

**FISCAL YEARS 2016-2017 PERSONAL INCOME TAX  
AGREEMENT FOR THIRD PARTY  
COLLECTION VENDORS  
Appointed by Ohio Attorney General Mike DeWine**

This Fiscal Years 2016-2017 Personal Income Tax Agreement for Third Party Collection Vendors (hereinafter “Agreement”) is entered into by and between the Ohio Attorney General (“Attorney General”) and the undersigned Third Party Collection Vendor (“Vendor”).

**ARTICLE I: RECITALS**

Whereas, Internal Revenue Code (“IRC”) Section 6103 permits the Internal Revenue Service (“IRS”) to disclose federal tax information, including, but not limited to, any federal tax return or return information (“FTI”) to state agencies for the purpose of state tax administration, including state tax collection;

Whereas, the IRS requires state agencies that receive FTI to follow a series of requirements found within *IRS Publication 1075: Tax Information Security Guidelines For Federal, State and Local Agencies* (“IRS Publication 1075”) designed to protect the FTI from unauthorized disclosure;

Whereas, the IRS shares FTI with the Ohio Department of Taxation (“Tax”) and permits Tax to share it with the Attorney General for collection purposes on the condition that both agencies abide by IRS Publication 1075;

Whereas, IRS Publication 1075 permits state agencies to share FTI with certain vendors, so long as these vendors also adhere to the requirements found within IRS Publication 1075;

Whereas, the Attorney General is concurrently entering into a Fiscal Years 2016 and 2017 Retention Agreement for Third Party Collection Vendor (“Retention Agreement”) to retain the undersigned Vendor to provide collection services for the Attorney General, the terms of which are incorporated as if fully rewritten herein;

Whereas, Vendor has requested permission to collect personal income and personal school district tax debt that is certified to the Attorney General for collection pursuant to Ohio Revised Code (“R.C.”) Section 131.02, which requires permission to review FTI that the Attorney General has received; and

Whereas, Vendor is willing to agree to the terms of IRS Publication 1075 as well as the following terms in order to have access to this FTI and to collect State of Ohio income tax debt;

Now therefore, in consideration for the mutual promises and covenants set forth herein and for other valuable consideration, the sufficiency of which is agreed to by the parties hereto, the Attorney General and Vendor (collectively “the Parties”) hereby agree as follows:

## **ARTICLE II: TERM**

The term of this Agreement shall begin on July 1, 2015 and shall expire on June 30, 2017, unless earlier terminated by the Attorney General as set forth herein. The Attorney General reserves the right to modify or terminate this Agreement, in his sole discretion, and without cause or duty of explanation, upon written notice to Vendor. Further, termination of the Retention Agreement shall result in the automatic termination of this Agreement. Vendor shall be bound by the requirements in Article III even after termination of this Agreement.

## **ARTICLE III: SAFEGUARDING FTI**

### **Section 1. Performance**

In performance of this Agreement, Vendor, as a contractor of the Attorney General, agrees to comply with and assume responsibility for compliance by his/her/its officers, managers and employees with the following requirements:

1. All work will be performed under the supervision of Vendor and its responsible officers or employees.

2. Any FTI made available to Vendor shall be used only for the purpose of carrying out the provisions of this Agreement. FTI shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone other than an officer or employee of Vendor is prohibited.

3. All FTI will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

4. No work involving FTI furnished under this Agreement will be subcontracted without prior written approval of the Attorney General and the IRS.

5. Vendor will maintain a list of employees authorized to access the FTI. Such list will be provided to the Attorney General and, upon request, to the IRS reviewing office.

6. Incident response policy and procedures must be developed, documented, disseminated, and updated as necessary to facilitate the implementing of incident response security controls.

7. Audit and accountability policy and procedures must be developed, documented, disseminated, and updated as necessary to facilitate the implementing of audit and accountability security controls.

- a. To support the audit of activities, Vendor must ensure that audit information is archived for six years.
- b. The information system must protect audit information and audit tools from unauthorized access, modification, and deletion.

8. The Attorney General will have the right to void or terminate this Agreement if Vendor fails to provide the safeguards described above, or any other safeguard required under IRS Publication 1075.

## **Section 2. Criminal/Civil Sanctions**

1. Each officer, manager or employee of Vendor to whom FTI is or may be disclosed shall be notified in writing by Vendor that FTI disclosed to such officer, manager, or employee can be used only for the purpose and to the extent authorized herein, and that further disclosure of any such FTI for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of up to Five Thousand Dollars (\$5,000) or imprisonment for as long as five (5) years, or both, together with the costs of prosecution. Vendor shall also notify each officer, manager, and employee that any such unauthorized future disclosure of FTI may also result in an award of civil damages against Vendor, its officers, managers and the employee in an amount not less than One Thousand Dollars (\$1,000) with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 C.F.R. 301.6103(n)-1.

2. Each officer, manager or employee of Vendor to whom FTI is or may be disclosed shall be notified in writing by Vendor that FTI made available in any format shall be used only for the purpose of carrying out the provisions of this Agreement. FTI shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this Agreement. Inspection by or disclosure to anyone without an official need-to-know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as One Thousand Dollars (\$1,000) or imprisonment for up to one (1) year, or both, together with the costs of prosecution. Vendor shall also notify each officer, manager, and employee that any such unauthorized inspection or disclosure of FTI may also result in an award of civil damages against the employee in an amount equal to the sum of the greater of: (a) One Thousand Dollars (\$1,000) for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable; or (b) the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus, in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

3. Additionally, it is incumbent upon Vendor to inform its officers, managers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. §552a. Specifically, 5 U.S.C. §552a(i)(1), which is made applicable to Vendor as contractors of the Attorney General by 5 U.S.C. §552a(m)(1), provides that any officer, manager or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than Five Thousand Dollars (\$5,000).

4. Granting Vendor access to FTI must be preceded by certifying that each individual understands the Attorney General's security policy and procedures for safeguarding FTI. Vendor

must maintain its authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the Attorney General's files for review. As part of the certification and at least annually afterwards, Vendor and its officers and employees should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 5 of IRS Publication 1075, *IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information* and Exhibit 4 of IRS Publication 1075 *IRC Sec. 7213 Unauthorized Disclosure of Information*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10 of IRS Publication 1075). For both the initial certification and the annual certification Vendor shall sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

### **Section 3. Inspection**

1. Vendor, its officers, managers and employees shall comply with the requirements of IRS Publication 1075, including all requirements referencing or related to record retention and audit requirements to safeguard FTI.

2. The IRS and the Attorney General shall have the right to send their officers and employees into the offices and plants of Vendor for inspection of the facilities and operations provided for the performance of any work under this Agreement. On the basis of such inspection, specific measures may be required in cases where Vendor is found to be noncompliant with contract safeguards.

3. Vendor shall fully cooperate with all audit processes and fully comply with any audit-related requests in a timely manner. Failure to fully cooperate with any audit process or document request may result in sanctions.

### **ARTICLE IV: MISCELLANEOUS**

Vendor shall annually complete and submit the Ohio Safeguard Security Report to the Attorney General annually. Vendor shall update the Ohio Safeguard Security Report immediately upon any significant change to Vendor's processes or procedures. Vendor shall also file and maintain with the Attorney General an up-to-date list of all employees and subcontractors that come into contact with any personal income tax or personal school district tax information. Vendor shall also provide a Corrective Action Plan no less than every six months after any audit and until such time that all compliance issues have been satisfactorily resolved. To the extent the Attorney General determines the Ohio Safeguard Security Report, Corrective Action Plan, or any other document requested by the Attorney General is not timely completed and submitted, the Attorney General may suspend personal income tax and/or personal school district tax claim assignments to Vendor or terminate this Agreement. Further, the Attorney General reserves the right to modify or cancel any personal income tax and/or personal school district tax claims assigned to Vendor under this Agreement at any time, in his sole discretion, without cause or duty of explanation, upon written notice to Vendor. The Attorney General may suspend or terminate this Agreement for convenience or any other reason including, but not limited to: (1) default, as defined in the Retention Agreement, by Vendor; (2) failure to timely cooperate with any audit process or timely and completely respond to any audit-

related request; (3) failure to comply with any directives issued by the Attorney General in order to meet any and all security requirements of the Attorney General or the IRS; (4) the lack of need for the services as specified under this Agreement; or (4) if the Attorney General deems termination to be in the best interest of the State of Ohio.

Vendor has the full right, power, legal capacity, and other corporate power, and has been duly authorized by all requisite corporate action, to execute and deliver this Agreement and to perform its obligations hereunder. The execution, delivery, and performance by Vendor, its officers, managers and employees of this Agreement and all documents contemplated hereunder are within its power, have been duly authorized, and are not in conflict with Vendor's articles of incorporation, bylaws, or other corporate governance document of Vendor.

The undersigned represent they are authorized to enter into this Agreement. The undersigned acknowledge they have read and understand all terms set forth herein. By affixing their signatures below, the Parties evidence their intent to be bound hereto.

**OHIO ATTORNEY GENERAL**

**VENDOR**

\_\_\_\_\_  
**BY**

\_\_\_\_\_  
**BY**

\_\_\_\_\_  
**NAME**

\_\_\_\_\_  
**PRINTED NAME**

\_\_\_\_\_  
**TITLE**

\_\_\_\_\_  
**TITLE**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**ADDRESS**

\_\_\_\_\_  
**CITY/STATE/ZIP**