

State of Arizona  
House of Representatives  
Fifty-second Legislature  
First Regular Session  
2015

# HOUSE BILL 2062

AN ACT

AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES; RELATING TO CONFIDENTIAL INFORMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-2003, Arizona Revised Statutes, is amended to  
3 read:

4 42-2003. Authorized disclosure of confidential information

5 A. Confidential information relating to:

6 1. A taxpayer may be disclosed to the taxpayer, its successor in  
7 interest or a designee of the taxpayer who is authorized in writing by the  
8 taxpayer. A principal corporate officer of a parent corporation may execute  
9 a written authorization for a controlled subsidiary.

10 2. A corporate taxpayer may be disclosed to any principal officer, any  
11 person designated by a principal officer or any person designated in a  
12 resolution by the corporate board of directors or other similar governing  
13 body.

14 3. A partnership may be disclosed to any partner of the partnership.  
15 This exception does not include disclosure of confidential information of a  
16 particular partner unless otherwise authorized.

17 4. An estate may be disclosed to the personal representative of the  
18 estate and to any heir, next of kin or beneficiary under the will of the  
19 decedent if the department finds that the heir, next of kin or beneficiary  
20 has a material interest which will be affected by the confidential  
21 information.

22 5. A trust may be disclosed to the trustee or trustees, jointly or  
23 separately, and to the grantor or any beneficiary of the trust if the  
24 department finds that the grantor or beneficiary has a material interest that  
25 will be affected by the confidential information.

26 6. Any taxpayer may be disclosed if the taxpayer has waived any rights  
27 to confidentiality either in writing or on the record in any administrative  
28 or judicial proceeding.

29 7. The name and taxpayer identification numbers of persons issued  
30 direct payment permits may be publicly disclosed.

31 B. Confidential information may be disclosed to:

32 1. Any employee of the department whose official duties involve tax  
33 administration.

34 2. The office of the attorney general solely for its use in  
35 preparation for, or in an investigation that may result in, any proceeding  
36 involving tax administration before the department or any other agency or  
37 board of this state, or before any grand jury or any state or federal court.

38 3. The department of liquor licenses and control for its use in  
39 determining whether a spirituous liquor licensee has paid all transaction  
40 privilege taxes and affiliated excise taxes incurred as a result of the sale  
41 of spirituous liquor, as defined in section 4-101, at the licensed  
42 establishment and imposed on the licensed establishments by this state and  
43 its political subdivisions.

44 4. Other state tax officials whose official duties require the  
45 disclosure for proper tax administration purposes if the information is

1 sought in connection with an investigation or any other proceeding conducted  
2 by the official. Any disclosure is limited to information of a taxpayer who  
3 is being investigated or who is a party to a proceeding conducted by the  
4 official.

5 5. The following agencies, officials and organizations, if they grant  
6 substantially similar privileges to the department for the type of  
7 information being sought, pursuant to statute and a written agreement between  
8 the department and the foreign country, agency, state, Indian tribe or  
9 organization:

10 (a) The United States internal revenue service, alcohol and tobacco  
11 tax and trade bureau of the United States treasury, United States bureau of  
12 alcohol, tobacco, firearms and explosives of the United States department of  
13 justice, United States drug enforcement agency and federal bureau of  
14 investigation.

15 (b) A state tax official of another state.

16 (c) An organization of states, federation of tax administrators or  
17 multistate tax commission that operates an information exchange for tax  
18 administration purposes.

19 (d) An agency, official or organization of a foreign country with  
20 responsibilities that are comparable to those listed in subdivision (a), (b)  
21 or (c) of this paragraph.

22 (e) An agency, official or organization of an Indian tribal government  
23 with responsibilities comparable to the responsibilities of the agencies,  
24 officials or organizations identified in subdivision (a), (b) or (c) of this  
25 paragraph.

26 6. The auditor general, in connection with any audit of the department  
27 subject to the restrictions in section 42-2002, subsection D.

28 7. Any person to the extent necessary for effective tax administration  
29 in connection with:

30 (a) The processing, storage, transmission, destruction and  
31 reproduction of the information.

32 (b) The programming, maintenance, repair, testing and procurement of  
33 equipment for purposes of tax administration.

34 (c) The collection of the taxpayer's civil liability.

35 8. The office of administrative hearings relating to taxes  
36 administered by the department pursuant to section 42-1101, but the  
37 department shall not disclose any confidential information:

38 (a) Regarding income tax or withholding tax.

39 (b) On any tax issue relating to information associated with the  
40 reporting of income tax or withholding tax.

41 9. The United States treasury inspector general for tax administration  
42 for the purpose of reporting a violation of internal revenue code section  
43 7213A (26 United States Code section 7213A), unauthorized inspection of  
44 returns or return information.

- 1           10. The financial management service of the United States treasury  
2 department for use in the treasury offset program.
- 3           11. The United States treasury department or its authorized agent for  
4 use in the state income tax levy program and in the electronic federal tax  
5 payment system.
- 6           12. The Arizona commerce authority for its use in:  
7           (a) Qualifying renewable energy operations for the tax incentives  
8 under sections 42-12006, 43-1083.01 and 43-1164.01.  
9           (b) Qualifying businesses with a qualified facility for income tax  
10 credits under sections 43-1083.03 and 43-1164.04.  
11           (c) Fulfilling its annual reporting responsibility pursuant to section  
12 41-1511, subsections U and V and section 41-1512, subsections U and V.  
13           (d) Certifying computer data centers for tax relief under section  
14 41-1519.
- 15           13. A prosecutor for purposes of section 32-1164, subsection C.
- 16           14. The state fire marshal for use in determining compliance with and  
17 enforcing title 41, chapter 16, article 3.1.
- 18           15. The department of transportation for its use in administering  
19 taxes, surcharges and penalties prescribed by title 28.
- 20           16. The Arizona health care cost containment system administration for  
21 its use in administering nursing facility provider assessments.
- 22           C. Confidential information may be disclosed in any state or federal  
23 judicial or administrative proceeding pertaining to tax administration  
24 pursuant to the following conditions:  
25           1. One or more of the following circumstances must apply:  
26           (a) The taxpayer is a party to the proceeding.  
27           (b) The proceeding arose out of, or in connection with, determining  
28 the taxpayer's civil or criminal liability, or the collection of the  
29 taxpayer's civil liability, with respect to any tax imposed under this title  
30 or title 43.  
31           (c) The treatment of an item reflected on the taxpayer's return is  
32 directly related to the resolution of an issue in the proceeding.  
33           (d) Return information directly relates to a transactional  
34 relationship between a person who is a party to the proceeding and the  
35 taxpayer and directly affects the resolution of an issue in the proceeding.
- 36           2. Confidential information may not be disclosed under this subsection  
37 if the disclosure is prohibited by section 42-2002, subsection C or D.
- 38           D. Identity information may be disclosed for purposes of notifying  
39 persons entitled to tax refunds if the department is unable to locate the  
40 persons after reasonable effort.
- 41           E. The department, on the request of any person, shall provide the  
42 names and addresses of bingo licensees as defined in section 5-401, verify  
43 whether or not a person has a privilege license and number, a tobacco product  
44 distributor's license and number or a withholding license and number or  
45 disclose the information to be posted on the department's website or

1 otherwise publicly accessible pursuant to section 42-1124, subsection F and  
2 section 42-3201, subsection A.

3 F. A department employee, in connection with the official duties  
4 relating to any audit, collection activity or civil or criminal  
5 investigation, may disclose return information to the extent that disclosure  
6 is necessary to obtain information that is not otherwise reasonably  
7 available. These official duties include the correct determination of and  
8 liability for tax, the amount to be collected or the enforcement of other  
9 state tax revenue laws.

10 G. If an organization is exempt from this state's income tax as  
11 provided in section 43-1201 for any taxable year, the name and address of the  
12 organization and the application filed by the organization on which the  
13 department made its determination for exemption together with any papers  
14 submitted in support of the application and any letter or document issued by  
15 the department concerning the application are open to public inspection.

16 H. Confidential information relating to transaction privilege tax, use  
17 tax, severance tax, jet fuel excise and use tax and any other tax collected  
18 by the department on behalf of any jurisdiction may be disclosed to any  
19 county, city or town tax official if the information relates to a taxpayer  
20 who is or may be taxable by a county, city or town or who may be subject to  
21 audit by the department pursuant to section 42-6002. Any taxpayer  
22 information released by the department to the county, city or town:

23 1. May only be used for internal purposes, including audits.

24 2. May not be disclosed to the public in any manner that does not  
25 comply with confidentiality standards established by the department. The  
26 county, city or town shall agree in writing with the department that any  
27 release of confidential information that violates the confidentiality  
28 standards adopted by the department will result in the immediate suspension  
29 of any rights of the county, city or town to receive taxpayer information  
30 under this subsection.

31 I. The department may disclose statistical information gathered from  
32 confidential information if it does not disclose confidential information  
33 attributable to any one taxpayer. The department may disclose statistical  
34 information gathered from confidential information, even if it discloses  
35 confidential information attributable to a taxpayer, to:

36 1. The state treasurer in order to comply with the requirements of  
37 section 42-5029, subsection A, paragraph 3.

38 2. The joint legislative income tax credit review committee, ~~and~~ the  
39 joint legislative budget committee staff **AND THE LEGISLATIVE STAFF** in order  
40 to comply with the requirements of section 43-221.

41 J. The department may disclose the aggregate amounts of any tax  
42 credit, tax deduction or tax exemption enacted after January 1, 1994.  
43 Information subject to disclosure under this subsection shall not be  
44 disclosed if a taxpayer demonstrates to the department that such information  
45 would give an unfair advantage to competitors.

1 K. Except as provided in section 42-2002, subsection C, confidential  
2 information, described in section 42-2001, paragraph 1, subdivision (a), item  
3 (ii), may be disclosed to law enforcement agencies for law enforcement  
4 purposes.

5 L. The department may provide transaction privilege tax license  
6 information to property tax officials in a county for the purpose of  
7 identification and verification of the tax status of commercial property.

8 M. The department may provide transaction privilege tax, luxury tax,  
9 use tax, property tax and severance tax information to the ombudsman-citizens  
10 aide pursuant to title 41, chapter 8, article 5.

11 N. Except as provided in section 42-2002, subsection D, a court may  
12 order the department to disclose confidential information pertaining to a  
13 party to an action. An order shall be made only upon a showing of good cause  
14 and that the party seeking the information has made demand upon the taxpayer  
15 for the information.

16 O. This section does not prohibit the disclosure by the department of  
17 any information or documents submitted to the department by a bingo licensee.  
18 Before disclosing the information the department shall obtain the name and  
19 address of the person requesting the information.

20 P. If the department is required or permitted to disclose confidential  
21 information, it may charge the person or agency requesting the information  
22 for the reasonable cost of its services.

23 Q. Except as provided in section 42-2002, subsection D, the department  
24 of revenue shall release confidential information as requested by the  
25 department of economic security pursuant to section 42-1122 or 46-291.  
26 Information disclosed under this subsection is limited to the same type of  
27 information that the United States internal revenue service is authorized to  
28 disclose under section 6103(1)(6) of the internal revenue code.

29 R. Except as provided in section 42-2002, subsection D, the department  
30 of revenue shall release confidential information as requested by the courts  
31 and clerks of the court pursuant to section 42-1122.

32 S. To comply with the requirements of section 42-5031, the department  
33 may disclose to the state treasurer, to the county stadium district board of  
34 directors and to any city or town tax official that is part of the county  
35 stadium district confidential information attributable to a taxpayer's  
36 business activity conducted in the county stadium district.

37 T. The department shall release to the attorney general confidential  
38 information as requested by the attorney general for purposes of determining  
39 compliance with or enforcing any of the following:

40 1. Any public health control law relating to tobacco sales as provided  
41 under title 36, chapter 6, article 14.

42 2. Any law relating to reduced cigarette ignition propensity standards  
43 as provided under title 41, chapter 16, article 3.1.

1           3. Sections 44-7101 and 44-7111, the master settlement agreement  
2 referred to in those sections and all agreements regarding disputes under the  
3 master settlement agreement.

4           U. For proceedings before the department, the office of administrative  
5 hearings, the board of tax appeals or any state or federal court involving  
6 penalties that were assessed against a return preparer, an electronic return  
7 preparer or a payroll service company pursuant to section 42-1103.02,  
8 42-1125.01 or 43-419, confidential information may be disclosed only before  
9 the judge or administrative law judge adjudicating the proceeding, the  
10 parties to the proceeding and the parties' representatives in the proceeding  
11 prior to its introduction into evidence in the proceeding. The confidential  
12 information may be introduced as evidence in the proceeding only if the  
13 taxpayer's name, the names of any dependents listed on the return, all social  
14 security numbers, the taxpayer's address, the taxpayer's signature and any  
15 attachments containing any of the foregoing information are redacted and if  
16 either:

17           1. The treatment of an item reflected on such return is or may be  
18 related to the resolution of an issue in the proceeding.

19           2. Such return or return information relates or may relate to a  
20 transactional relationship between a person who is a party to the proceeding  
21 and the taxpayer which directly affects the resolution of an issue in the  
22 proceeding.

23           3. The method of payment of the taxpayer's withholding tax liability  
24 or the method of filing the taxpayer's withholding tax return is an issue for  
25 the period.

26           V. The department and attorney general may share the information  
27 specified in subsection T of this section with any of the following:

28           1. Federal, state or local agencies for the purposes of enforcement of  
29 corresponding laws of other states.

30           2. A court, arbitrator, data clearinghouse or similar entity for the  
31 purpose of assessing compliance with or making calculations required by the  
32 master settlement agreement or agreements regarding disputes under the master  
33 settlement agreement, and with counsel for the parties or expert witnesses in  
34 any such proceeding, if the information otherwise remains confidential.

35           W. The department may provide the name and address of qualifying  
36 hospitals and qualifying health care organizations, as defined in section  
37 42-5001, to a business classified and reporting transaction privilege tax  
38 under the utilities classification.

39           X. The department may disclose to an official of any city, town or  
40 county in a current agreement or considering a prospective agreement with the  
41 department as described in section 42-5032.02, subsection F any information  
42 relating to amounts subject to distribution required by section 42-5032.02.  
43 Information disclosed by the department under this subsection:

44           1. May only be used by the city, town or county for internal purposes.

1           2. May not be disclosed to the public in any manner that does not  
2     comply with confidentiality standards established by the department. The  
3     city, town or county must agree with the department in writing that any  
4     release of confidential information that violates the confidentiality  
5     standards will result in the immediate suspension of any rights of the city,  
6     town or county to receive information under this subsection.