

RECIPROCAL AGREEMENT ON EXCHANGE OF INFORMATION
BETWEEN THE NEW MEXICO DEPARTMENT OF TAXATION AND REVENUE AND
THE NEW YORK DEPARTMENT OF TAXATION AND FINANCE

In recognition of the mutual benefits which can be derived from the exchange of information, the New Mexico Department of Taxation and Revenue and the Department of Taxation and Finance of the State of New York represented by the undersigned officials, do hereby enter into the following agreement for the exchange of information.

This agreement shall not become effective until the head of each Department has signed it in the space provided below. Upon ratification this agreement will revoke and supersede any and all previous agreements which might have been entered into between the two agencies for the exchange of information and will remain in effect until revoked or terminated by either agency.

I. Definitions

- A. *Agency.* The term "agency" shall mean either the New Mexico Department of Taxation and Revenue or the New York Department of Taxation and Finance.
- B. *State.* The term "state" shall mean either the State of New Mexico or the State of New York.
- C. *Agency representative.* The term "agency representative" shall mean an agency officer or employee designated in writing by the head of the Agency as the individual who is to inspect or receive state returns or state return information on behalf of the Agency, but only so long as the duties and employment of such officer or employee requires access to returns or return information for the purposes of state tax administration.
- D. *State return.* The term "state return" means any tax or information return, declaration of estimated tax, or claim for refund required by or provided for or permitted under the revenue laws or related statutes of the state, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemented to, or part of, the return so filed.
- E. *State Return information.* The term "state return information" means a taxpayer's identity, the nature, source, or amount of his/her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over assessments, or tax payments, whether the taxpayer's state return was, is being, or will be examined or subject to other investigation or processing, or any other data received by, recorded by, prepared by, furnished to, or collected by the Agency with respect to a state return or with respect to the determination of the existence, or possible existence, or liability (or the amount thereof) of any person under the revenue laws, or related statutes of the state for any tax, penalty, interest, fine, forfeiture, or other imposition or offense.
- F. *Inspection.* The term "inspection" shall mean any examination of a return of return information.
- G. *Disclosure.* The term "disclosure" shall mean the making known to any person in any manner whatever a return or return information.
- H. *Information.* The term "information", unless it is indicated otherwise, shall mean a state return or abstract thereof and state return information.

- I. *Exchange of Information.* The term “exchange of information” shall mean the making available for inspection a return or return information and/or the disclosure of an abstract of a return or return information.
- J. *State tax administration.* The term “state tax administration” means the administration, management, conduct, direction, and supervision of the execution and application of revenue laws, or related statutes of the state; and the development and formulation of state tax policy relating to existing or proposed revenue laws, or related statutes of the state; and also includes assessment, collection, enforcement, litigation, and statistical gathering functions under such laws or statutes.

II. Disclosure of Returns and Return Information

This agreement constitutes the requisite authorization pursuant to Section 7-1-8 of the New Mexico Statutes Annotated for the New Mexico Department of Taxation and Revenue to disclose to and permit inspection by an agency representative of the Department of Taxation and Finance of the State of New York, upon its written request, of abstracts of New Mexico tax returns and New Mexico tax return information and to permit inspection by such an agency representative, upon its written request, of New Mexico tax returns on taxes which are common to both states and are administered by the designated agency. These can include use, sales, income (withholding, individual, fiduciary and corporation), estate, and luxury taxes. Gross Receipts or Sales and Use taxes shall mean those taxes imposed pursuant to Chapter 7, Article 9 of the New Mexico Statutes Annotated as the same has heretofore or may hereinafter be amended. Income taxes shall mean those taxes imposed pursuant to Articles 1, 2A thru 2F and 4 of Chapter 7 of the New Mexico Statutes Annotated as the same have heretofore or may hereinafter be amended. Estate taxes shall mean those taxes imposed pursuant to Chapter 7, Article 7 of the New Mexico Statutes Annotated as the same has heretofore or may hereinafter be amended. Luxury taxes shall mean those taxes imposed pursuant to Chapter 7, Articles 12A, 13, 13A and 17, of the New Mexico Statutes Annotated as the same has heretofore or may hereinafter be amended.

Pursuant to this agreement the Department of Taxation and Finance of the State of New York shall disclose to and permit inspection by an agency representative of the New Mexico Department of Taxation and Revenue, upon its written request, of abstracts of New York tax returns and New York tax return information and shall permit inspection by such an agency representative, upon its written request, of New York tax returns relating to Use, Sales, Income, Estate, Cigarette, Tobacco Products, and Alcohol taxes. Sales and Use taxes shall mean those taxes imposed pursuant to Articles 28 and 29 of the Tax Law of the State of New York as the same have heretofore or may hereinafter be amended. Income taxes shall mean those taxes imposed pursuant to Articles 9-A, 22, 23, 32 and 33 of the Tax Law of the State of New York as the same have heretofore or may hereinafter be amended. Estate, Cigarette, Tobacco Products and Alcohol taxes shall mean those taxes imposed pursuant to Articles 26, 20, and 18, respectively, of the Tax Law as the same have heretofore or may hereinafter be amended.

It is understood and agreed that all information, in any form whatsoever, exchanged pursuant to this agreement shall be employed by the agencies solely for the purpose of state tax administration.

Information received from the Internal Revenue Service is, pursuant to section 7213(a) (2) of the Internal Revenue Code, expressly excluded and may not be exchanged under this agreement.

III. Audit and Other Information to be Exchanged

The agency of each state shall exchange with the agency of the other state, without need for request, subject to the provision of Part IV herein, any information referred to in Part II above, obtained from audits for taxpayers who have not filed tax returns with the agency of the other state for one or more of the taxes referred to in Part II above with respect to which such taxpayers are required to file tax returns, due to their contacts with the other state.

Under such arrangements as may be feasible, the agencies will furnish to each other, without need for request, state return information which will assist in locating persons whose tax accounts are delinquent or who may be entitled to refunds.

Information other than state returns and state return information, which the agencies may deem relevant or useful to the administration of state tax laws may be furnished, if feasible and permitted by the laws of the states, under arrangement made by the agencies.

IV. Withholding of Tax Information

Either agency may withhold or refuse to exchange information if the agency believes the disclosure of such information would be detrimental to the administration or enforcement of its tax laws.

V. Confidentiality of Exchanged Information

Each agency agrees to inform the other of the current statutory provisions of its state concerning the confidentiality of the information exchanged, the penalties for unlawful disclosure thereof, and any amendments thereto.

Each agency agrees that no information obtained, pursuant to this agreement, shall be disclosed in any manner other than as is authorized by its laws concerning confidentiality of tax information; provided, however, notwithstanding the above, neither agency shall disclose any information obtained by virtue of this agreement to any other state, to any other agency, department or unit within the receiving state or to any local government until; and provided, further, that no disclosure may be made which would result in such information being used for purposes other than state tax administration.

Nothing herein shall be construed so as to prohibit disclosure of any information obtained by virtue of this agreement (a) by either agency to its proper legal representatives for use in administrative, civil or criminal proceedings concerning tax administrative purposes, or (b) by the Department of Taxation and Finance of the State of New York to the Comptroller, or duly designated officer of the Department of Audit and Control of the State of New York for the purpose of the audit of a refund of any of the taxes referred to in Part II of this agreement.

Notwithstanding the above provisions of Part V of this agreement, information relating to the Alcohol tax obtained by virtue of this agreement by either agency may only be disclosed by agency representatives to their employees or legal representatives when necessary for purposes of state tax administration. This restriction shall also apply to such employees or legal representatives.

Each agency agrees that neither it nor its legal representative will voluntarily make any further use or disclosure of a state return or state return information disclosed to an agency representative if the head of the agency which provided the return or return information notifies the head of the other agency in writing that such further use or disclosure should not be made. The agencies further agree that prior to disclosure of any state return or state return information in a state judicial or administrative proceeding, the head or legal representative of the agency will notify the head of the other agency in writing of the intentions to make such disclosure at least 30 days prior to the proposed disclosure. The notice of intent to disclose shall provide taxpayer

identification information, the tax type(s) and year(s) involved and the purpose for such disclosure. Such disclosure should not be made if the agency which provided the return or return information notifies the agency within 15 days not to disclose the return or return information and such disclosure is not required as a matter of law.

Each agency agrees that it shall protect the confidentiality of any information received pursuant to this agreement in accordance with its laws and the provisions of this agreement.

VI. Mutual Cooperation

Each agency will encourage vendors located within its respective state to register for the collection of the other state's sales tax when such retailers sell and deliver tangible personal property to an extent which would submit such vendors to a requirement to collect and remit sales or use taxes to the other state.

VII. Request for Returns and Return Information

Request for state returns and state return information made pursuant to this agreement must be in writing and must specify (1) that the sole and exclusive purpose for each requested exchange is for the administration of tax laws, (2) the authority of the person making the request, and (3) the relationship of the purpose of the information requested and the authority of the person requesting information to the administration of tax laws.

Each request shall also specify, to the extent such information is known and available, the name and address of each taxpayer regarding whom information is requested, the taxable period(s) for which information is desired and required, the taxpayer's social security number or federal identification number, together with any other information which may help to facilitate the exchange.

A listing of those persons designated to request and provide information will be exchanged between the agency representatives within 30 days of the signing of this agreement will thereby be made part of this agreement. The agencies agree to annually supply a list to each other of all such designations. Neither agency shall be obligated to furnish information to personnel who are not designated herein. Subject to the limitation of Part V, nothing herein will prevent the use of the tax information obtained by virtue of this agreement by non-designated personnel of either party after such tax information has been received by the designated personnel of said party provided, however, that all such use by non-designated personnel shall only for the tax administration purposes set forth herein.

If there is any change affecting an agency representatives' right of access to returns and return information or status as an agency representative, the head of the agency shall immediately advise the head of the other agency of such a change in writing, specifying that such individual is no longer an agency representative.

The agency furnishing information under this agreement may not charge the agency receiving such information for the costs attributable to the preparing and transmittal of such information unless the receiving agency is notified of such charge in advance and consents thereto.

VIII. Return or Destruction of Exchanged Information

Upon completion of the use of exchanged information, the recipient agrees to return all information (along with all copies made thereof) to the furnishing party; or destroy the information by shredding or other appropriate means.

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

IX. Termination or Modification of Agreement

The provisions of this agreement are subject to the provisions of the laws of the respective states and to the implementing regulations and published procedures promulgated thereunder. This agreement may be terminated upon notice or modified at the discretion of the agencies in recognition of changes in state statutes and regulations or whenever in the administration of state tax law that action seems appropriate. Modifications must be made by the mutual written consent of the agencies and shall become an attachment to this agreement.

Any unauthorized use or disclosure of state returns or state return information obtained pursuant to this agreement constitutes grounds for the immediate termination of this agreement and the exchange of information thereunder upon the mailing of written notice by the terminating agency.

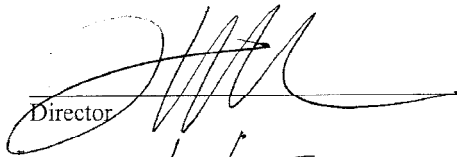
The head of each agency agrees to notify the head of the other agency immediately upon learning of any improper use or disclosure of state returns or state return information provided under this agreement and which constitutes grounds for termination of the agreement.

In any event, either party may terminate this agreement upon thirty (30) days' written notice to the other agency.

X. Ratification

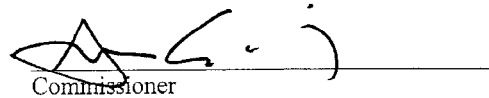
The undersigned hereby agrees to exchange information to the full extent permitted by their respective laws in accordance with the terms and limitations set out in this agreement.

APPROVED
New Mexico
Department of Taxation and Revenue


Director

12/19/05
Date

APPROVED:
New York
Department of Taxation and Finance


Commissioner

12/22/05
Date