

TO: All Tax Department Employees
FROM: Thomas M. Zaino, Tax Commissioner
DATE: February 5, 2001
RE: Disclosure of Tax Return and Payment Information

This memorandum sets forth Department procedures for protecting and disclosing confidential taxpayer information. Various sections of the Ohio Revised Code prohibit the unauthorized disclosure of confidential tax return and payment information by employees of the Department of Taxation. You must always be aware of potential disclosure problems in your dealings with taxpayers, practitioners, the news media, elected officials, government representatives, and the public in general. If you are uncertain whether or not to disclose tax return and payment information, do not disclose, and ask your supervisor for assistance or refer the inquiry to your supervisor.

For purposes of this memo, "tax return and payment information" includes, but is not limited to, the following:

- a. Tax returns, reports, vouchers, and other filings (paper, electronic, etc.).
- b. Attachments to the above-listed documents.
- c. Identification numbers (SSN, FEIN, VL #, corporation franchise tax ID #, etc.).
- d. Envelopes and other packages or containers containing the above-listed documents.
- e. Names, addresses, financial information, number of dependents, related members, and any other information other than (i) the names of the corporate officers and directors, and (ii) the names and addresses of statutory agents contained in the above-listed documents.
- a. Checks, money orders, and other methods of payment (such as credit card and debit card account numbers).
- b. Payment and nonpayment information.
- c. Screen prints.
- d. Billing notices, assessments, worksheets, and any other documents generated by employees of this agency.
- e. Returns, revenue agent reports ("RARs"), and all other information (including computer paper and cartridges) this agency receives from the IRS.
- f. Lien pay-off figures and other related information.
- g. Copies of the above.

Set forth below are specific procedures you must follow in responding to various types of requests for confidential tax return and payment information. Section 1.0 addresses requests made by taxpayers, and Section 2.0 addresses requests made by taxpayers' representatives, including, but not limited to, practitioners, attorneys, accountants, or other authorized representatives. Flow charts follow the discussion. This memorandum also addresses inquiries made by the news media or general public, and government or elected officials (Section 3.0), as well as other pertinent disclosure information (Section 4.0).

1.0 TAXPAYER REQUESTS

1.1 WALK-IN TAXPAYERS

If a taxpayer visits one of our offices and requests confidential tax return or payment information, you are permitted to disclose the information once the individual establishes her/his identity (driver license or other picture ID). If a taxpayer is asking about her/his income tax return and the taxpayers filing status is married filing jointly ("MFJ"), only one taxpayer needs to be present. Similarly, if a partner of a partnership or member of a Limited Liability Company ("LLC") is asking about a return filed by the partnership or LLC, only one partner or member needs to be present.

1.2 TAXPAYER WRITTEN REQUESTS (OTHER THAN E-MAIL)

If a taxpayer submits a signed request for confidential tax return or payment information, you are permitted to mail, e-mail or fax the information to such taxpayer or to any person the taxpayer designates. You can send the material to whatever address or fax phone number the taxpayer-submitted written request indicates; however, complying with the request is subject to the following limitations:

- a. If the taxpayer-submitted written request is for an individual income tax return, a transcript (in the case of e-filed and tele-filed individual income tax returns) or return information, the written request

must include the taxpayers signature, and that signature must resemble the signature shown on the return (if the taxpayer filed a "paper" return). If the taxpayer did not file a paper return, then it is okay to comply with the request.

b. If the taxpayer-submitted written request is for any other (i.e., non-individual) type of tax return or report, transcript, or return information, for the Department to honor the request, the request must include the signature of one of the following individuals:

c. The sole proprietor of the business (if the business is operated as a sole proprietorship).

d. The executor/administrator of the estate (if the taxpayer is an estate).

e. The trustee (if the taxpayer is a trust or if the taxpayer is, at the time of the request, in bankruptcy proceedings).

f. A business "receiver" (if, at the time of the request, the business is in receivership).

g. A corporate officer, tax director, tax manager, or employee of the taxpayers tax department. The signature must appear on the business letterhead (stationery).

h. A general partner (if the taxpayer is a partnership), a "member," (if the taxpayer is an LLC), tax director, tax manager, or tax department employee. The signature must appear on the business letterhead (stationery).

If the request does not include the signature of one of the above-listed individuals, do not disclose, and contact the requestor to explain why you cannot disclose.

1.3 TAXPAYER TELEPHONE REQUESTS

If a taxpayer makes a telephone request to mail confidential tax return and payment information to the most current address "on the system," you can do so without the need to obtain any additional information to confirm that you are actually talking to the taxpayer. However, if the taxpayer asks you to do any of the following, you may do so only if you are reasonably certain that you are talking to the taxpayer:

a. Mail the requested information to a "new" address (i.e., an address not "on the system").

b. Change the taxpayers mailing address.

c. Disclose either over the phone or by fax her/his confidential tax return and payment information.

d. E-mail the requested information.

e. Mail or e-mail confidential tax return and payment information to someone other than the taxpayer.

To obtain reasonable assurance that you are talking to the taxpayer, the caller must provide the following additional information which must substantially conform to the information "on the system":

a. The taxpayers full name and current address (or "old" address in those circumstances where the taxpayer is changing her/his address).

b. The taxpayers social security number or tax ID.

c. The tax period(s).

d. Additional information about the tax period(s) which makes you feel confident that you are talking to the taxpayer. Such information includes, but is not limited to, the following:

e. If the taxpayer is calling about a bill or an assessment, the taxpayer must give the amount of the bill or assessment.

f. If the taxpayer is calling about a tax return, the taxpayer must set forth the amount of the refund or the balance of the tax due.

g. If the taxpayer is calling to find out about tax payments, the taxpayer must provide either the amount of the refund for the immediately preceding taxable year (or tax period) or the balance of the tax due liability for the immediately preceding taxable year (or tax period).

If you have any doubt about the identity of the person with whom you are speaking, you should ask the caller to make a signed request, meeting the requirements discussed in Section 1.2 of this memorandum.

1.4 TAXPAYER E-MAIL REQUESTS

A taxpayer may send us an e-mail request. If the e-mail request contains a scanned hand-written signature (and most likely very few e-mails, if any, will contain a scanned handwritten signature), then the Department will treat the e-mail the same as a signed request on paper (see Section 1.2 of this memorandum). That is, the Department will mail, e-mail or fax the requested information to whatever address is indicated in the e-mail request containing a handwritten signature.

If the e-mail request does not contain a scanned handwritten signature, then the Department will treat

the e-mail request the same as a telephone request (see Section 1.3 of this memorandum). As such, as long as the taxpayers e-mail request not containing a scanned signature asks that you mail (but not e-mail or fax) confidential tax return and payment information to the most current address on the system, there is no need for the e-mail request to set forth any additional information to confirm that the sender of the e-mail request is actually the taxpayer.

However, if the e-mail request not containing a scanned signature asks us to change the taxpayer's mailing address, to mail or e-mail the requested information to a "new" address, to fax the requested information, or to mail or e-mail confidential tax return and payment information to someone other than the taxpayer, then you **MUST** obtain additional information in order to confirm that the "sender" of the e-mail request not containing a scanned signature is really the taxpayer. The latter portion of Section 1.3 of this memorandum discusses the additional information you must obtain to provide you with reasonable assurance that the "sender" of the e-mail is really the taxpayer.

2. TAXPAYER REPRESENTATIVE REQUESTS

As referenced in this section, taxpayer representative includes, but is not limited to, practitioners, attorneys, accountants, or other authorized representatives.

2.1 WALK-IN TAXPAYER REPRESENTATIVE

If a taxpayer representative visits one of our offices and possesses a properly completed Ohio Form TBOR-1 (attached), or if a properly completed TBOR-1 is on file, then you can make any disclosure and provide any information so long as such disclosure/providing of information is authorized by the form. However, if a taxpayer representative visits one of our offices and does not possess a properly completed Ohio Form TBOR-1, or if a properly completed TBOR-1 form is not on file, treat the matter the same as if you were receiving a telephone request from a taxpayer representative. That is, you cannot give her/him any documents, but you can verbally disclose only if she/he provides the same information that we require for telephone requests (see Section 2.3).

2.2 TAXPAYER REPRESENTATIVE WRITTEN REQUESTS (OTHER THAN E-MAIL)

If a taxpayer representative submits a signed request for confidential tax return or payment information, you are permitted to mail, e-mail, or fax the information to such taxpayer representative only if the taxpayer has given written authorization for the taxpayer representative to make such a written request. A properly completed Ohio Form TBOR-1 constitutes the taxpayers written authorization. If the request does not include a properly completed Ohio Form TBOR-1, please notify the taxpayer representative that the TBOR-1 form is available on the Department's Internet Web Site, or mail or fax the TBOR-1 form to the taxpayer representative immediately. Be sure to include a letter explaining why you have mailed or faxed the form. Please note that we do not honor the IRS Form 2848 even if the form expressly refers to Ohio taxes.

EXCEPTION: The Department will continue to honor written requests from a law firm, CPA firm, or corporation, such as CT Corporation System, advising us that it is the official representative for another corporation requesting confirmation that the corporation is in good standing (e.g., a D-1 Status Certificate). The Department will not require a completed TBOR-1 form in these situations.

2.3 TAXPAYER REPRESENTATIVE TELEPHONE REQUESTS

If a taxpayer representative makes a telephone request for confidential tax return and payment information of a client, you are permitted to disclose over the phone (but not fax, mail, or e-mail) such information only if you are certain that the caller is representing the taxpayer in connection with Ohio tax matters. To confirm that you are actually talking to an individual representing the taxpayer in connection with Ohio tax matters, the caller must provide the following:

- a. A verbal statement by the taxpayer representative that she/he is representing the taxpayer in this matter.
- b. The taxpayer representatives name and the name of his/her employer (if any).
- c. The taxpayers full name.
- d. The taxpayers current address.
- e. The taxpayers social security number or tax ID#.
- f. The tax period(s).
- g. The "particulars" about the tax period(s). Such information includes, but is not limited to, the following:

- h. If the caller is asking about a bill or an assessment, the caller must give the amount of the bill or assessment.
- i. If the caller is asking about a tax return, the caller must set forth the dollar amount of the refund or the balance of the tax due.
- j. If the caller is asking to find out about tax payments, the caller must provide either the amount of the refund for the immediately preceding taxable year (or tax period) or the balance of the tax due for the immediately preceding taxable year (or tax period).

If you have any doubt about the identity of the person with whom you are speaking, you should ask the caller to (i) put the request in writing, and (ii) include the taxpayers written authorization allowing us to disclose to the caller. You should also tell the caller that, in response to the call and without the necessity of any written request, you can mail the requested information to the taxpayers most current address that is "on the system." However, you cannot tell the caller what the system shows as the current address.

If a taxpayer representative makes a telephone request for us to mail or e-mail or fax confidential tax return and payment information of a client, you cannot do so unless the caller has filed with the Department a properly completed Ohio Form TBOR-1 or its equivalent. Under no circumstance should you mail, e-mail, or fax to a taxpayer representative confidential tax return and payment information in response to a telephone request unless the taxpayer has submitted a properly completed Ohio Form TBOR-1 or its equivalent.

2.4 TAXPAYER REPRESENTATIVE E-MAIL REQUESTS

A taxpayer representative may send us an e-mail request. If the taxpayer has given written authorization for the taxpayer representative to make such a request, you may mail, e-mail or fax the requested information to the address, e-mail address, or fax number on file (i.e., to the address, e-mail address or fax number designated on a properly completed Ohio Form TBOR-1). A properly completed Ohio Form TBOR-1 constitutes the taxpayers written authorization.

If the request does not include a properly completed Ohio Form TBOR-1, please e-mail a TBOR-1 form to the taxpayer representative. Be sure to explain why you have e-mailed the form. Please note that we do not honor the IRS Form 2848 even if the form expressly refers to Ohio taxes.

Additionally, you may inform the requestor that in response to the e-mail request, and without the necessity of any authorized written request, you can mail the requested information to the taxpayer's most current address that is "on the system." However, you cannot tell the requestor what the system shows as the current address.

Set forth on the next several pages are flowcharts to help you determine when you can disclose and how you can disclose.

3.0 NEWS MEDIA, GOVERNMENT, GENERAL PUBLIC, OR ELECTED OFFICIAL INQUIRIES

Please direct all news media requests to the Departments Public Information Officer even if the requestor has the taxpayers authorization for us to disclose.

If government employees or other members of the general public request (in person, or by letter, telephone or e-mail) information concerning another taxpayers confidential tax return and payment information, we are not permitted to release such information unless we or the requestor has written consent or authorization from the taxpayer. (Of course, if the "tests" in Section 1.3 are met, we can disclose to the caller any information about the callers own tax return and return information). If the requestor does not have the taxpayers written consent or authorization, please refer the inquiry to the Department's Disclosure Officer.

If a federal, state, county, or local elected/appointed official requests (by letter, telephone or e-mail), in her/his capacity as an elected/appointed official, information concerning another taxpayers confidential tax return and payment information, please send the letter or refer the call to the Administrator of the Legislation and Communication Division (614-644-6896). All inquiries by federal, state, county, or local elected/appointed officials, acting in their capacity as such, must be "routed" through the Legislation and Communication Division ("LCD").

4.0 OTHER PERTINENT DISCLOSURE INFORMATION

Agents of the Internal Revenue Service are not authorized to request and receive, on their own, Ohio tax return and payment information. Pursuant to the Agreement of Coordination of Tax Administration

between the IRS and the State of Ohio, IRS employee requests for Ohio tax return and payment information are to be made in writing, and only by designated officials of the IRS. Please direct such written requests to the Departments Disclosure Officer.

Requests from other states should be forwarded to the Department's Disclosure Officer, unless the Disclosure Officer has authorized you to disclose to other states.

Subpoenas for tax return information should be forwarded to the Departments Keeper of the Files. Except for official Department of Taxation business, no employee shall "browse," view, inspect, discuss, pass, disseminate or circulate confidential tax return and payment information.

Except for official Department of Taxation business, no employee shall take or make copies of confidential tax return and payment information.

Except for Department of Taxation business specifically related to the administration of taxes, no employee shall either willfully remove from the office or willfully disclose or willfully show to others any confidential tax return and payment information. Job audits, job interviews, arbitrations, Labor Management Committee meetings, grievances, and other personnel-related matters are not specifically related to the administration of taxes; therefore, with respect to personnel/human resource matters, you cannot disclose any confidential tax return and payment information to non-department personnel (including, but not limited to, union representatives and attorneys representing employees in connection with personnel matters). If you have any questions regarding what you can disclose in connection with personnel/human resource matters, please contact the Department's Human Resources Division.

Note that the Ohio Revised Code does not require that a vendor post the vendors license certificate. As such, we cannot disclose to any party (including county auditors) information regarding vendors license numbers and the status of vendors license numbers.

The same confidentiality and nondisclosure rules and policies apply to all personal computer disks and/or facsimile transactions in the same manner as paper data containing any of the following:

- a. tax documents
- b. audit information
- c. administrative files
- d. other confidential tax return and payment information

If the taxpayer signs a petition for reassessment, and if the petition or application sets forth the name of an authorized representative (often a CPA or an attorney), we can disclose to the authorized representative information directly related to the petition or application. However, we should secure a completed Ohio Form TBOR-1 if the representative will be contacting various offices concerning the petition or application. You must obtain a completed Ohio Form TBOR-1 if discussions with an authorized representative go beyond or are likely to go beyond matters set forth in the petition or application.

If a taxpayers representative files an application for refund, or an application for final assessment of personal property tax values, we do require the taxpayer or the taxpayer's representative to submit a properly completed Ohio Form TBOR-1 because the application constitutes a waiver of the statutory time limitation for assessment.

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Conclusion

The above guidelines are for your benefit and protection. If you follow these guidelines, you will act to protect both the confidentiality of taxpayer information and yourself from liability for any unlawful disclosure that might otherwise occur. If you have any comments regarding this matter, please let the Department's Disclosure Officer know by e-mail. If you have any questions about what you can or cannot disclose, please ask your supervisor who will, in turn, contact the Departments Disclosure Officer.

Addendum

Set forth below are the names and phone numbers of the individuals employed, as of August 1, 2004, in each of the positions referenced in the memorandum.

Public Information Officer: Gary Gudmudson, 614-644-6903

Administrator of Legislation: Kim Wisecup, 614-644-6896
Disclosure Officer: Peter Angus, 614-387-1752
Keeper of the Files: Eddie Warner, 614-438-5331