June, 2008

Name: _____
(Please print)

Kentucky Department of Revenue
ACKNOWLEDGMENT OF CONFIDENTIALITY

The Kentucky Department of Revenue (KDOR) requires all employees, employees of other government agencies or institutions, any authorized persons or entities conducting research, any persons or entities contracted to provide services for KDOR, or any other person or entity permitted access to KDOR records and files, be aware of the confidential nature of state and federal taxpayer records and files. They must also be aware of the statutory provisions restricting use of taxpayer information and the penalties for failure to comply with those limitations.

The KDOR further requires that persons and entities permitted access to confidential state and/or taxpayer information acknowledge that they have read and understand the confidentiality provisions as provided in the Kentucky Revised Statutes (KRS) and the Internal Revenue Code (IRC).

1. STATE STATUTORY RESTRICTIONS

KRS 131.190 provides:

(1) *No present or former commissioner or employee of the Department of Revenue, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the commissioner or any employee of the Department of Revenue from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The commissioner or the commissioner's designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(1), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.*

(2) *The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the cabinet shall receive similar or useful information in return.*

(3) *Statistics of tax-paid gasoline gallonage reported monthly to the Department of Revenue under the gasoline excise tax law may be made public by the department.*

(4) *Access to and inspection of information received from the Internal Revenue Service is for Department of Revenue use only, and is restricted to tax administration purposes. Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the Department of Revenue, or any other person.*

(5) *Statistics of crude oil as reported to the Department of Revenue under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Revenue Cabinet under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Environmental and Public Protection Cabinet, Department for Natural Resources.*

(6) *Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.*

(7) *Notwithstanding any other provision of the Kentucky Revised Statutes, the department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617.*

KRS 131.081(15) provides in relevant part:

Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any information or documents attached thereto. Except as provided by KRS 131.190, no information pertaining to such returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without

authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person..

KRS 131.990(2) provides:

(a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(d) *Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years or both.*

(e) Any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.

2. FEDERAL STATUTORY RESTRICTIONS

The KDOR and Internal Revenue Service (IRS) require that all employees be aware that Federal tax information in the possession of KDOR is for the official use of authorized KDOR employees only, and may not be provided to employees of other government agencies or institutions, or any other person or entity who is not an authorized employee of KDOR. Contractor personnel may be permitted access to Federal tax information only upon prior approval of the contractor by the IRS.

Unauthorized Disclosure of Federal Information

Section 6103(a)(2) of the IRC provides in relevant part:

. . . no officer or employee of any State, . . . who has or had access to returns or return information under this section, . . . shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term "officer or employee" includes a former officer or employee.
Section 7213(a)(2) of the IRC provides in relevant part:

It shall be unlawful for any person . . . willfully to disclose to any person, except as authorized in this title, any return or return information . . . acquired by him or another person . . . . Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

Unauthorized Inspection of Federal Returns or Return Information – "The Taxpayer Browsing and Protection Act"

IRC Section 7213A(a)(2) provides in relevant part:

It shall be unlawful for any person . . . willfully to inspect, except as authorized in this title, any return or return information (non-computerized taxpayer records, including hard copies of returns -- as well as computerized information) acquired by such person or another person . . .

IRC Section 7213A(b)(1) provides:

Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

Civil Damages for Unauthorized Disclosure of Federal Returns and Return Information

IRC Section 7431(a)(2) provides in relevant part:

If any person . . . knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer. . . , such taxpayer may bring a civil action for damages against such person in a district court of the United States.

I, _____, hereby acknowledge that I have read the above regarding the confidentiality of KDOR and IRS records and files, and that I understand and will abide by those restrictions.

_____ _____
(Print Name) Organization Signature Date

WITNESS:

_____ _____
(Print Name) Organization Signature Date