



# Ohio

## Department of Taxation

# POLICY

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Policy: Conflict of Interest	Number: ODT-005	Effective: October 17, 2012
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### 1. Authority

The Tax Commissioner issues Ohio Department of Taxation (herein referred to as the "Department") Policy ODT-005 in accordance with Ohio Revised Code (O.R.C.) § 5703.05. O.R.C. § 5703.05 grants the Tax Commissioner powers, functions, and duties including the authority to manage and direct the Department's operations.

### 2. Purpose

The purpose of this policy is to establish standards to effectuate O.R.C. § 5703.07 that states in part: "...Except as otherwise authorized in section 108.05 of the Revised Code, the tax commissioner and each employee of the department of taxation shall devote his entire time to the duties of his office, and shall not hold any position of trust or profit or engage in any occupation, employment, or business interfering with or inconsistent with his duty as commissioner or an employee, or serve on or under any committee of any political party."

### 3. Applicability

This policy applies to all Departmental employees.

### 4. Definitions

- 4.1. **Activity** – Employment of any type, contracting, volunteering, or providing services or anything of value, regardless of whether anything of value is received in return.
- 4.2. **Conflict of Interest** – A conflict of interest occurs when an employee's private interest, usually of a personal, financial or economic nature, conflicts or raises a reasonable question of conflict with public duties or responsibilities associated with the performance of Departmental employment.

However, a conflict of interest may also exist in any of the following situations:

- 4.2.1. An employee's direct or indirect financial interests may be in apparent conflict with official job responsibilities; or
- 4.2.2. The employee's financial, business, personal, social or official relationship with a taxpayer could lead to a situation where the employee's impartiality and independence may be reasonably questioned.

- 4.2.3. Situations that involve the employee's personal tax matters, not otherwise construed to be a conflict of interest, are not prohibited - for example, an employee can represent himself or herself before governmental bodies.
- 4.2.4. The following are specific acts or situations that may reasonably be construed as conflicts of interest:
  - 4.2.4.a. Performing any official job responsibilities for anyone with whom the employee maintains either a direct or indirect business, personal, social, or official relationship or for anyone the employee knows personally;
  - 4.2.4.b. Accomplishing or attempting to accomplish personal gain while performing official job duties or through any information acquired while performing such duties;
  - 4.2.4.c. Accessing or altering any tax return or payment information (e.g., IMOD records) that pertains to any previously filed tax return for one's self, an immediate family member, a personal friend, or individual(s) the employee knows on a personal basis. In cases where adjustments are necessary, the employee will discuss the matter with his/her immediate supervisor who will either make the adjustments or instruct another employee to make the adjustments;
  - 4.2.4.d. Failing to disqualify oneself from an official job assignment which involves any taxpayer with whom the employee either directly or indirectly maintains a relationship that could reasonably impair the employee's objectivity in the completion, determination, or recommendation resulting from that assignment;
  - 4.2.4.e. Using an employee's credentials or official position, status, or designation to exert influence or obtain, either directly or indirectly, privileges, favors, or rewards for the employee or others, or to improperly enhance the employee's own prestige;
  - 4.2.4.f. Directly or indirectly requesting or accepting any gift, favor, service, loan, or entertainment under circumstances that might reasonably be construed as influencing or improperly relating to past, present, or future performances of official duties;
  - 4.2.4.g. Representing a taxpayer other than an immediate family member in any capacity concerning any municipal, county, state or federal tax matters, except certain volunteer activities may be permitted with prior approval from the Tax Commissioner or his/her designee;
  - 4.2.4.h. Dealing in an official capacity (e.g., conducting an audit) with a legal entity when the employee has an ownership or interest in the legal entity or stock of the operation with a market value of greater than \$50,000, or has an ownership interest in the legal entity of more than 1% of the fair market value of the legal entity. Securities held in financial funds, such as mutual funds, where the ownership of a specific legal entity does not result in the employee exercising control (voting) or business judgment for the specific legal entity, are not subject to this recusal or notification. With the Tax Commissioner or his/her designee's permission, the employee may continue with the assignment on conditions the Tax Commissioner his/her designee may impose.
  - 4.2.4.i. Being employed or compensated by a supervisory or management employee who has the ability to influence tangible job actions pertaining to the employee.
  - 4.2.4.j. Engaging in any violation of Ohio Ethics Laws in the course of any occupation, employment, business, or activity outside the scope of official employment.

- 4.3. **Immediate family member** – An employee, a spouse of an employee on a joint tax return, or employee's minor child or legal ward.

## 5. Policy

- 5.1. The Tax Commissioner prohibits employees from engaging in the following activities while employed with the Department:

- 5.1.1. Engaging in any outside activity that is inconsistent with the employee's time, resources and duties with the Department, or in any degree adversely affects or interferes with the performance of such duties;
- 5.1.2. Employment or contracting with any person or legal entity that provides tax preparation services, accounting services, or advice or lobbying services on matters of local, county, state, or federal taxation.
- 5.1.3. Engaging in the preparation or completion, outside of the scope of official duties, of any tax returns involving local, county, state or federal taxation laws for or on behalf of any taxpayer (other than an immediate family member). Certain volunteer activities, such as Volunteer Income Tax Assistance, may be permitted with prior approval from the Tax Commissioner or his/her designee; or
- 5.1.4. Maintaining, consulting, advising on, or auditing the books or records of any taxpayer outside the scope of official employment, including book keeping, which may subsequently be used as the basis for the determination of any local, state, or federal taxation liability.

- 5.2. Employees are expected to avoid situations giving the appearance of a conflict of interest or situations or activities that are prohibited conflicts of interests with under this Policy. The definition of conflict of interest set forth herein is intended to provide employees with guidance on what outside acts would constitute a conflict of interest and the steps to follow to receive an official opinion. Each situation's facts must be analyzed to determine whether a conflict of interest exists. Accordingly, when in doubt, employees are expected to seek a conflict of interest review and approval under this policy. Approval will prevent disciplinary action, except when such approval is revoked and an employee continues to engage in a conflict of interest.

### 5.3. Conflict of Interest Review Process

- 5.3.1. Employees must obtain approval before engaging in any activity, whether paid or unpaid, that involves accounting issues, tax-related issues, or maintaining, consulting on, advising on, or auditing books or records outside the scope of official employment.
- 5.3.2. Employees are to initiate the conflict of interest review process by contacting their supervisor to complete a request for conflict of interest review form for submission to the supervisor.
- 5.3.3. Supervisors must forward the completed and signed conflict of interest review form to the Tax Commissioner's Office.
- 5.3.4. The Tax Commissioner or his/her designee will examine and research the request, and report the findings to the Tax Commissioner or his designee and the employee within fifteen (15) workdays after receipt of all necessary information. When an employee requires a response in less than fifteen (15) work days, the employee may ask to expedite the process. Employees must respond to follow-up questions or requests for additional information.

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- 5.4. Employees' outside activities are subject to review at any time for a conflict of interest at the discretion of the Tax Commissioner or his/her designee.
- 5.5. Conflict of interest reviews do not constitute legal advice. Employees must contact the Tax Commissioner or his/her designee or the Ohio Ethics Commission with questions about Ohio Ethics Laws as they pertain to official duties.
- 5.6. Engaging in a conflict of interest may result in disciplinary action including removal from employment. When an employee has been notified that an activity constitutes a conflict of interest and the employee continues to engage in the activity, the Tax Commissioner or his/her designee may order the employee to cease and desist, and the employee may be subject to disciplinary action including removal from employment.