

(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 to print, publish, or disclose, without the written permission or approval of the taxpayer, in any manner information pertaining to tax returns except as follows:

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, 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, 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 taxpayer's identity, the nature, source, or amount of 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 department whether acquired by audit, or by any other 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 statistical information, nor does it include information obtained from the Internal Revenue Service (IRS). Disclosure of IRS information is prohibited by the terms of the agreement between the IRS and the department.

2. For purposes of Sales Tax and Use Tax, "return information" 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.

(d) Statistical Information. Any aggregate tax information which is compiled 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 officer of the department or another state, municipal, or county governmental agency, federally government agency, association of state government tax agency, who has been authorized to request, inspect, or receive tax returns, forms, and supporting documents-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 department Disclosure Officer or other designated department employees.

(g) Verifiable electronic means. This term refers to tax information which is requested or submitted through electronic transmissions that has some means of verification as to the authority of the party requesting or submitting the tax information.

(3) Procedure. 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 delegate.

(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.

(b) Requests for tax returns or return information by authorized persons must be either in writing or by verifiable electronic means and must indicate, if ascertainable, the following:

1. Reason for the exchange.

2. Name and address of each taxpayer for whom tax returns and/or return information is requested.

3. Social security number or federal identification number.

4. Inclusive dates for tax information requested.

5. Any information deemed necessary to help facilitate the exchange.

(c) Any agreement approved by the Commissioner or their 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 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 department.

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

(e) Inspection of income tax returns, forms, and supporting documents by county and municipal representatives or by federal agencies, other than the IRS, 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, forms, and supporting documents in possession of the department by any person, other than authorized persons, is prohibited except upon order of a court.

(f) Authorized persons accessing tax returns, forms, and supporting documents through the department must sign a Nonemployee Confidentiality and Disclosure Statement acknowledging the department's confidentiality statute provisions and a copy of the signed Nonemployee Confidentiality and Disclosure Statement shall be kept on file with the department. 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.

(g) The department may issue a 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.

(h) Inspection of third party records in possession of the department through subpoena or other legal means by persons other than employees 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.

(i) If any employee or agent of the department discloses any tax return information, including statistical information in a manner that is not provided for by rule, then such employee or agent shall be subject to disciplinary action in accordance with the Alabama Personnel department rules and regulations.

Authors: Kelly M. Graham

Authority: §§ 40-2A-7(a)(5), 40-2A-10, Code of Ala.1975.

History: Filed with LRS June 30, 1992. Refiled May 20, 1993.

Certification filed with LRS July 20, 1993, effective August 24, 1993.

Amended: Filed April 2, 1996; effective May 7, 1996.

Amended: Filed October 27, 2003; effective December 1, 2003.

Amended: Filed January 20, 2021; effective March 15, 2021.