

UNIFORM EXCHANGE OF INFORMATION AGREEMENT

ARTICLE I AUTHORITY

This agreement is entered into by and among the participating agencies enumerated in Article XII through their duly authorized representatives and pursuant to the authority of the statutes of their respective jurisdictions regarding the exchange of information for tax administration purposes as identified in Appendix A. The agreement shall be binding on them, their agents and employees, and their successors in office, unless and until the agreement is rescinded or modified or until the agency withdraws from the agreement pursuant to the terms contained herein. The agreement shall be the means for exchange of information among the signatory agencies. The agreement shall supersede existing bilateral exchange of information agreements unless otherwise specified in writing by the parties to such agreements.

ARTICLE II PURPOSE

The purpose of the agreement is to enhance and facilitate tax administration in all its aspects to the extent each party to the agreement is empowered to administer its tax laws by exchanging tax information with other agencies.

The parties intend that the information exchanged may be specifically requested or voluntarily transmitted under an established exchange procedure, in instances where the transferring party believes that such information will be useful in facilitating tax administration. Voluntary transfer of information is encouraged.

It is the understanding and intent of the parties that all information, in any form whatsoever, exchanged pursuant to the agreement shall be employed solely for the purposes of tax administration.

ARTICLE III DEFINITIONS

For purposes of the agreement, the following definitions apply:

1. Agency. The term "agency" means the agency(ies), body(ies), office(s), department(s), cabinet(s) or commission(s) of a state which are charged under the laws of that state with the responsibility for state tax administration.

2. Agency Representative. The term "agency representative" means the heads of the agency(ies), or employees, agents or authorized representatives designated by the heads of the agency(ies) as the person or persons who are authorized to request, inspect or receive tax returns or return information

pursuant to the agreement on behalf of the agency(ies), but only so long as the duties and employment of such agency(ies) head or designated employee, agent or authorized representative requires access to tax returns and return information for purposes of state tax administration.

3. Primary Clearinghouse. The term "primary clearinghouse" means the party who shall serve as the administrative depository for receipt and retention of certain information from all Signatory agencies to the agreement. Such information shall include, but not be limited to:

(A) Current statutory provisions applicable to the exchange of state tax returns or state tax return information, and any amendments thereto;

(B) Current statutory provisions concerning confidentiality of the information exchanged, the penalties for unlawful disclosure thereof, policies for destruction of such information, and any amendments thereto;

(C) The designation, in writing, of the personnel authorized to request and receive tax information on behalf of the Signatory agencies under the terms of the agreement, and any amendments thereto.

(D) Current statutory provisions relating to the exchange of state tax returns or state tax return information with state agencies other than those charged with the administration and collection of state taxes.

The primary clearinghouse shall be the Federation of Tax Administrators, Washington, D.C.

4. Corporation. The term "corporation" includes associations, joint-stock companies, insurance companies, financial institutions and public corporations created by federal, state or local law.

5. Disclosure. The term "disclosure" means the making known to any person, in any manner whatsoever, a state tax return or state tax return information.

6. Fiduciary. The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any person.

7. Partnership and Partner. The term "partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on and which is not, within the meaning of this section, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture or other unincorporated organization.

8. Person. The term "person" means any individual, a trust, estate, partnership, association, company or corporation; and includes any fiduciary acting on behalf of any such "person."

9. Secondary Clearinghouse(s). The term "secondary clearinghouse(s)" means the party(ies) appointed to serve as the administrative depository for the compilation and dissemination of certain information for supplemental agreements executed by two or more Signatory agencies pursuant to Article VIII of the agreement. The Signatory agencies to the supplemental agreement(s) shall prescribe the authority and responsibilities of the secondary clearinghouse(s) within the agreement(s).

10. Signatory Agency. The term "Signatory agency " means any state agency or instrumentality or an agency or instrumentality of the District of Columbia or the city of New York that has executed the agreement, so long as the agreement remains in effect with that agency.

11. State Audit Agency. The term "state audit agency" means any agency, body, office, department, or commission of a state which is charged under the laws of that state with the responsibility of auditing state revenues and programs.

12. State Tax Return. The term "state tax return" means 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 the state of a Signatory agency, which is filed with the agency by, on behalf of, or with respect to any person, and any amendment, or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or a part of, the return so filed.

13. State Tax Return Information. The term "state tax return information" (hereinafter referred to as "information" or "return information") includes, but is not limited to:

(A) 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, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be, examined or subject to other investigation for processing; whether the taxpayer is authorized to use a direct pay permit and any information related thereto; names of customers and any other relevant information related to specific transactions or any other data, received, recorded by, prepared by, furnished to, or collected by the agency with respect to a tax return or with respect to the determination of the existence, or possible existence of liability (or the amount thereof), or by any person under the laws of the state of a Signatory agency for administration, collection or enforcement of the tax laws of the state of

a Signatory agency including tax, additions to tax, penalty, interest, fine, or other imposition, or offense; and

(B) Any part of any written determination or any supporting document relating to such written determination. "Return information" does not include, however, data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

14. Taxpayer. The term "taxpayer" includes, but is not limited to, any individual, corporation, partnership, fiduciary or other entity subject to tax, believed to be subject to tax, or required to file a tax return or information document under the tax laws of the state of the Signatory agencies whether or not such return or document was actually filed.

15. Tax Administration. The term "tax administration" includes but is not limited to:

(A) The administration, management, conduct, direction and supervision of the execution and application of the tax laws or related statutes of the state of a Signatory agency and the development and formulation of state tax policy relating to existing or proposed state tax laws and related statutes of the state of the Signatory agencies, and

(B) Includes audit, assessment, collection, enforcement, litigation, publication and statistical gathering functions under the tax laws and related statutes of the state of a Signatory agency .

16. Taxpayer Identity. The term "taxpayer identity" means the the name of a person with respect to whom a tax return is filed, his/her mailing address, taxpayer identifying number, or a combination thereof.

17. Taxpayer Return Information. The term "taxpayer return information" means return information as defined in Paragraph 13, above, which is filed with, or furnished to, the agency by or on behalf of the taxpayer to whom such tax return information relates.

ARTICLE IV INFORMATION SUBJECT TO EXCHANGE

1. Information Subject to Exchange

Except as set forth in Section 2 of this Article, this agreement shall apply to the exchange of any information in the possession of one party which could reasonably be considered useful to other parties for the facilitation of tax administration. Such information includes, but is not limited to, lists of taxpayers or potential taxpayers including identifying data; tax or information returns or

documents including supporting schedules, attachments, and lists; nexus information and questionnaires; research and revenue estimating materials; audit reports and other information regarding audit; collection and enforcement activities; appeals and criminal tax matters with respect to any taxpayer or group of taxpayers.

2. Information Not Subject to Exchange

Notwithstanding Article I, the following information shall not be subject to exchange;

(A) Information received from the Internal Revenue Service pursuant to Section 6103(d) of the Internal Revenue Code, or any other federal agency, unless the exchange is authorized in advance by the Internal Revenue Service or such other federal agency;

(B) Any information the disclosure of which would be in violation of or detrimental to the administration of the tax laws of the state of the providing agency;

(C) Information the disclosure of which is not in accord with the agreement in the judgment of the party from which the information is sought.

ARTICLE V CONFIDENTIALITY

1. Each party shall inform the others of the current statutory provisions of its state concerning confidentiality of the information exchanged, the penalties for unlawful disclosure thereof, and any amendments thereto, by providing this information to the primary clearinghouse.

2. Appendix A to the agreement shall reference the applicable statutory provisions of the state of each Signatory agency as they apply to the exchange of information pursuant to the agreement. Each party shall, at least annually, update the information by providing notification of any amendments to the primary clearinghouse at least 30 days prior to the effective date of such amendments when possible. The primary clearinghouse shall then notify the agency head of each Signatory agency of such amendments in a timely manner.

3. Each Signatory agency agrees to protect the confidentiality of any information obtained pursuant to the agreement in accordance with the laws of its state; provided, however, notwithstanding the above, no party to this agreement shall disclose any information obtained pursuant to the agreement to any other state without the explicit consent of the party furnishing the information. In addition, no party shall disclose any information obtained pursuant to the agreement to any other agency, department or unit within the receiving state or to any local government unit, except as otherwise provided in Article V 4. Further, no

information obtained pursuant to the agreement shall be disclosed to officers, employees, or other members of a state legislature, except as required by the laws of the state of the receiving agency for purposes of an audit of the state tax agency or for the purposes of the audit of a refund of tax.

4. Nothing herein shall be construed so as to prohibit disclosure of any information obtained by virtue of the agreement to the following:

(A) Other employees, agents or authorized representatives of the receiving party who are charged with tax administration;

(B) A legal representative of the receiving party for use in administrative, civil or criminal proceedings concerning tax administration purposes;

(C) Other state employees, agents or authorized representatives to whom such disclosure is necessary in connection with the processing, storage, and transmission of such information;

(D) Other state employees, agents or authorized representatives, charged by that state's laws with the responsibility of auditing the activity of the signatory agencies; or

(E) To a duly designated officer of a state audit agency in conjunction with an audit of the state tax agency or for the purposes of the audit of a refund of tax.

5. Signatory agencies should require that independent contractors, consultants, agents or authorized representatives comply with all applicable confidentiality provisions prohibiting disclosure of any information obtained by virtue of the agreement and should hold said parties subject to applicable penalties and/or prosecution for such unlawful disclosure under the civil and criminal laws of the state of the receiving agency.

ARTICLE VI PROCEDURES FOR EXCHANGE OF INFORMATION

1. Types of Exchange

(A) This provision of the agreement constitutes a request by each Signatory agency for information obtained by any other agency or agencies relative to the probable taxability of any taxpayer in the state of the Signatory agency, when practical.

(B) Information may be exchanged upon request or voluntarily transmitted where the providing party believes that such information will be useful to the other party

for tax administration purposes. The providing party shall forward to the other party sufficient details required to make a request for the information as provided in Article VI. 3 of the agreement.

(C) The exchange may be on a one time basis or it may be established on an ongoing basis. Two or more agencies may establish written procedures regarding the method and frequency of the exchange based on their individual requirements. Bulk exchanges by magnetic or electronic media are encouraged.

2. Requirement of Persons Designated To Request And Receive Information

(A) Each Signatory agency shall designate to the others, in writing, the personnel authorized to request and receive tax information on its behalf under the terms of the agreement by providing such information to the primary clearinghouse. Each party agrees to at least annually supply a list to the primary clearinghouse. The primary clearinghouse shall provide all such information to each Signatory agency. The primary clearinghouse shall not be designated to receive any confidential information, but shall function as provided in Article III. 3.

(B) If there is any change affecting any designated individual's right of access to tax information or status as a party's representative, the party shall immediately advise the primary clearinghouse of such a change, in writing, specifying that such individual is no longer authorized to request and receive tax information. The primary clearinghouse shall immediately provide such information to each Signatory agency.

3. Requests For Information

(A) Information may be requested at any time by any Signatory agency. Informal telephone inquiries regarding the availability of information for exchange are encouraged.

(B) Formal requests for information shall be in writing or by verifiable electronic means and must indicate the tax administration reason for the exchange if the reason is not apparent from the context of the request.

(C) Informal requests and voluntary exchanges shall be conducted under an established exchange procedure.

(D) Each formal request shall also specify, to the extent such information is known and available, the following:

(i) The name and address of each taxpayer regarding whom information is requested;

(ii) The taxable period or periods for which information is desired and required;

(iii) The taxpayer's social security number or employer identification number; and

(iv) Any other information which may help to facilitate the exchange.

ARTICLE VII RETURN OR DESTRUCTION OF EXCHANGED INFORMATION

The recipient agrees to return all returns and/or information (along with all copies made thereof) to the furnishing party, or to destroy the returns and/or information in conformity with the recipient's destruction policy(ies).

It shall not be necessary for the recipient to return or destroy the information it disclosed in the course of judicial or administrative proceedings, to the extent that such information has become part of the record thereof.

ARTICLE VIII SUPPLEMENTAL AGREEMENTS

The agreement may be supplemented by addenda between two or more Signatory agencies prescribing the nature, quality and operations for the continuous exchange of tax information. A secondary clearinghouse(s) may be appointed to administer the compilation and dissemination of certain information under the supplemental agreement(s). The agreement(s) shall prescribe the authority and responsibilities of the secondary clearinghouse(s). All provisions contained in addenda must be consistent with the terms and conditions in the agreement. If the addenda are intended to control in the event of a conflict, this shall be specifically stated in the addenda. In the absence of such language, the Uniform Agreement shall control in the event of a conflict. Such Addenda will be considered to be part of the agreement and will be binding on only the parties thereto, their agents and employees, and their successors in office to the same extent as the agreement, unless limited by the Addenda, or rescinded or amended or a Signatory agency withdraws from the agreement, as provided in Article X.

ARTICLE IX COSTS

1. The Signatory agencies agree not to charge one another for the costs of routine reproduction of returns and return information mutually exchanged. The providing party may charge a reasonable fee for furnishing tax returns and return information in magnetic tape format or under other non-routine circumstances. Such costs shall be agreed upon before they are incurred. Information requests shall not be denied on account of the cost alone, unless the requesting party declines to pay the direct costs of the providing party and the request involves excessive time and resources in the opinion of the providing party.

2. The parties also agree to cooperate to the extent practicable in allowing personnel of the requesting party to inspect and copy information if they

determine that the time demands of the information request exceed what they can reasonably supply.

ARTICLE X TERMINATION OR MODIFICATION

- 1.** Additions and changes in the provisions of the agreement may be made by mutual written consent of the duly authorized representatives of the parties and shall become an attachment to the agreement.
- 2.** Written notice of intent to terminate participation in the agreement shall be served by the terminating party on the primary clearinghouse at least 30 days prior to the date of termination, when possible. The primary clearinghouse shall then notify the head of the agency of all other Signatory agencies.
- 3.** Any unauthorized use or disclosure of state tax returns or return information furnished pursuant to the agreement or inadequate procedures for safeguarding the confidentiality of such returns and return information by an agency constitutes grounds for immediate termination of the agreement, as to any, some or all Signatory agencies, and the exchange of information hereunder.
- 4.** Any unauthorized disclosure of state tax returns or return information shall be reported to the Signatory agency which provided the information disclosed.

ARTICLE XI EFFECTIVE DATE

The agreement shall be binding on each Signatory agency effective January 1, 1993 and until participation in the agreement is terminated or the agreement is modified as provided in Article X. The agreement is not limited to specific periods of time or years and it will be considered in effect until terminated.

ARTICLE XII RATIFICATION

Signature Page . . .

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