or paid.

~~(k)~~ If confidentiality of returns or return information is addressed under separate statute, then inspection of such returns or return information may continue to be allowed or may be restricted as deemed necessary through other statute or regulation.

~~(l)~~ **Inspection of tax returns and/or return information by non-taxing legal authorities such as the Alabama Bureau of Investigation or the Federal Bureau of Investigation will be allowed upon approval of the director of the tax division and an order of the Commissioner, unless specifically prohibited by other statute.**

~~(m)~~ **(h)** Inspection of third party records in possession of the Ddepartment through subpoena ~~and/or~~ other legal means by persons other than employees ~~and/or~~ agents of the Ddepartment is prohibited, except upon order of a court, issuance of an IRS summons, or with the consent of the third party which supplied the records to the Ddepartment in compliance with its subpoena.

~~(n)~~ **(i)** If any employee or agent of the Ddepartment discloses any tax return information, including statistical information in a manner that is not provided for by rule, without permission from the Commissioner then such employee or agent shall be subject to disciplinary action in accordance with the Alabama Personnel Ddepartment rules and regulations.

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