



Guide to Town of Vail's Voluntary Sales Tax Disclosure Program

In order to enter into a voluntary disclosure agreement, the Town of Vail (the Town) requires that a Company provide certain information, representations, and warranties as explained in the information packet.

These are set forth in an offer by the company called the "Statement of Representations and Inducement" (Exhibit A), and are more fully explained in the guide by that name.

Briefly they are:

1. A description of the taxpayer's activities and the date the activities began;
2. An estimate of Town of Vail sale tax liability for previous tax periods;
3. A disclosure with respect to whether the Company has or has not collected the relevant taxes;
4. A representation that the Company has not been previously been contacted by the Town;
5. A representation that the failure to file is not the result of fraud or gross negligence on the part of the Company (in the case of fraud or gross negligence the Town is still, of course, willing to negotiate a settlement, but on much more rigorous terms).

A voluntary disclosure agreement request can be completed by performing the following steps.

Step 1 Read the entire packet. A lot of the questions you may have will be answered.

Step 2 The "Agreement for Registration and Payment of Town of Vail Sales Taxes" will normally be filled out by the Town after review of the Company's Exhibit A. The copy is provided on our website so you can review the standard agreement. The voluntary disclosure request may be submitted anonymously.

Terms Paragraphs 3) & 4) - The Town will normally require a look-back period, whereby the Company will pay taxes covering a certain number of years past. The length of the look-back period or the Town's requirement of one will depend on the nature of the Company's activities and the size of past years' potential tax liabilities as submitted in Exhibit A.

The Town expects that a normal voluntary disclosure agreement will contain a provision for a look-back period of a minimum of three years for sales/use tax. (corresponding to the respective statutes of limitations, as though returns had been filed).

Paragraph 7) - Whether penalties for taxes due for the period of non-filing are waived, and the extent of the waiver, will depend on the same issues that determine if the Town will insist on a look-back period (i.e., the certainty of the nexus and the size of the liability), as well as the explanation for the failure to file as stated in Exhibit A. The Town's penalty rate is 10% for initial failure to collect and/or remit sales tax, and 1% of the tax liability per month, thereafter. Generally, the Town will waive the 10% initial penalty, depending on the facts giving rise to settlement in paragraph 3 of the statement of representations and inducements.

Step 3 Complete an Exhibit A for the company. Be sure to answer all questions and submit all facts as requested in the "Guide to Statement of Representations and Inducement" (Exhibit A). Please be specific. Vagueness or ambiguity will only hinder our attempt to determine the company's liability and reach an agreement.

We hope these guidelines answer most of your questions about the Town's policy with respect to voluntary disclosure agreements and hope that the Company will see fit to proceed with the agreement.

If you wish to enter into a voluntary disclosure agreement, please submit an Exhibit A and send them to the address at the bottom of this page.

After we review the offer, if everything is satisfactory, we will complete an Agreement for Registration and Payment of Town of Vail Sales Taxes, sign the agreement and mail it to you. The signed agreement will include the voluntary disclosure number. We will send the necessary registration forms for the company to fill out with the signed agreement.

At that point the company should sign the original agreement, include the Company name, fill out any registration forms, keep a copy, and return the originals to us. You would then begin to comply with the terms of the agreement. Once the identity of the company is known to us, if contact regarding the agreement should be made through a representative (CPA, lawyer, etc.), please provide a Power of Attorney.

If you have any other questions or concerns, please feel free to contact Lauren Noll, Sales Tax Administrator. When submitting documents for the voluntary disclosure program, please use the address below based on the method of mailing. Email is also accepted at lnoll@vail.gov.

Mailing Address:

Town of Vail
Attn: Sales Tax Administrator
75 S Frontage Rd
Vail, CO 81657



Guide to Statement of Representations and Inducements

Exhibit A.

1. Nature of the Company's business

[Comprehensively describe the company's business, including what the business sells, the services it provides, the date the company or its predecessor started conducting business, any change of ownership, including change of forms of ownership (i.e., incorporation) and any other business facts that might have a bearing on tax liability]

2. Nature of the Company's present tax contacts with the Town of Vail [the "Town"]

[Describe any taxes that the Company presently files with the Town]

3. Facts giving rise to settlement - Determination of tax nexus

[Describe the nature of the contact of the Company with the Town of Vail. Explain the reason for the Company's earlier belief that filing of the relevant taxes was not required. Explain the reason or the change in circumstances that has caused the Company to seek this agreement. Has the Company sought a recent legal opinion which revealed that the Company is liable for taxes in Colorado?]

[State that the Company's past determination that taxes were not due to the Town was not a result of fraud or gross negligence (either by current management or by previous management).]

4. Statement of past tax contacts with the Town

[Describe any recent (within the last three years) contacts between the Town and the Company. Has the Company been contacted by the Town recently with respect to the filing of taxes? Has the Company recently been contacted by the Town with respect to an audit or is the company now under audit?]

5. Statement of collection of sales taxes

[State whether the Company has failed to collect any sales taxes that it was obligated to collect or whether the Company has collected the taxes but failed to remit them to the Town.]

6. Statement of tax liability - If disclosing a prior Sales Tax Liability

[Give a month-by-month disclosure of the amount of sales tax that the Company should have remitted to the Town for the last three years. State that the sales tax liability for the Company for any previous year is no greater than the tax liability disclosed for any one of the last three years.]



AGREEMENT FOR REGISTRATION AND PAYMENT OF TOWN OF VAIL SALES TAX

(Completed by the Town after receipt of statement of representations and inducements. Terms are subject to change based on the facts of each disclosure)

This agreement [the "Agreement"] is entered into as of the ____ day of _____ [the "Effective Date"] between the Town of Vail [the "Town"] and _____ [the "Company"].

Set out in Exhibit A, which exhibit is hereby incorporated into and made part of the Agreement, is a statement of facts made by the Company and warranted by the Company to be true. The Company has, in Exhibit A, fully disclosed all relevant and material facts and has done so in order to induce the Town to accept this agreement. The Agreement is entered into by the Town in reliance on Exhibit A. If any material facts set out in exhibit A are incorrect or if any material facts are omitted from Exhibit A, this agreement is voidable by the Town and subject to renegotiation and the Company is considered to be in breach of the Agreement. Exhibit A is based upon the "Guide to Statement of Representations and Inducements," enclosed in the " Guide to Town of Vail's Voluntary Sales Tax Disclosure Program."

TERMS

Duties of the Company

- 1) The Company will, within 30 days of the Effective Date, complete and return an application for a Town of Vail Sales Tax License at vail.munirevs.com;
- 2) The Company will maintain the required licenses and registrations until they cease to do any business in the Town;
- 3) The Company will, within 30 days of the Effective Date, remit all sales taxes, which the Company should have collected and/or remitted on its taxable sales or purchases taxable in the Town that took place on or after _____ ;
- 4) The Company will continue to collect and remit sales tax until they cease to do any business in the Town;
- 5) The Company will pay interest at the statutory rate of 1% per month for all monies due under numbered paragraph 3;
- 6) The Company will pay a penalty of ____ % of all monies due under numbered paragraph 3;
- 7) The Company agrees to make all its books and records available to the Town or its agent upon reasonable notice to verify the factual representations made by the Company in this Agreement or in any document referred to in this Agreement.

Duties of the Town

- 8) So long as the Company is not in breach of this agreement, the Town agrees not to assess any sales tax (as applicable) based on activities conducted by the Company prior to the Effective Date other than as set out in numbered paragraphs 3, 5 and 6;

- 9) So long as the Company is not in breach of this agreement, the Town agrees not to assess any penalty or interest based on activities conducted by the Company prior to the Effective Date other than as set out in numbered paragraphs 5 and 6;
- 10) The Town agrees to accept the statement of tax liability, contained in paragraph 6 of exhibit A., in lieu of returns for prior periods.
- 11) The Town will calculate interest and penalties due so the Company can promptly pay it.

11) **Jurisdiction and Choice of Law** - The Agreement is made under the laws of the State of Colorado and is to be interpreted under the laws of the State of Colorado; the Company agrees to submit to the jurisdiction of the State of Colorado with respect to any dispute arising under the Agreement;

12) **Confidentiality** - The making of the Agreement and its terms, including the identity of the Company, shall not be disclosed by the Town to any other municipality or entity, except as required by law;

13) **Entire Agreement** - This Agreement, including Exhibits A and B, together with the "Colorado Voluntary Disclosure Agreement Information Packet", on which the Agreement is based, represent the entire agreement between the parties. No other agreements or representations exist other than as noted in the Agreement;

14) **Amendments** - No provision of this Agreement shall be waived or modified except in writing signed by all the parties to this Agreement.

Town of Vail

Taxpayer

By: _____

For: _____
(Company Name)

Title: _____

By: _____

Date: _____

Title: _____

Voluntary Disclosure #: _____

Date: _____