

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

CHAPTER 199
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
46 sought in connection with an investigation or any other proceeding conducted

1 by the official. Any disclosure is limited to information of a taxpayer who
2 is being investigated or who is a party to a proceeding conducted by the
3 official.

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

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

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

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

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

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

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

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

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

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

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

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

37 (a) Regarding income tax or withholding tax.

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

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

44 10. The financial management service of the United States treasury
45 department for use in the treasury offset program.

1 11. The United States treasury department or its authorized agent for
2 use in the state income tax levy program and in the electronic federal tax
3 payment system.

4 12. The Arizona commerce authority for its use in:

5 (a) Qualifying renewable energy operations for the tax incentives
6 under sections 42-12006, 43-1083.01 and 43-1164.01.

7 (b) Qualifying businesses with a qualified facility for income tax
8 credits under sections 43-1083.03 and 43-1164.04.

9 (c) Fulfilling its annual reporting responsibility pursuant to section
10 41-1511, subsections U and V and section 41-1512, subsections U and V.

11 (d) Certifying computer data centers for tax relief under section
12 41-1519.

13 13. A prosecutor for purposes of section 32-1164, subsection C.

14 14. The state fire marshal for use in determining compliance with and
15 enforcing title 41, chapter 16, article 3.1.

16 15. The department of transportation for its use in administering
17 taxes, surcharges and penalties prescribed by title 28.

18 16. The Arizona health care cost containment system administration for
19 its use in administering nursing facility provider assessments.

20 C. Confidential information may be disclosed in any state or federal
21 judicial or administrative proceeding pertaining to tax administration
22 pursuant to the following conditions:

23 1. One or more of the following circumstances must apply:

24 (a) The taxpayer is a party to the proceeding.

25 (b) The proceeding arose out of, or in connection with, determining
26 the taxpayer's civil or criminal liability, or the collection of the
27 taxpayer's civil liability, with respect to any tax imposed under this title
28 or title 43.

29 (c) The treatment of an item reflected on the taxpayer's return is
30 directly related to the resolution of an issue in the proceeding.

31 (d) Return information directly relates to a transactional
32 relationship between a person who is a party to the proceeding and the
33 taxpayer and directly affects the resolution of an issue in the proceeding.

34 2. Confidential information may not be disclosed under this subsection
35 if the disclosure is prohibited by section 42-2002, subsection C or D.

36 D. Identity information may be disclosed for purposes of notifying
37 persons entitled to tax refunds if the department is unable to locate the
38 persons after reasonable effort.

39 E. The department, on the request of any person, shall provide the
40 names and addresses of bingo licensees as defined in section 5-401, verify
41 whether or not a person has a privilege license and number, a tobacco product
42 distributor's license and number or a withholding license and number or
43 disclose the information to be posted on the department's website or
44 otherwise publicly accessible pursuant to section 42-1124, subsection F and
45 section 42-3201, subsection A.

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

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

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

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

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

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

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

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

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

44 K. Except as provided in section 42-2002, subsection C, confidential
45 information, described in section 42-2001, paragraph 1, subdivision (a), item

1 (ii), may be disclosed to law enforcement agencies for law enforcement
2 purposes.

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

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

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

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

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

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

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

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

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

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

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

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

45 U. For proceedings before the department, the office of administrative
46 hearings, the board of tax appeals or any state or federal court involving

1 penalties that were assessed against a return preparer, an electronic return
2 preparer or a payroll service company pursuant to section 42-1103.02,
3 42-1125.01 or 43-419, confidential information may be disclosed only before
4 the judge or administrative law judge adjudicating the proceeding, the
5 parties to the proceeding and the parties' representatives in the proceeding
6 prior to its introduction into evidence in the proceeding. The confidential
7 information may be introduced as evidence in the proceeding only if the
8 taxpayer's name, the names of any dependents listed on the return, all social
9 security numbers, the taxpayer's address, the taxpayer's signature and any
10 attachments containing any of the foregoing information are redacted and if
11 either:

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

14 2. Such return or return information relates or may relate to a
15 transactional relationship between a person who is a party to the proceeding
16 and the taxpayer which directly affects the resolution of an issue in the
17 proceeding.

18 3. The method of payment of the taxpayer's withholding tax liability
19 or the method of filing the taxpayer's withholding tax return is an issue for
20 the period.

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

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

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

30 W. The department may provide the name and address of qualifying
31 hospitals and qualifying health care organizations, as defined in section
32 42-5001, to a business classified and reporting transaction privilege tax
33 under the utilities classification.

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

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

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

H.B. 2062

APPROVED BY THE GOVERNOR APRIL 6, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2015.