



State of Alabama Department of Revenue

COM: 103
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Nonemployee Confidentiality and Disclosure Statement

By reading this entire statement and signing, I agree that I fully understand that, pursuant to Section 40-2A-10, **Code of Alabama 1975**, I shall not publish, divulge, disclose or make known in any manner or to any extent not authorized by law any information contained in any return, report or record when it identifies or discusses a taxpayer. I also understand that any tax return or return information that I come in contact with will not be used for private gain, is completely confidential and may not be divulged or disclosed at any time, now nor in the future.

Further, I agree that I understand that if I violate this confidentiality statute, I will have committed a Class A misdemeanor for each act of disclosure, which is punishable by imprisonment in the county jail or to hard labor for the county for a period of not more than one year and/or a fine of not more than \$2,000. I am aware that the Department of Revenue does receive tax information from the Internal Revenue Service, and that I may be subject to federal confidentiality statutes provided under the Federal Driver's Privacy Protection Act, The Federal Tax Reform Act of 1976, or the Taxpayer Browsing Protection Act, as described on the reverse page, and, if I violate these statutes, I will be subject to the penalties provided for under these applicable laws. I also acknowledge that I have been provided with a copy of this statement for my personal records.

SIGNATURE

PRINT NAME

| X | X | X | X | X | | | | |
SOCIAL SECURITY NUMBER (LAST 4 DIGITS ONLY)

DATE

COMPANY NAME

REASON FOR ACCESS TO TAX RETURN INFORMATION

Section 40-2A-10, Code of Alabama 1975 provides as follows:

Confidentiality, disclosure, and exchange of tax returns and tax information.

(a) Except as otherwise provided in this section, it shall be unlawful for any person to print, publish, or divulge, without the written permission or approval of the taxpayer, the return of any taxpayer or any part of the return, or any information secured in arriving at the amount of tax or value reported, for any purpose other than the proper administration of any matter administered by the department, a county, or a municipality, or upon order of any court, or as otherwise allowed in this section. Statistical information pertaining to taxes may be disclosed at the discretion of the commissioner or his or her delegate to the legislative or executive branch of the state. Upon request, the commissioner or his or her delegate may make written disclosure as to the status of compliance of entities subject to the requirements contained in Chapter 14, prior to its repeal, and Chapter 14A, as applicable. A good standing certificate shall be issued to a requesting person with respect to a business entity if the entity has filed all state tax returns required under Chapter 14, prior to its repeal, and Chapter 14A, as applicable, and paid the taxes shown as payable in accordance with those returns. Any person found guilty of violating this section shall, for each act of disclosure, have committed a Class A misdemeanor. Additionally, to the extent provided in 26 U.S.C. § 7213A, it shall be unlawful for any state employee willfully to inspect, except as authorized in 26 U.S.C. § 6103, any federal tax return or federal tax return information acquired by the employee or another person under a provision of 26 U.S.C. § 6103 referred to in 26 U.S.C. § 7213(a)(2).

(b) This section shall not apply to returns filed and information secured under laws of the state (1) governing the registration and titling of motor vehicles, (2) levying or imposing excise taxes or inspection fees upon the sale of, use, and other disposition of gasoline and other petroleum products, (3) governing the licensing of motor vehicle dealers, reconditioners, rebuilders, wholesalers, and automotive dismantlers and parts recyclers, (4) governing the privilege licenses as provided in Chapter 12, other than Article 4, of this title or (5) governing the issuance or affixing of tobacco stamps required under Chapter 25.

(c) This section shall not apply to the disclosure of the amount of local privilege license or franchise fees paid to counties and municipalities by any taxpayer possessing a franchise (whether or not exclusive) granted by the respective county or municipality. However, any information other than the amount of license or franchise fees paid, including returns or parts thereof or documents filed with or secured by any municipality or county or their authorized agent and relating to local privilege licenses and franchises shall remain confidential information subject to subsection (a).

(d) Except as otherwise provided in subsection (m) of Section 40-2A-9, the orders of the administrative law judge and all evidence, pleadings, and any other information offered or submitted in any appeal before the Administrative Law Division are not subject to this section.

(e) The commissioner shall promulgate reasonable regulations permitting and governing the exchange of tax returns, information, records, and other documents secured by the department, with tax officers of other agencies of the state, municipal, and county government agencies in the state, federal government agencies, any association of state government tax agencies, any state government tax agencies of other states, and any foreign government tax agencies. However, (1) any tax returns, information, records, or other

documents remain subject to the confidentiality provisions set forth in subsection (a); (2) the department may charge a reasonable fee for providing information or documents for the benefit of self-administered counties and municipalities; (3) self-administered counties and municipalities may charge a reasonable fee for providing information or documents for the benefit of the department; and (4) any exchange shall be for one or more of the following purposes:

a. Collecting taxes due.

b. Ascertaining the amount of taxes due from any person.

c. Determining whether a person is liable for, or whether there is probable cause for believing a person might be liable for, the payment of any tax to a federal, state, county, municipal, or foreign government agency.

(f)(1) Nothing herein shall prohibit the use of tax returns or tax information by the department or county tax collecting officials in the proper administration of any matter administered by the department or county tax collecting officials. The department, a municipality, or county tax official may also divulge to a purchaser, prospective purchaser, as defined pursuant to the regulations of the department, or successor of a business or stock of goods the outstanding sales, use, or rental tax liability of the seller for which the purchaser, prospective purchaser, as defined pursuant to the regulations of the department, or successor may be liable pursuant to Section 40-23-25, 40-23-82, or 40-12-224. This section shall not preclude the inspection of returns by federal or foreign state agents pursuant to Section 40-18-53.

(2) Upon a request by the State Treasurer, the commissioner may provide the State Treasurer with the names and addresses of those persons entitled to property acquired by the state under Article 2 of Chapter 12 of Title 35, the Uniform Disposition of Unclaimed Property Act. The information shall be used by the State Treasurer solely for the purpose of administering the Uniform Disposition of Unclaimed Property Act.

(g) Nothing herein shall prohibit the exchange of information between and among county or municipal governments, provided that any exchange shall be subject to the same restrictions and criminal penalties imposed on the department and its personnel as described in this section.

(h) In no event shall any damages, attorney fees, or court costs be assessed against the state, a county, or a municipal government under this section, nor shall any damages, attorney fees, or court costs be assessed against elected officials, officers, or employees of a state, county, or municipal government.

(Acts 1992, No. 92-186, p. 349, §9; Acts 1995, No. 95-607, p. 1279, §2; Act 98-191, p. 297, §4; Act 98-502, p. 1083, §1; Act 2000-705, p. 1442, §3; Act 2000-738, p. 1617, §1; Act 2002-496, §1; Act 2006-577, p. 1518, §1.)

Federal Driver's Privacy Protection Act, Public Law 103-322, Title XXX

The Federal Driver's Privacy Protection Act (FDPPA), codified under 18 USC Section 2721 through Section 2725, prohibits the disclosure of any "personal information" obtained by the department in connection with a motor vehicle record. The act defines personal information as any information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information.

Notwithstanding the exception in Section 40-2A-10(b) that permits disclosure of motor vehicle registration information, federal law supersedes state law. However, there are certain disclosures permitted under the FDPPA. Pursuant to this federal law, sanctions are in place for unauthorized disclosure. The department could face sanctions including a U.S. Attorney General's penalty of up to \$5,000 a day, and civil action can be taken against an employee for actual damages (not less than \$2,500), punitive damages, attorney fees, and court costs by the individual whom the information pertains.

Inspection and Disclosure of Federal Tax Returns and Federal Return Information

The Federal Tax Reform Act of 1976 authorizes State Department of Revenue personnel to use federal tax returns and federal return information in the administration of the state revenue laws. The use of this information is restricted to those employees actually engaged in the state review, examination, or audit of the taxpayer about whom the information was requested. This act provides for penalties for unauthorized disclosure of any federal return or return information.

In August 1997, the Taxpayer Browsing Protection Act (Public Law 105-35) was passed to prevent any willful, unauthorized inspection of federal tax return and federal return information. This act provides for penalties for the willful, unauthorized inspection of any federal tax return or federal return information in the possession of the Department.

Under federal law, the penalties provided in these acts are as follows:

- Under IRC Section 7213, unauthorized disclosure by a former employee as well as a current employee of any federal tax return or federal return information is a felony punishable upon conviction by a fine up to \$5,000 and imprisonment of up to five years or both, together with the cost of prosecution.
- Under IRC Section 7213A, any willful, unauthorized access or inspection by an employee of any federal tax return or federal return information shall be punishable upon conviction by a fine in any amount not exceeding \$1,000, or imprisonment of not more than one year, or both, together with the cost of prosecution.
- Under IRC Section 7431, civil action may be brought against a former employee as well as a current employee unlawfully inspecting or disclosing federal return or return information by any taxpayer damaged by such unauthorized inspection or disclosure. The action may be brought within two years from the time the taxpayer became aware of the unauthorized inspection or disclosure, and damages may never be less than \$1,000, plus the cost of the action.

Section 40-1-43, **Code of Alabama 1975**, provides that it is unlawful for any officer, employee, agent, or former employee or agent of the State Department of Revenue to use a federal return, or information reflected on such federal return, for any purpose other than in the administration of the revenue laws administered by the State Department of Revenue except as authorized by the Internal Revenue Code. Any person violating this provision shall be guilty of a misdemeanor and shall be fined not to exceed \$1,000 and sentenced to hard labor for not more than one year. Additionally, any Revenue employee or agent convicted will be terminated with the Department of Revenue.