

810-14-1-.29 General Disclosure and Exchange of Information Guidelines .

(1) SCOPE. Except as provided by law, 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 return 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.

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

(a) Inspection. A review of tax returns and/or return information.

(b) Return. Any tax or information return or report, declaration of estimated tax, 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.

(c) Return information. A taxpayer's identity, the nature, source or amount of his 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 Department or any other person 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 include information obtained from the Internal Revenue Service, the disclosure of which is prohibited by the terms of the agreement between the Service and the Department.

2. For purposes of the sales and use tax, "return information" shall also include 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 another Alabama state, municipal, or county government agency, federal government agencies, any association of state government tax agencies, and any state government tax agencies of other states who have been authorized to request, inspect, or receive tax returns or return information through the official custodian of the records. 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 Department's Disclosure Officer and/or other designated 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) 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) 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 his delegate.

(b) 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) 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 be in writing or by verifiable electronic means and must indicate, if available, 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 help facilitate the exchange, such as taxpayer's legal name, business name, address, and/or a Department tax identification number(s).

(d) Any agreement approved by the Commissioner or 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 his delegate upon due notice to the other party. An agreement will be revoked immediately if confidentiality of information is violated. An agreement will automatically be revoked if the other party terminates the reciprocal privileges of the Department.

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

(f) Inspection of income tax returns and/or income tax return information by county and municipal representatives or by federal agencies, other than the Internal Revenue Service, is prohibited. Inspection by other authorized persons is allowed, provided that each party allows the Department the reciprocal privilege of inspecting income tax returns and receiving income tax information. Inspection of income tax returns and/or income tax return information in possession of the Department by any person, other than authorized persons, is prohibited except upon order of a court.

(g) Authorized persons shall sign a Nonemployee Confidentiality and Disclosure Statement acknowledging the Department's confidentiality statute provisions. The signed Nonemployee Confidentiality and Disclosure Statement shall be kept on file with the Department and a copy of the signed agreement will be kept on file with the other Alabama 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) The Department may issue a good standing certificate to a requesting person with respect to 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) Inspection of third party records in possession of the Department through subpoena and/or other legal means by persons other than employees and/or agents of the Department 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 Department in compliance with its subpoena.

(n) If any employee or agent of the Department discloses any tax return information, including statistical information, without permission from the Commissioner then such employee or agent shall be subject to disciplinary action in accordance with the Alabama Personnel Department's rules and regulations.

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