Ohio | Department of Taxation

FIT VDA
07/20

FIT 2020-_____

VOLUNTARY DISCLOSURE AGREEMENT
FINANCIAL INSTITUTIONS TAX

The Ohio Department of Taxation ("Department") is committed to promoting taxpayer compliance. As a part of this effort, this voluntary disclosure agreement ("Agreement") is entered into between Jeffrey A. McClain, Tax Commissioner for the State of Ohio ("Commissioner") and _____, the reporting person, federal identification number ("FEIN") _____, and the entities included in the financial institution group, if applicable (collectively "Taxpayer").

The Commissioner has a statutory duty, pursuant to Ohio Revised Code (R.C.) 5703.05, to administer the Ohio financial institutions tax ("FIT"). In exchange for bringing itself to the attention of the Commissioner, this Agreement allows Taxpayer to come into compliance on substantially more favorable terms than it would have faced if discovered to be in noncompliance by the Commissioner. Accordingly, the parties agree to the following:

1.0 **DEFINITIONS**. All terms not defined within this Agreement have the same definitions as prescribed in R.C. Chapter 5726.

2.0 **GOVERNING LAW**. The laws of Ohio govern all matters arising under this Agreement.

3.0 **APPLICABILITY**. This Agreement applies only to Taxpayer's obligations with regard to the FIT.

4.0 **TAXPAYER REPRESENTATIONS**. Taxpayer, as of the date it signs this Agreement, represents to the Commissioner the following:

4.1 Taxpayer has not previously registered for the FIT, nor has Taxpayer previously remitted FIT to the State of Ohio.

4.2 Taxpayer is not under audit by the Audit Division of the Department for its FIT liability and has not otherwise been contacted by the Department regarding possible FIT liability. Furthemore, Taxpayer is not under investigation by the Criminal Investigations Division of the Department.

4.3 Upon review of Taxpayer's records, Taxpayer has found that it has incurred FIT liability.

5.0 **TAXPAYER PRELIMINARY REQUIREMENTS**.

5.1 **Registration**. Taxpayer shall provide to the Commissioner all information required for a complete FIT registration, including the names, addresses, and FEINs of all persons included in the financial institution group, if applicable. Taxpayer agrees to file all applicable reports and pay all tax due electronically as required under R.C. 5726.03 and Ohio Adm. Code 5703-33-01.

5.2 **Disclosure**. Taxpayer shall file all FIT annual reports required to be filed during the disclosure period and provide any supporting documentation requested by the Commissioner. The disclosure period for purposes of the FIT under this Agreement covers **tax years 2017, 2018, 2019, and 2020**.

5.3 **Organizational Chart**. If requested by the Commissioner, Taxpayer shall provide a complete organizational chart of the business structure.

5.4 **Tax Credits**. Taxpayer will provide complete documentation to support any tax credits it is claiming. Taxpayer agrees no carryforward of credits generated in years prior to the disclosure period is permitted.

6.0 **PAYMENTS**.

6.1 Taxpayer shall make payment to the State of Ohio for all FIT liability incurred during the disclosure period.

6.2 Taxpayer shall make payment to the State of Ohio for any interest on the reported FIT liability, as required by R.C. 5726.07 and/or R.C. 5726.32. Interest is calculated at the rate per annum described in R.C. 5703.47. Taxpayer acknowledges that the interest amount is due by statute and that the interest cannot be reduced or waived.

6.3 The Commissioner reserves the right to audit the reports filed by Taxpayer for the tax years covered by this Agreement and to make adjustments to ensure the payments made under this section are accurate.

7.0 **REFUNDS**. Taxpayer agrees that it shall not file any refund requests for amounts paid for tax years covered by the disclosure period pursuant to this Agreement.

8.0 **WAIVERS OF THE TAX COMMISSIONER**. Upon Taxpayer's completion of the terms above, the Commissioner agrees to the following:

8.1 The Commissioner shall forgo any potential or actual FIT liability, including tax, penalty, and interest, that Taxpayer may have incurred prior to the disclosure period.

8.2 The Commissioner shall waive the penalties associated with the failure to timely file FIT reports or to timely pay tax due for the tax years in the disclosure period.

9.0 **CONFIDENTIALITY**. 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.

10.0 **EFFECTIVE DATE**. Taxpayer shall file all reports and remit all tax payments under this Agreement within sixty (60) days of Taxpayer's signature, except that if the due date for any payment or report for **tax year 2020** has not passed, the payments shall be remitted and the reports shall be filed by the due date prescribed by law. If Taxpayer fails to timely remit the required payments and filings on or before the applicable due date, this Agreement is void and the Commissioner may issue an assessment, with appropriate penalties and interest, for Taxpayer's failure to pay tax and interest.

11.0 **BINDING EFFECT**.

11.1 This Agreement is not binding on the Commissioner until signed by the Commissioner. Prior to signing the Agreement, the Commissioner will review the Department's records to determine that the disclosure period is acceptable and to confirm that Taxpayer has not been contacted for audit by the Department, is not under investigation by the Criminal Investigations Division of the Department, and/or has not otherwise been previously contacted by the Department with regard to its FIT liability.

11.2 This Agreement is intended to bind the parties for all tax years at issue in the absence of fraud, malfeasance, concealment, or misrepresentation of material facts. This Agreement is not binding on future tax years.

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

Accepted by:

Ohio Department of Taxation

_____
Jeffrey A. McClain, Tax Commissioner

_____
Date

Accepted by:

_____
Print Taxpayer Name

_____
Signature

_____
Name

_____
Title

_____
Date