

REFERENCE TITLE: statistical information; disclosure; review committee

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HB 2428

Introduced by
Representatives Epstein: Bolding, Butler, Longdon, Powers Hannley,
Schwiebert, Senator Terán

AN ACT

AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES; RELATING TO TAXPAYER
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
9 execute a written authorization for a controlled subsidiary.

10 2. A corporate taxpayer may be disclosed to any principal officer,
11 any 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. If a corporate officer signs a statement under penalty of perjury
14 representing that the officer is a principal officer, the department may
15 rely on the statement until the statement is shown to be false. For the
16 purposes of this paragraph, "principal officer" includes a chief executive
17 officer, president, secretary, treasurer, vice president of tax, chief
18 financial officer, chief operating officer or chief tax officer or any
19 other corporate officer who has the authority to bind the taxpayer on
20 matters related to state taxes.

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

24 4. A limited liability company may be disclosed to any member of
25 the company or, if the company is manager-managed, to any manager.

26 5. An estate may be disclosed to the personal representative of the
27 estate and to any heir, next of kin or beneficiary under the will of the
28 decedent if the department finds that the heir, next of kin or beneficiary
29 has a material interest that will be affected by the confidential
30 information.

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

35 7. A government entity may be disclosed to the head of the entity
36 or a member of the governing board of the entity, or any employee of the
37 entity who has been delegated the authorization in writing by the head of
38 the entity or the governing board of the entity.

39 8. Any taxpayer may be disclosed if the taxpayer has waived any
40 rights to confidentiality either in writing or on the record in any
41 administrative or judicial proceeding.

42 9. The name and taxpayer identification numbers of persons issued
43 direct payment permits may be publicly disclosed.

1 10. Any taxpayer may be disclosed during a meeting or telephone
2 call if the taxpayer is present during the meeting or telephone call and
3 authorizes the disclosure of confidential information.

4 B. Confidential information may be disclosed to:

5 1. Any employee of the department whose official duties involve tax
6 administration.

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

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

18 4. Other state tax officials whose official duties require the
19 disclosure for proper tax administration purposes if the information is
20 sought in connection with an investigation or any other proceeding
21 conducted by the official. Any disclosure is limited to information of a
22 taxpayer who is being investigated or who is a party to a proceeding
23 conducted by the official.

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

29 (a) The United States internal revenue service, alcohol and tobacco
30 tax and trade bureau of the United States treasury, United States bureau
31 of alcohol, tobacco, firearms and explosives of the United States
32 department of justice, United States drug enforcement agency and federal
33 bureau of investigation.

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

35 (c) An organization of states, federation of tax administrators or
36 multistate tax commission that operates an information exchange for tax
37 administration purposes.

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

41 (e) An agency, official or organization of an Indian tribal
42 government with responsibilities comparable to the responsibilities of the
43 agencies, officials or organizations identified in subdivision (a), (b) or
44 (c) of this paragraph.

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

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

5 (a) The processing, storage, transmission, destruction and
6 reproduction of the information.

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

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

10 8. The office of administrative hearings relating to taxes
11 administered by the department pursuant to section 42-1101, but the
12 department shall not disclose any confidential information without the
13 taxpayer's written consent:

14 (a) Regarding income tax or withholding tax.

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

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

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

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

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

27 (a) Qualifying renewable energy operations for the tax incentives
28 under section 42-12006.

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

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

34 (d) Certifying computer data centers for tax relief under section
35 41-1519.

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

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

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

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

43 17. The department of administration risk management division and
44 the office of the attorney general if the information relates to a claim

1 against this state pursuant to section 12-821.01 involving the department
2 of revenue.

3 18. Another state agency if the taxpayer authorizes the disclosure
4 of confidential information in writing, including an authorization that is
5 part of an application form or other document submitted to the agency.

6 19. The department of economic security for its use in determining
7 whether an employer has paid all amounts due under the unemployment
8 insurance program pursuant to title 23, chapter 4.

9 20. The department of health services for its use in determining
10 the following:

11 (a) Whether a medical marijuana dispensary is in compliance with
12 the tax requirements of chapter 5 of this title for the purposes of
13 section 36-2806, subsection A.

14 (b) Whether a marijuana establishment, marijuana testing facility
15 or dual licensee licensed under title 36, chapter 28.2 is in compliance
16 with the tax obligations under this title or title 43.

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

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

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

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

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

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

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

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

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

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

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

16 1. May be used only for internal purposes, including audits. If
17 there is a legitimate business need relating to enforcing laws,
18 regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a
19 county, city or town tax official may redisclose transaction privilege tax
20 information relating to a vacation rental or short-term rental property
21 owner or online lodging operator from the new license report and license
22 update report, subject to the following:

23 (a) The information redisclosed is limited to the following:

24 (i) The transaction privilege tax license number.

25 (ii) The type of organization or ownership of the business.

26 (iii) The legal business name and doing business as name, if
27 different from the legal name.

28 (iv) The business mailing address, tax record physical location
29 address, telephone number, email address and fax number.

30 (v) The date the business started in this state, the business
31 description and the North American industry classification system code.

32 (vi) The name, address and telephone number for each owner,
33 partner, corporate officer, member, managing member or official of the
34 employing unit.

35 (b) Redisclosure is limited to nonelected officials in other units
36 within the county, city or town. The information may not be redisclosed
37 to an elected official or the elected official's staff.

38 (c) All redisclosures of confidential information made pursuant to
39 this paragraph are subject to paragraph 2 of this subsection.

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 county, city or town shall agree in writing with the department that any
43 release of confidential information that violates the confidentiality
44 standards adopted by the department will result in the immediate

suspension of any rights of the county, city or town to receive taxpayer information under this subsection.

H. The department may disclose statistical information gathered from confidential information if it does not disclose confidential information attributable to any one taxpayer. The department may disclose statistical information gathered from confidential information, even if it discloses confidential information attributable to a taxpayer, to:

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

2. The joint legislative income tax credit review committee, the joint legislative budget committee staff and the legislative staff in order to comply with the requirements of section 43-221. **THE JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE MAY DISCUSS THE STATISTICAL INFORMATION DISCLOSED PURSUANT TO THIS SUBSECTION DURING COMMITTEE MEETINGS.**

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

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

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

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

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

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

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

P. Except as provided in section 42-2002, subsection D, the department of revenue shall release confidential information as requested by the department of economic security pursuant to section 42-1122 or

1 46-291. Information disclosed under this subsection is limited to the
2 same type of information that the United States internal revenue service
3 is authorized to disclose under section 6103(l)(6) of the internal revenue
4 code.

5 Q. Except as provided in section 42-2002, subsection D, the
6 department shall release confidential information as requested by the
7 courts and clerks of the court pursuant to section 42-1122.

8 R. To comply with the requirements of section 42-5031, the
9 department may disclose to the state treasurer, to the county stadium
10 district board of directors and to any city or town tax official that is
11 part of the county stadium district confidential information attributable
12 to a taxpayer's business activity conducted in the county stadium
13 district.

14 S. The department shall release to the attorney general
15 confidential information as requested by the attorney general for purposes
16 of determining compliance with or enforcing any of the following:

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

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

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

24 T. For proceedings before the department, the office of
25 administrative hearings, the state board of tax appeals or any state or
26 federal court involving penalties that were assessed against a return
27 preparer, an electronic return preparer or a payroll service company
28 pursuant to section 42-1103.02, 42-1125.01 or 43-419, confidential
29 information may be disclosed only before the judge or administrative law
30 judge adjudicating the proceeding, the parties to the proceeding and the
31 parties' representatives in the proceeding prior to its introduction into
32 evidence in the proceeding. The confidential information may be
33 introduced as evidence in the proceeding only if the taxpayer's name, the
34 names of any dependents listed on the return, all social security numbers,
35 the taxpayer's address, the taxpayer's signature and any attachments
36 containing any of the foregoing information are redacted and if either:

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

39 2. Such a return or the return information relates or may relate to
40 a transactional relationship between a person who is a party to the
41 proceeding and the taxpayer that directly affects the resolution of an
42 issue in the proceeding.

43 3. The method of payment of the taxpayer's withholding tax
44 liability or the method of filing the taxpayer's withholding tax return is
45 an issue for the period.

U. The department and attorney general may share the information specified in subsection S of this section with any of the following:

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

2. Indian tribes located in this state for the purposes of enforcement of the statutes or agreements specified in subsection S of this section.

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

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

W. The department may disclose to an official of any city, town or county in a current agreement or considering a prospective agreement with the department as described in section 42-5032.02, subsection G any information relating to amounts that are subject to distribution and that are required by section 42-5032.02. Information disclosed by the department under this subsection:

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

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

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

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

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