

REFERENCE TITLE: tax appeals; administrative hearings; confidentiality

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

SB 1385

Introduced by
Senator Farnsworth D

AN ACT

AMENDING SECTIONS 42-1251, 42-1253 AND 42-1254, ARIZONA REVISED STATUTES; AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 96, SECTION 1, CHAPTER 258, SECTION 43 AND CHAPTER 340, SECTION 2; AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 96, SECTION 1, CHAPTER 139, SECTION 4, CHAPTER 258, SECTION 43 AND CHAPTER 340, SECTION 2; AMENDING SECTION 42-2059, ARIZONA REVISED STATUTES; RELATING TO TAX APPEAL CONFIDENTIALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 42-1251, Arizona Revised Statutes, is amended to
3 read:

4 42-1251. Appeal to the department; hearing

5 A. Except in the case of individual income taxes, a person from
6 whom an amount is determined to be due under article 3 of this chapter may
7 apply to the department by a petition in writing within forty-five days
8 after the notice of a proposed assessment made pursuant to section
9 42-1109, subsection B or the notice required by section 42-1108,
10 subsection B is received, or within such additional time as the department
11 may allow, for a hearing, correction or redetermination of the action
12 taken by the department. In the case of individual income taxes, the
13 period is ninety days from the date the notice is mailed. The petition
14 shall set forth the reasons why the hearing, correction or redetermination
15 should be granted and the amount in which any tax, interest and penalties
16 should be reduced. If only a portion of the deficiency assessment is
17 protested, all unprotested amounts of tax, interest and penalties must be
18 paid at the time the protest is filed. The department shall consider the
19 petition and grant a hearing, if requested. To represent the taxpayer at
20 the hearing or to appear on the taxpayer's behalf is deemed not to be the
21 practice of law.

22 B. EXCEPT IN THE CASE OF INDIVIDUAL INCOME TAXES, AT ANY TIME
23 DURING WHICH AN APPEAL TO THE DEPARTMENT UNDER SUBSECTION A OF THIS
24 SECTION IS PENDING, OR IN LIEU OF APPEALING TO THE DEPARTMENT PURSUANT TO
25 SUBSECTION A OF THIS SECTION, WITHIN FORTY-FIVE DAYS AFTER A NOTICE OF
26 PROPOSED ASSESSMENT MADE PURSUANT TO SECTION 42-1109, SUBSECTION B OR THE
27 NOTICE REQUIRED BY SECTION 42-1108, SUBSECTION B IS RECEIVED, A PERSON
28 THAT HAS CONFERRED WITH A DESIGNATED APPEALS OFFICER OF THE DEPARTMENT TO
29 CLARIFY ANY FACT OR LEGAL ISSUE IN DISPUTE AND TO DISCUSS THE AVAILABILITY
30 OF ADDITIONAL DOCUMENTATION THAT MAY ASSIST IN RESOLVING OUTSTANDING
31 ISSUES MAY EITHER:

32 1. APPEAL TO THE STATE BOARD OF TAX APPEALS BY FILING A NOTICE OF
33 APPEAL IN WRITING PURSUANT TO SECTION 42-1253, SUBSECTION A.

34 2. BRING AN ACTION IN TAX COURT BY FILING A NOTICE OF APPEAL IN
35 WRITING PURSUANT TO SECTION 42-1254, SUBSECTION C.

36 ~~B.~~ C. If the taxpayer does not file a petition for hearing,
37 correction, ~~or~~ redetermination ~~OR APPEAL~~ within the period provided by
38 ~~SUBSECTION A OR B OF~~ this section, the amount determined to be due becomes
39 final at the expiration of the period. The taxpayer is deemed to have
40 waived and abandoned the right to question the amount determined to be
41 due, unless the taxpayer pays the total deficiency assessment, including
42 interest and penalties. The taxpayer may then file a claim for refund
43 pursuant to section 42-1118 within six months ~~of~~ ~~AFTER~~ payment of the
44 deficiency assessment or within the time limits prescribed by section
45 42-1106, whichever period expires later.

1 ~~E~~. D. All orders or decisions made on the filing of a petition for
2 a hearing, correction or redetermination UNDER SUBSECTION A OF THIS
3 SECTION become final thirty days after notice has been received by the
4 petitioner, unless the petitioner appeals the order or decision to the
5 state board of tax appeals.

6 Sec. 2. Section 42-1253, Arizona Revised Statutes, is amended to
7 read:

8 42-1253. Appeal to state board of tax appeals; definition

9 A. Except ~~as provided in~~ FOR THE PROVISIONS OF SECTION 42-1251,
10 SUBSECTION B AND section 42-1254, subsection C THAT PROVIDE FOR AN OPTION
11 TO BYPASS ALL OR PART OF THE ADMINISTRATIVE APPEALS PROCESS IN CERTAIN TAX
12 DISPUTES, a person aggrieved by a final decision or order of the
13 department under section 42-1251, article 3 of this chapter or section
14 42-2065, 42-2068, 42-2069, 42-2074, 42-2201 or 42-2202 may appeal to the
15 state board of tax appeals by filing a notice of appeal in writing within
16 thirty days after the decision or order from which the appeal is taken has
17 become final.

18 B. The board shall take testimony and examine documentary evidence
19 as necessary to determine the appeal, all pursuant to administrative rules
20 to govern such appeals.

21 C. On determining the appeal the board shall issue a decision
22 consistent with its determination. The board's decision is final on the
23 expiration of thirty days from the date when notice of its action is
24 received by the taxpayer, unless either the department or the taxpayer
25 brings an action in tax court as provided in section 42-1254.

26 D. If the amount in any single dispute before the board is less
27 than twenty-five thousand dollars, a taxpayer may be represented in that
28 dispute before the board by:

29 1. A certified public accountant.

30 2. A person who is enrolled to practice before the United States
31 internal revenue service and is recognized as an enrolled agent.

32 3. Any other person who is authorized by the taxpayer under a
33 properly executed power of attorney and who was previously or is currently
34 retained by the taxpayer for purposes other than representation in a
35 hearing before the board.

36 E. If a practitioner who represents a taxpayer before the board
37 pursuant to subsection D of this section fails to comply with an order or
38 rule of the board, the board may impose sanctions including one or both of
39 the following:

40 1. Order that the stipulation of the facts proposed by the
41 department of revenue be accepted.

42 2. Suspend the practitioner from further practice before the board
43 either for a specific period of time or until the board removes the
44 suspension.

1 F. For the purposes of this section, "practitioner" means a person,
2 other than a party, who files documents with or appears before the board
3 in connection with a matter before the board.

4 Sec. 3. Section 42-1254, Arizona Revised Statutes, is amended to
5 read:

6 42-1254. Appeal to tax court

7 A. The department or a taxpayer aggrieved by a decision of the
8 state board of tax appeals may bring an action in tax court.

9 B. If the department is aggrieved by a decision of the board and
10 the amount in dispute is less than five thousand dollars, the department
11 may not bring an action in tax court unless the department determines that
12 the decision of the board involves an issue of substantial significance to
13 the state. A taxpayer aggrieved by a determination of the department that
14 an issue is of substantial significance to the state may file a motion
15 with the tax court to dismiss the action brought by the department on the
16 grounds that the determination constitutes an abuse of discretion.

17 C. Except in the case of individual income tax cases in which the
18 amount in dispute is less than five thousand dollars, a person who is
19 aggrieved by a final decision or order of the department under section
20 42-1251 or article 3 of this chapter ~~may~~, in lieu of appealing to the
21 state board of tax appeals under section 42-1253, **MAY** bring an action in
22 tax court by filing a notice of appeal in writing within thirty days after
23 the decision or order from which the appeal is taken has become final. **IN**
24 **ADDITION, AS PROVIDED BY SECTION 42-1251, SUBSECTION B, A PERSON MAY**
25 **BYPASS ALL OR PART OF THE ADMINISTRATIVE APPEALS PROCESS IN CERTAIN TAX**
26 **DISPUTES BY BRINGING AN ACTION IN TAX COURT BY FILING A NOTICE OF APPEAL**
27 **IN WRITING WITHIN THE TIME PRESCRIBED BY SECTION 42-1251, SUBSECTION B.**

28 D. Any appeal that is taken to tax court pursuant to this section
29 is subject to the following provisions:

30 1. ~~No~~ **AN** injunction, writ of mandamus or other legal or equitable
31 process may **NOT** issue in an action in any court in this state against an
32 officer of this state to prevent or enjoin the collection of any tax,
33 penalty or interest.

34 2. The action shall not begin more than thirty days after the order
35 or decision of the board or department becomes final. Failure to bring
36 the action within thirty days after the order or decision of the board or
37 department becomes final constitutes a waiver of the protest and a waiver
38 of all claims against this state arising from or based on the illegality
39 in the tax, penalties and interest at issue, except that within the time
40 limits set forth in section 42-1106, a taxpayer who fails to bring an
41 action within thirty days may pay the tax under protest stating the
42 grounds of objection to the legality of the tax and then file a claim for
43 refund of the taxes paid. The refund claim shall then be governed by
44 section 42-1119 and this section.

1 3. The tax court shall hear and determine the appeal as a trial de
2 novo.

3 4. Either party to such AN action may appeal to the court of
4 appeals or supreme court as provided by law.

5 5. If a final judgment is rendered in favor of the taxpayer in the
6 action, the amount or such portion of the judgment as may be necessary
7 shall first be credited to any taxes, penalties and interest due from the
8 plaintiff taxpayer, and the amount of the balance remaining due the
9 taxpayer shall be certified by the department of revenue to the department
10 of administration, with a certified copy of the final judgment and a claim
11 for refund authenticated by the department of revenue. On receipt, the
12 department of administration shall draw a warrant payable to the taxpayer
13 in an amount equal to the amount of the tax found by the judgment to be
14 illegal, ~~less~~ MINUS the amount of any taxes, penalties and interest due
15 from the taxpayer. The department of administration shall draw a separate
16 warrant payable to the taxpayer in an amount equal to the interest and
17 other costs recovered against the department of revenue by the judgment,
18 which shall be paid from the appropriate tax account.

19 Sec. 4. Section 42-2003, Arizona Revised Statutes, as amended by
20 Laws 2017, chapter 96, section 1, chapter 258, section 43 and chapter 340,
21 section 2, is amended to read:

22 42-2003. Authorized disclosure of confidential information

23 A. Confidential information relating to:

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

28 2. A corporate taxpayer may be disclosed to any principal officer,
29 any person designated by a principal officer or any person designated in a
30 resolution by the corporate board of directors or other similar governing
31 body. IF A CORPORATE OFFICER SIGNS A STATEMENT UNDER PENALTY OF PERJURY
32 REPRESENTING THAT THE OFFICER IS A PRINCIPAL OFFICER, THE DEPARTMENT MAY
33 RELY ON THE STATEMENT UNTIL THE STATEMENT IS SHOWN TO BE FALSE. FOR THE
34 PURPOSES OF THIS PARAGRAPH, "PRINCIPAL OFFICER" INCLUDES A CHIEF EXECUTIVE
35 OFFICER, PRESIDENT, SECRETARY, TREASURER, VICE PRESIDENT OF TAX, CHIEF
36 FINANCIAL OFFICER, CHIEF OPERATING OFFICER OR CHIEF TAX OFFICER OR ANY
37 OTHER CORPORATE OFFICER WHO HAS THE AUTHORITY TO BIND THE TAXPAYER ON
38 MATTERS RELATED TO STATE TAXES.

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

42 4. A LIMITED LIABILITY COMPANY MAY BE DISCLOSED TO ANY MEMBER OF
43 THE COMPANY OR, IF THE COMPANY IS MANAGER-MANAGED, TO ANY MANAGER.

44 ~~4.~~ 5. An estate may be disclosed to the personal representative of
45 the estate and to any heir, next of kin or beneficiary under the will of

1 the decedent if the department finds that the heir, next of kin or
2 beneficiary has a material interest that will be affected by the
3 confidential information.

4 ~~5.~~ 6. A trust may be disclosed to the trustee or trustees, jointly
5 or separately, and to the grantor or any beneficiary of the trust if the
6 department finds that the grantor or beneficiary has a material interest
7 that will be affected by the confidential information.

8 7. A GOVERNMENT ENTITY MAY BE DISCLOSED TO THE HEAD OF THE ENTITY
9 OR A MEMBER OF THE GOVERNING BOARD OF THE ENTITY, OR ANY EMPLOYEE OF THE
10 ENTITY WHO HAS BEEN DELEGATED THE AUTHORIZATION IN WRITING BY THE HEAD OF
11 THE ENTITY OR THE GOVERNING BOARD OF THE ENTITY.

12 ~~6.~~ 8. Any taxpayer may be disclosed if the taxpayer has waived any
13 rights to confidentiality either in writing or on the record in any
14 administrative or judicial proceeding.

15 ~~7.~~ 9. The name and taxpayer identification numbers of persons
16 issued direct payment permits may be publicly disclosed.

17 10. ANY TAXPAYER MAY BE DISCLOSED DURING A MEETING OR TELEPHONE
18 CALL IF THE TAXPAYER IS PRESENT DURING THE MEETING OR TELEPHONE CALL AND
19 AUTHORIZES THE DISCLOSURE OF CONFIDENTIAL INFORMATION.

20 B. Confidential information may be disclosed to:

21 1. Any employee of the department whose official duties involve tax
22 administration.

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

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

34 4. Other state tax officials whose official duties require the
35 disclosure for proper tax administration purposes if the information is
36 sought in connection with an investigation or any other proceeding
37 conducted by the official. Any disclosure is limited to information of a
38 taxpayer who is being investigated or who is a party to a proceeding
39 conducted by the official.

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

1 (a) The United States internal revenue service, alcohol and tobacco
2 tax and trade bureau of the United States treasury, United States bureau
3 of alcohol, tobacco, firearms and explosives of the United States
4 department of justice, United States drug enforcement agency and federal
5 bureau of investigation.

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

7 (c) An organization of states, federation of tax administrators or
8 multistate tax commission that operates an information exchange for tax
9 administration purposes.

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

13 (e) An agency, official or organization of an Indian tribal
14 government with responsibilities comparable to the responsibilities of the
15 agencies, officials or organizations identified in subdivision (a), (b) or
16 (c) of this paragraph.

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

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

21 (a) The processing, storage, transmission, destruction and
22 reproduction of the information.

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

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

26 8. The office of administrative hearings relating to taxes
27 administered by the department pursuant to section 42-1101, but the
28 department shall not disclose any confidential information **WITHOUT THE**
29 **TAXPAYER'S WRITTEN CONSENT:**

30 (a) Regarding income tax or withholding tax.

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

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

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

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

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

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

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

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

6 (d) Certifying computer data centers for tax relief under section
7 41-1519.

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

9 14. The office of the state fire marshal for use in determining
10 compliance with and enforcing title 37, chapter 9, article 5.

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

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

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

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

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

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

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

26 (d) Return information directly relates to a transactional
27 relationship between a person who is a party to the proceeding and the
28 taxpayer and directly affects the resolution of an issue in the
29 proceeding.

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

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

36 E. The department, on the request of any person, shall provide the
37 names and addresses of bingo licensees as defined in section 5-401, verify
38 whether or not a person has a privilege license and number, a tobacco
39 product distributor's license and number or a withholding license and
40 number or disclose the information to be posted on the department's
41 website or otherwise publicly accessible pursuant to section 42-1124,
42 subsection F and section 42-3401.

43 F. A department employee, in connection with the official duties
44 relating to any audit, collection activity or civil or criminal
45 investigation, may disclose return information to the extent that

1 disclosure is necessary to obtain information that is not otherwise
2 reasonably available. These official duties include the correct
3 determination of and liability for tax, the amount to be collected or the
4 enforcement of other state tax revenue laws.

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

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

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

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

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

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

35 2. The joint legislative income tax credit review committee, the
36 joint legislative budget committee staff and the legislative staff in
37 order to comply with the requirements of section 43-221.

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

43 K. Except as provided in section 42-2002, subsection C,
44 confidential information, described in section 42-2001, paragraph 1,

1 subdivision (a), item (ii), may be disclosed to law enforcement agencies
2 for law enforcement 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
7 tax, use tax, property tax and severance tax information to the
8 ombudsman-citizens 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 on a showing of good
12 cause and that the party seeking the information has made demand on the
13 taxpayer for the information.

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

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

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

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

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

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

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

42 2. Any law relating to reduced cigarette ignition propensity
43 standards as provided under title 37, chapter 9, article 5.

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

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

23 3. The method of payment of the taxpayer's withholding tax
24 liability or the method of filing the taxpayer's withholding tax return is
25 an issue for 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 located in this state for the
29 purposes of enforcement of the statutes or agreements specified in
30 subsection T of this section or for the purposes of enforcement of
31 corresponding laws of other states.

32 2. Indian tribes located in this state for the purposes of
33 enforcement of the statutes or agreements specified in subsection T of
34 this section.

35 3. A court, arbitrator, data clearinghouse or similar entity for
36 the purpose of assessing compliance with or making calculations required
37 by the master settlement agreement or agreements regarding disputes under
38 the master settlement agreement, and with counsel for the parties or
39 expert witnesses in any such proceeding, if the information otherwise
40 remains confidential.

41 W. The department may provide the name and address of qualifying
42 hospitals and qualifying health care organizations, as defined in section
43 42-5001, to a business classified and reporting transaction privilege tax
44 under the utilities classification.

1 X. The department may disclose to an official of any city, town or
2 county in a current agreement or considering a prospective agreement with
3 the department as described in section 42-5032.02, subsection G any
4 information relating to amounts subject to distribution required by
5 section 42-5032.02. Information disclosed by the department under this
6 subsection:

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

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

15 Y. Notwithstanding any other provision of this section, the
16 department may not disclose information provided by an online lodging
17 marketplace, as defined in section 42-5076, without the written consent of
18 the online lodging marketplace, and the information may be disclosed only
19 pursuant to subsection A, paragraphs 1 through 6, 8 AND 10, subsection B,
20 paragraphs 1, 2, 7 and 8 and subsections C and D of this section. Such
21 information:

22 1. Is not subject to disclosure pursuant to title 39, relating to
23 public records.

24 2. May not be disclosed to any agency of this state or of any
25 county, city, town or other political subdivision of this state.

26 Sec. 5. Section 42-2003, Arizona Revised Statutes, as amended by
27 Laws 2017, chapter 96, section 1, chapter 139, section 4, chapter 258,
28 section 43 and chapter 340, section 2, is amended to read:

29 42-2003. Authorized disclosure of confidential information

30 A. Confidential information relating to:

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

35 2. A corporate taxpayer may be disclosed to any principal officer,
36 any person designated by a principal officer or any person designated in a
37 resolution by the corporate board of directors or other similar governing
38 body. IF A CORPORATE OFFICER SIGNS A STATEMENT UNDER PENALTY OF PERJURY
39 REPRESENTING THAT THE OFFICER IS A PRINCIPAL OFFICER, THE DEPARTMENT MAY
40 RELY ON THE STATEMENT UNTIL THE STATEMENT IS SHOWN TO BE FALSE. FOR THE
41 PURPOSES OF THIS PARAGRAPH, "PRINCIPAL OFFICER" INCLUDES A CHIEF EXECUTIVE
42 OFFICER, PRESIDENT, SECRETARY, TREASURER, VICE PRESIDENT OF TAX, CHIEF
43 FINANCIAL OFFICER, CHIEF OPERATING OFFICER OR CHIEF TAX OFFICER OR ANY
44 OTHER CORPORATE OFFICER WHO HAS THE AUTHORITY TO BIND THE TAXPAYER ON
45 MATTERS RELATED TO STATE TAXES.

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

4 4. A LIMITED LIABILITY COMPANY MAY BE DISCLOSED TO ANY MEMBER OF
5 THE COMPANY OR, IF THE COMPANY IS MANAGER-MANAGED, TO ANY MANAGER.

6 ~~4.~~ 5. An estate may be disclosed to the personal representative of
7 the estate and to any heir, next of kin or beneficiary under the will of
8 the decedent if the department finds that the heir, next of kin or
9 beneficiary has a material interest that will be affected by the
10 confidential information.

11 ~~5.~~ 6. A trust may be disclosed to the trustee or trustees, jointly
12 or separately, and to the grantor or any beneficiary of the trust if the
13 department finds that the grantor or beneficiary has a material interest
14 that will be affected by the confidential information.

15 7. A GOVERNMENT ENTITY MAY BE DISCLOSED TO THE HEAD OF THE ENTITY
16 OR A MEMBER OF THE GOVERNING BOARD OF THE ENTITY, OR ANY EMPLOYEE OF THE
17 ENTITY WHO HAS BEEN DELEGATED THE AUTHORIZATION IN WRITING BY THE HEAD OF
18 THE ENTITY OR THE GOVERNING BOARD OF THE ENTITY.

19 ~~6.~~ 8. Any taxpayer may be disclosed if the taxpayer has waived any
20 rights to confidentiality either in writing or on the record in any
21 administrative or judicial proceeding.

22 ~~7.~~ 9. The name and taxpayer identification numbers of persons
23 issued direct payment permits may be publicly disclosed.

24 10. ANY TAXPAYER MAY BE DISCLOSED DURING A MEETING OR TELEPHONE
25 CALL IF THE TAXPAYER IS PRESENT DURING THE MEETING OR TELEPHONE CALL AND
26 AUTHORIZES THE DISCLOSURE OF CONFIDENTIAL INFORMATION.

27 B. Confidential information may be disclosed to:

28 1. Any employee of the department whose official duties involve tax
29 administration.

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

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

41 4. Other state tax officials whose official duties require the
42 disclosure for proper tax administration purposes if the information is
43 sought in connection with an investigation or any other proceeding
44 conducted by the official. Any disclosure is limited to information of a

1 taxpayer who is being investigated or who is a party to a proceeding
2 conducted by the official.

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

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

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

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

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

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

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

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

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

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

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

33 8. The office of administrative hearings relating to taxes
34 administered by the department pursuant to section 42-1101, but the
35 department shall not disclose any confidential information **WITHOUT THE**
36 **TAXPAYER'S WRITTEN CONSENT:**

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
41 administration for the purpose of reporting a violation of internal
42 revenue code section 7213A (26 United States Code section 7213A),
43 unauthorized inspection of 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
2 for use in the state income tax levy program and in the electronic federal
3 tax 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
10 section 41-1511, subsections U and V and section 41-1512, subsections U
11 and V.

12 (d) Certifying computer data centers for tax relief under section
13 41-1519.

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

15 14. The office of the state fire marshal for use in determining
16 compliance with and enforcing title 37, chapter 9, article 5.

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

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

21 17. The department of education for the purpose of verifying income
22 eligibility to be classified as a low-income student pursuant to section
23 15-2402, subsection M.

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

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

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

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

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

35 (d) Return information directly relates to a transactional
36 relationship between a person who is a party to the proceeding and the
37 taxpayer and directly affects the resolution of an issue in the
38 proceeding.

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

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

1 E. The department, on the request of any person, shall provide the
2 names and addresses of bingo licensees as defined in section 5-401, verify
3 whether or not a person has a privilege license and number, a tobacco
4 product distributor's license and number or a withholding license and
5 number or disclose the information to be posted on the department's
6 website or otherwise publicly accessible pursuant to section 42-1124,
7 subsection F and section 42-3401.

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

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

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

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

31 2. May not be disclosed to the public in any manner that does not
32 comply with confidentiality standards established by the department. The
33 county, city or town shall agree in writing with the department that any
34 release of confidential information that violates the confidentiality
35 standards adopted by the department will result in the immediate
36 suspension of any rights of the county, city or town to receive taxpayer
37 information under this subsection.

38 I. The department may disclose statistical information gathered
39 from confidential information if it does not disclose confidential
40 information attributable to any one taxpayer. The department may disclose
41 statistical information gathered from confidential information, even if it
42 discloses confidential information attributable to a taxpayer, to:

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

1 2. The joint legislative income tax credit review committee, the
2 joint legislative budget committee staff and the legislative staff in
3 order to comply with the requirements of section 43-221.

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

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

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

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

19 N. Except as provided in section 42-2002, subsection D, a court may
20 order the department to disclose confidential information pertaining to a
21 party to an action. An order shall be made only on a showing of good
22 cause and that the party seeking the information has made demand on the
23 taxpayer for the information.

24 O. This section does not prohibit the disclosure by the department
25 of any information or documents submitted to the department by a bingo
26 licensee. Before disclosing the information the department shall obtain
27 the name and address of the person requesting the information.

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

31 Q. Except as provided in section 42-2002, subsection D, the
32 department of revenue shall release confidential information as requested
33 by the department of economic security pursuant to section 42-1122 or
34 46-291. Information disclosed under this subsection is limited to the same
35 type of information that the United States internal revenue service is
36 authorized to disclose under section 6103(1)(6) of the internal revenue
37 code.

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

41 S. To comply with the requirements of section 42-5031, the
42 department may disclose to the state treasurer, to the county stadium
43 district board of directors and to any city or town tax official that is
44 part of the county stadium district confidential information attributable

1 to a taxpayer's business activity conducted in the county stadium
2 district.

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

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

8 2. Any law relating to reduced cigarette ignition propensity
9 standards as provided under title 37, chapter 9, article 5.

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

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

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

28 2. Such a return or the return information relates or may relate to
29 a transactional relationship between a person who is a party to the
30 proceeding and the taxpayer that directly affects the resolution of an
31 issue in the proceeding.

32 3. The method of payment of the taxpayer's withholding tax
33 liability or the method of filing the taxpayer's withholding tax return is
34 an issue for the period.

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

37 1. Federal, state or local agencies located in this state for the
38 purposes of enforcement of the statutes or agreements specified in
39 subsection T of this section or for the purposes of enforcement of
40 corresponding laws of other states.

41 2. Indian tribes located in this state for the purposes of
42 enforcement of the statutes or agreements specified in subsection T of
43 this section.

44 3. A court, arbitrator, data clearinghouse or similar entity for
45 the purpose of assessing compliance with or making calculations required

1 by the master settlement agreement or agreements regarding disputes under
2 the master settlement agreement, and with counsel for the parties or
3 expert witnesses in any such proceeding, if the information otherwise
4 remains confidential.

5 W. The department may provide the name and address of qualifying
6 hospitals and qualifying health care organizations, as defined in section
7 42-5001, to a business classified and reporting transaction privilege tax
8 under the utilities classification.

9 X. The department may disclose to an official of any city, town or
10 county in a current agreement or considering a prospective agreement with
11 the department as described in section 42-5032.02, subsection G any
12 information relating to amounts subject to distribution required by
13 section 42-5032.02. Information disclosed by the department under this
14 subsection:

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

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

23 Y. Notwithstanding any other provision of this section, the
24 department may not disclose information provided by an online lodging
25 marketplace, as defined in section 42-5076, without the written consent of
26 the online lodging marketplace, and the information may be disclosed only
27 pursuant to subsection A, paragraphs 1 through 6, 8 AND 10, subsection B,
28 paragraphs 1, 2, 7 and 8 and subsections C and D of this section. Such
29 information:

30 1. Is not subject to disclosure pursuant to title 39, relating to
31 public records.

32 2. May not be disclosed to any agency of this state or of any
33 county, city, town or other political subdivision of this state.

34 Sec. 6. Section 42-2059, Arizona Revised Statutes, is amended to
35 read:

36 42-2059. Additional audits or proposed assessments
37 prohibited; exceptions

38 A. When the department completes an audit or the findings of a
39 managed audit are accepted by the director or approved on appeal and a
40 deficiency has been completely determined under section 42-1108 or chapter
41 1, article 6 of this title, the taxpayer's liability for the particular
42 tax for the period subjected to the audit is fixed and determined, and ~~no~~
43 AN additional audit may NOT be conducted except under the following
44 circumstances:

1 1. ~~if~~ A taxpayer files a claim for refund under section 42-1251,
2 subsection ~~B~~ C or any other provision authorizing a claim for refund.
3 Any departmental audit of the claim is limited to the issues presented on
4 the claim for refund.

5 2. Changes or corrections ARE required to be reported to the
6 department by section 43-327. The department may audit any such reports
7 or any periods for which a report was required notwithstanding this
8 section and may determine a tax deficiency or a refund.

9 3. If the taxpayer failed to disclose material information during
10 the audit, or ~~has~~ falsified books or records or otherwise engaged in an
11 action that prevented the department from conducting an accurate audit,
12 the applicability of this subsection may be part of a subsequent protest
13 and may be contested by the taxpayer pursuant to chapter 1, article 6 of
14 this title.

15 4. If a managed audit is completed under the terms of a limited
16 managed audit agreement, the department may audit the issues not covered
17 by the limited managed audit agreement within the statute of limitations
18 prescribed by section 42-1104.

19 B. If the department issues a notice of proposed assessment of
20 taxes imposed by chapter 5, article 1 or 4 of this title or title 43,
21 chapter 10, the department may not increase the amount of the proposed
22 assessment except in one or more of the following circumstances:

23 1. The taxpayer ~~has~~ made a material misrepresentation of facts.

24 2. The taxpayer ~~has~~ failed to disclose a material fact to the
25 auditor.

26 3. The department ~~has~~ requested information and the taxpayer fails
27 to provide that information to the department.

28 4. After issuing the notice of proposed assessment but before the
29 assessment becomes final the tax court, court of appeals or supreme court
30 issues a decision, the application of which causes the tax initially
31 proposed to increase.

32 C. Subsection B of this section does not apply to changes or
33 corrections that are required to be reported to the department by section
34 43-327.

35 Sec. 7. Retroactivity

36 A. Sections 42-1251, 42-1253, 42-1254 and 42-2059, Arizona Revised
37 Statutes, as amended by this act, apply retroactively to all tax disputes
38 filed pursuant to section 42-1251, Arizona Revised Statutes, pending on or
39 arising from and after December 31, 2016.

40 B. Section 42-2003, Arizona Revised Statutes, as amended by Laws
41 2017, chapter 96, section 1, chapter 258, section 43, chapter 340, section
42 2 and this act, applies retroactively to from and after May 22, 2015.

1 Sec. 8. Conditional enactment; retroactivity

2 Section 42-2003, Arizona Revised Statutes, as amended by Laws 2017,
3 chapter 96, section 1, chapter 139, section 4, chapter 258, section 43,
4 chapter 340, section 2 and this act, is effective, and applies
5 retroactively to from and after May 22, 2015, only if Laws 2017, chapter
6 139, the subject of referendum petition R-02-2018, is approved by a vote
7 of the people at the next general election or fails to be referred to the
8 voters at the next general election.