



## VOLUNTARY DISCLOSURE AGREEMENT PASS-THROUGH ENTITY TAX

Taxpayer: \_\_\_\_\_ FEIN: \_\_\_\_\_

The Ohio Department of Taxation (the “Department”) is committed to promoting tax compliance. As a part of this effort, this Voluntary Disclosure Agreement is entered into between the Tax Commissioner for the State of Ohio (“Commissioner”) and the pass-through entity listed above (“Taxpayer”). This agreement applies only to Taxpayer’s Ohio pass-through entity tax obligations during the disclosure period. **The disclosure period for this agreement will be 1/1/2017 through 12/31/2020.**

The Commissioner has statutory responsibility for administering the Ohio pass-through entity tax. As part of that responsibility, the Commissioner administers the Voluntary Disclosure program. In exchange for bringing this matter to the attention of the Commissioner, the Voluntary Disclosure program allows Taxpayer to come into compliance on substantially more favorable terms than if discovered to be noncompliant by the Commissioner. Although Taxpayer agrees to pay interest<sup>1</sup> on any tax amount due, the Commissioner will not impose additional penalties or interest penalties for any taxable year in the disclosure period, provided Taxpayer complies with the terms of this agreement in good faith.

By submitting this agreement for consideration, Taxpayer represents that Taxpayer:

- Is noncompliant with Ohio’s pass-through entity tax laws;
- Is not currently in contact with the Department regarding outstanding pass-through entity tax liability for any taxable year outside the disclosure period;
- Is not, to the best of Taxpayer’s knowledge, under investigation by the Criminal Investigations Division of the Department;
- Does not have any outstanding bills or assessments relating to Ohio pass-through entity tax liabilities (including for interest or penalties);
- Has not previously been contacted by the Department regarding possible outstanding pass-through entity tax liability for any taxable year during the disclosure period; **AND**
- Has not previously filed pass-through entity tax return(s) for any taxable year during the disclosure period.

**Eligibility for the Voluntary Disclosure program is predicated on these representations.**

Taxpayer desires to enter into this agreement to become current on its tax compliance responsibilities. Accordingly, Taxpayer agrees to the following terms:

1. Taxpayer will disclose to the Commissioner all taxable income or loss during the disclosure period by filing all pass-through entity returns, required to be filed, for each tax year ending within the disclosure period. Returns for the taxable year ending in calendar year 2020 will be due by the filing date prescribed by law for said returns, including extensions thereof.
2. Taxpayer agrees that it will file Ohio Pass-Through Entity Composite Income Tax Returns (IT 4708) as part of this Voluntary Disclosure Agreement. Taxpayer understands that it is unable to file the Ohio Pass-Through Entity and Trust Withholding Tax Return (IT 1140) as part of the Voluntary Disclosure program.

<sup>1</sup> The applicable interest rates are 4% for calendar year 2018, 5% for calendar years 2019 and 2020, and 3% for calendar year 2021.

3. Taxpayer will make a voluntary payment to the State of Ohio of all pass-through entity tax due during the disclosure period, including an estimate of the tax due for the taxable year ending in calendar year 2020, even if Taxpayer is not submitting the 2020 return with this Agreement.

4. Taxpayer will make a voluntary payment to the State of Ohio of interest, which will be calculated on the total amount of pass-through entity tax due. Taxpayer acknowledges that the interest amount is due pursuant to R.C. 5747.08(G) and that the interest cannot be reduced or waived.

5. Taxpayer will provide complete documentation to support any tax credits it is claiming. Taxpayer agrees it cannot carryforward credits generated in years prior to the disclosure period.<sup>2</sup> The Commissioner reserves the right to review the documentation presented by Taxpayer and any other records pertaining to the disclosure, in order to confirm that its voluntary payment amount is accurate.

6. With respect to the current taxable year, Taxpayer will file Ohio form(s) IT 4708 UPC, and make full payment of all estimated tax due to date, to the extent required by Ohio law. Taxpayer will continue to make estimated payments as provided by R.C. 5747.09.

7. Taxpayer will file the appropriate registration forms with the Secretary of State and become registered in Ohio. Once properly registered, Taxpayer agrees to stay in compliance with the laws of Ohio.

8. Once this agreement is accepted by the Commissioner, Taxpayer agrees that it will not file any amended returns or refund claims for any pass-through entity tax amounts paid to Ohio with respect to the disclosure period as set forth in this agreement, except to the extent permitted in Item 9, below.

9. Notwithstanding Item 8 above, in the event of IRS adjustments with respect to the pass-through entity tax years covered by this agreement, Taxpayer will file amended Ohio pass-through entity tax returns pursuant to R.C. 5747.10. Such changes shall be incorporated into the returns as originally accepted pursuant to this agreement to determine the amount of additional tax due or refund owed. Taxpayer shall remit any outstanding liability, along with interest, with their amended returns. The Commissioner will issue any refund owed upon review and acceptance of the amended returns. Failure to timely file any amended returns or failure to timely pay any additional tax and interest due will result in the issuance of assessments (for applicable tax, interest and **penalty**) as provided by statute.

10. Taxpayer agrees to timely file Ohio pass-through entity tax returns and make the required tax payments for all future tax periods, to the extent required by Ohio law.

Upon Taxpayer's completion of the terms above, the Commissioner agrees to **forgo** any potential or actual past pass-through entity tax liability, including tax, penalty, interest penalty, and interest, as well as any filing or remittance responsibility that Taxpayer may have for its pass-through entity tax liability in this state incurred prior to the disclosure period.

Both Taxpayer and the Commissioner agree to maintain the confidentiality of this agreement. The parties agree that they shall not disclose the fact of this agreement's existence or any term of the agreement except as required by law.

---

<sup>2</sup> Taxpayer also acknowledges that Ohio pass-through entities are not allowed a deduction for any net operating loss carrybacks or carryforwards.

This agreement is **not** binding on the Commissioner until signed by the Commissioner. Prior to signing this agreement, the Commissioner will review his records to confirm that Taxpayer:

- Is not currently in contact with the Department regarding outstanding pass-through entity tax liability for any taxable year outside the disclosure period;
- Is not currently under investigation by the Criminal Investigations Division of the Department;
- Does not have any outstanding bills or assessments relating to Ohio pass-through entity tax liabilities (including for interest or penalties);
- Has not previously been contacted by the Department regarding possible outstanding pass-through entity tax liability for any taxable year during the disclosure period; **AND**
- Has not previously filed pass-through entity tax return(s) for any taxable year during the disclosure period.

All payments and filings must be made contemporaneously with the submission of a signed copy of this agreement. This agreement will **not be accepted**, or if accepted will be void, if Taxpayer:

- Is not eligible for the Voluntary Disclosure program;
- Fails to remit the required payments and filings with this agreement; **OR**
- Does not substantially comply<sup>3</sup> with terms of this agreement.

If the Commissioner does not accept this agreement, or the agreement subsequently becomes void, the Commissioner can issue assessments for all tax and interest due under Ohio law, along with all appropriate penalties and interest penalties.

This agreement is intended to bind the parties in the absence of fraud or material misrepresentation of fact.

The person signing below for Taxpayer knowingly does so with the authority to bind Taxpayer to the terms of this Agreement.

\_\_\_\_\_  
Jeffrey A. McClain, Tax Commissioner  
  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title of Officer/Agent  
\_\_\_\_\_  
Date

<sup>3</sup> Substantial compliance includes, but is not limited to, remitting interest on amounts due under this agreement, paying any additional amounts found due for the taxable years covered by this agreement after the Commissioner's review of the submission, good faith in the Voluntary Disclosure program and execution of this agreement, and/or filing tax returns and paying tax, as applicable, in subsequent years.