State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2757

Introduced by
Representatives Abraham: Mathis

AN ACT

AMENDING SECTION 42-2003, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 42-5041; AMENDING SECTIONS 43-221, 43-222 AND 43-223, ARIZONA REVISED STATUTES; RELATING TO TAX EXEMPTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

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

42-2003. Authorized disclosure of confidential information
A. Confidential information relating to:
1. A taxpayer may be disclosed to the taxpayer, its successor in interest or a designee of the taxpayer who is authorized in writing by the taxpayer. A principal corporate officer of a parent corporation may execute a written authorization for a controlled subsidiary.
2. A corporate taxpayer may be disclosed to any principal officer, any person designated by a principal officer or any person designated in a resolution by the corporate board of directors or other similar governing body. If a corporate officer signs a statement under penalty of perjury representing that the officer is a principal officer, the department may rely on the statement until the statement is shown to be false. For the purposes of this paragraph, "principal officer" includes a chief executive officer, president, secretary, treasurer, vice president of tax, chief financial officer, chief operating officer or chief tax officer or any other corporate officer who has the authority to bind the taxpayer on matters related to state taxes.
3. A partnership may be disclosed to any partner of the partnership. This exception does not include disclosure of confidential information of a particular partner unless otherwise authorized.
4. A limited liability company may be disclosed to any member of the company or, if the company is manager-managed, to any manager.
5. An estate may be disclosed to the personal representative of the estate and to any heir, next of kin or beneficiary under the will of the decedent if the department finds that the heir, next of kin or beneficiary has a material interest that will be affected by the confidential information.
6. A trust may be disclosed to the trustee or trustees, jointly or separately, and to the grantor or any beneficiary of the trust if the department finds that the grantor or beneficiary has a material interest that will be affected by the confidential information.
7. A government entity may be disclosed to the head of the entity or a member of the governing board of the entity, or any employee of the entity who has been delegated the authorization in writing by the head of the entity or the governing board of the entity.
8. Any taxpayer may be disclosed if the taxpayer has waived any rights to confidentiality either in writing or on the record in any administrative or judicial proceeding.
9. The name and taxpayer identification numbers of persons issued direct payment permits may be publicly disclosed.
10. Any taxpayer may be disclosed during a meeting or telephone call if the taxpayer is present during the meeting or telephone call and authorizes the disclosure of confidential information.

B. Confidential information may be disclosed to:
   1. Any employee of the department whose official duties involve tax administration.
   2. The office of the attorney general solely for its use in preparation for, or in an investigation that may result in, any proceeding involving tax administration before the department or any other agency or board of this state, or before any grand jury or any state or federal court.
   3. The department of liquor licenses and control for its use in determining whether a spirituous liquor licensee has paid all transaction privilege taxes and affiliated excise taxes incurred as a result of the sale of spirituous liquor, as defined in section 4-101, at the licensed establishment and imposed on the licensed establishments by this state and its political subdivisions.
   4. Other state tax officials whose official duties require the disclosure for proper tax administration purposes if the information is sought in connection with an investigation or any other proceeding conducted by the official. Any disclosure is limited to information of a taxpayer who is being investigated or who is a party to a proceeding conducted by the official.
   5. The following agencies, officials and organizations, if they grant substantially similar privileges to the department for the type of information being sought, pursuant to statute and a written agreement between the department and the foreign country, agency, state, Indian tribe or organization:
      (a) The United States internal revenue service, alcohol and tobacco tax and trade bureau of the United States treasury, United States bureau of alcohol, tobacco, firearms and explosives of the United States department of justice, United States drug enforcement agency and federal bureau of investigation.
      (b) A state tax official of another state.
      (c) An organization of states, federation of tax administrators or multistate tax commission that operates an information exchange for tax administration purposes.
      (d) An agency, official or organization of a foreign country with responsibilities that are comparable to those listed in subdivision (a), (b) or (c) of this paragraph.
      (e) An agency, official or organization of an Indian tribal government with responsibilities comparable to the responsibilities of the agencies, officials or organizations identified in subdivision (a), (b) or (c) of this paragraph.
6. The auditor general, in connection with any audit of the department subject to the restrictions in section 42-2002, subsection D.
7. Any person to the extent necessary for effective tax administration in connection with:
   (a) The processing, storage, transmission, destruction and reproduction of the information.
   (b) The programming, maintenance, repair, testing and procurement of equipment for purposes of tax administration.
   (c) The collection of the taxpayer's civil liability.
8. The office of administrative hearings relating to taxes administered by the department pursuant to section 42-1101, but the department shall not disclose any confidential information without the taxpayer's written consent:
   (a) Regarding income tax or withholding tax.
   (b) On any tax issue relating to information associated with the reporting of income tax or withholding tax.
9. The United States treasury inspector general for tax administration for the purpose of reporting a violation of internal revenue code section 7213A (26 United States Code section 7213A), unauthorized inspection of returns or return information.
10. The financial management service of the United States treasury department for use in the treasury offset program.
11. The United States treasury department or its authorized agent for use in the state income tax levy program and in the electronic federal tax payment system.
12. The Arizona commerce authority for its use in:
   (a) Qualifying renewable energy operations for the tax incentives under section 42-12006.
   (b) Qualifying businesses with a qualified facility for income tax credits under sections 43-1083.03 and 43-1164.04.
   (c) Fulfilling its annual reporting responsibility pursuant to section 41-1511, subsections U and V and section 41-1512, subsections U and V.
   (d) Certifying computer data centers for tax relief under section 41-1519.
13. A prosecutor for purposes of section 32-1164, subsection C.
14. The office of the state fire marshal for use in determining compliance with and enforcing title 37, chapter 9, article 5.
15. The department of transportation for its use in administering taxes, surcharges and penalties prescribed by title 28.
16. The Arizona health care cost containment system administration for its use in administering nursing facility provider assessments.
17. The department of administration risk management division and the office of the attorney general if the information relates to a claim
against this state pursuant to section 12-821.01 involving the department of revenue.

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

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

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

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

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

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

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

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

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

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

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

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

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

E. The department, on the request of any person, shall provide the names and addresses of bingo licensees as defined in section 5-401, verify whether or not a person has a privilege license and number, a tobacco product distributor's license and number or a withholding license and number or disclose the information to be posted on the department's website or otherwise publicly accessible pursuant to section 42-1124, subsection F and section 42-3401.
F. A department employee, in connection with the official duties relating to any audit, collection activity or civil or criminal investigation, may disclose return information to the extent that disclosure is necessary to obtain information that is not otherwise reasonably available. These official duties include the correct determination of and liability for tax, the amount to be collected or the enforcement of other state tax revenue laws.

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

1. May be used only for internal purposes, including audits. If there is a legitimate business need relating to enforcing laws, regulations and ordinances pursuant to section 9-500.39 or 11-269.17, a county, city or town tax official may redisclose transaction privilege tax information relating to a vacation rental or short-term rental property owner or online lodging operator from the new license report and license update report, subject to the following:
   (a) The information redisclosed is limited to the following:
      (i) The transaction privilege tax license number.
      (ii) The type of organization or ownership of the business.
      (iii) The legal business name and doing business as name, if different from the legal name.
      (iv) The business mailing address, tax record physical location address, telephone number, email address and fax number.
      (v) The date the business started in this state, the business description and the North American industry classification system code.
      (vi) The name, address and telephone number for each owner, partner, corporate officer, member, managing member or official of the employing unit.
   (b) Redisclosure is limited to nonelected officials in other units within the county, city or town. The information may not be redisclosed to an elected official or the elected official’s staff.
   (c) All redisclosures of confidential information made pursuant to this paragraph are subject to paragraph 2 of this subsection.

2. May not be disclosed to the public in any manner that does not comply with confidentiality standards established by the department. The county, city or town shall agree in writing with the department that any release of confidential information that violates the confidentiality 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 EXEMPTION review committee, the joint legislative budget committee staff and the legislative staff in order to comply with the requirements of section 43-221.

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 ALLOWED 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 46-291. Information disclosed under this subsection is limited to the same type of information that the United States internal revenue service
Q. Except as provided in section 42-2002, subsection D, the department shall release confidential information as requested by the courts and clerks of the court pursuant to section 42-1122.

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

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

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

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

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

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

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

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

3. The method of payment of the taxpayer's withholding tax liability or the method of filing the taxpayer's withholding tax return is 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 ONLY by the COUNTY, city OR 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.
Sec. 2. Title 42, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 42-5041, to read:

42-5041. Sunset review of transaction privilege and use tax exemptions, deductions and credits; definition


B. FOR THE PURPOSES OF THIS SECTION, "TAX EXEMPTION" MEANS ANY PROVISION IN THIS CHAPTER THAT EXEMPTS, IN WHOLE OR IN PART, ANY PERSON, INCOME, GOODS, SERVICES OR PROPERTY FROM THE IMPACT OF ESTABLISHED TAXES AND TAX CLASSIFICATIONS, INCLUDING DEDUCTIONS, SUBTRACTIONS, EXCLUSIONS, EXEMPTIONS, ALLOWANCES AND CREDITS.

Sec. 3. Section 43-221, Arizona Revised Statutes, is amended to read:

43-221. Joint legislative tax exemption review committee; report

A. The joint legislative income tax credit EXEMPTION review committee is established consisting of the following members:

1. Five members of the house of representatives ways and means committee WHO ARE appointed by the speaker of the house of representatives. Not more than three appointees shall be of the same political party.

2. Five members of the senate finance committee WHO ARE appointed by the president of the senate. Not more than three appointees shall be of the same political party.

B. The committee shall determine the original purpose of existing tax credits EXEMPTIONS UNDER TITLE 42, CHAPTER 5 AND CHAPTERS 10 AND 11 OF THIS TITLE and establish a standard for evaluating and measuring the success or failure of the tax credits EXEMPTIONS. The standard for evaluating tax credits EXEMPTIONS may include:

1. The history, rationale and estimated revenue impact of the credit TAX EXEMPTION.

2. Whether the credit TAX EXEMPTION has provided a benefit to this state including, for corporate INCOME tax credits, measurable economic development, new investments, creation of new jobs or retention of existing jobs in this state.

3. Whether the credit TAX EXEMPTION is unnecessarily complex in the application, administration and approval process.
C. THE COMMITTEE SHALL ADOPT AND REVIEW THE TAX EXEMPTIONS UNDER TITLE 42, CHAPTER 5 ACCORDING TO A TEN-YEAR REVIEW SCHEDULE.

D. The committee shall review the individual and corporate income tax credits pursuant to the schedule prescribed in section 43-222.

E. The committee shall use the joint legislative budget committee staff and may use the staff of the department of revenue and legislative council for assistance.

F. After completing the review process, the committee shall determine whether the credit TAX EXEMPTION should be amended, repealed or retained. If the credit TAX EXEMPTION is recommended to be retained or amended, the committee shall recommend A NEW REVIEW DATE AND that the credit be returned to the income tax credit review schedule prescribed in section 43-222 OR THE SCHEDULE FOR REVIEWING TAX EXEMPTIONS UNDER TITLE 42, CHAPTER 5 ADOPTED PURSUANT TO SUBSECTION C OF THIS SECTION.

G. FOR INDIVIDUAL AND CORPORATE INCOME TAX CREDITS, the next review year shall be the fifth NOT LATER THAN THE TENTH full calendar year following the date the credit was reviewed. FOR ALL OTHER TAX EXEMPTIONS, THE NEXT REVIEW YEAR SHALL BE NOT LATER THAN THE TENTH FULL CALENDAR YEAR FOLLOWING THE DATE THE TAX EXPENDITURE WAS REVIEWED.

H. The committee shall report its findings and recommendations to the president of the senate, the speaker of the house of representatives and the governor by December 15 of the EACH REVIEW year that the committee reviews the credit. The committee shall provide a copy of the report to the secretary of state.

I. FOR THE PURPOSES OF THIS SECTION, "TAX EXEMPTION":

1. MEANS:

   (a) ANY PROVISION IN TITLE 42, CHAPTER 5 OR CHAPTER 10 OR 11 OF THIS TITLE THAT EXEMPTS, IN WHOLE OR IN PART, ANY PERSON, INCOME, GOODS, SERVICES OR PROPERTY FROM THE IMPACT OF ESTABLISHED TAXES AND TAX CLASSIFICATIONS, INCLUDING DEDUCTIONS, EXCLUSIONS, EXEMPTIONS AND CREDITS.

   (b) INDIVIDUAL AND CORPORATE INCOME TAX CREDITS ESTABLISHED BY CHAPTER 10, ARTICLE 5 AND CHAPTER 11, ARTICLE 6 OF THIS TITLE.

2. DOES NOT INCLUDE DEDUCTIONS UNDER SECTION 42-5061, SUBSECTION A, PARAGRAPH 50, SECTION 42-5061, SUBSECTION G OR THE OMISSION OF ANY BUSINESS ACTIVITY FROM THE TRANSACTION PRIVILEGE TAX CLASSIFICATIONS UNDER TITLE 42, CHAPTER 5, ARTICLE 2.

Sec. 4. Section 43-222, Arizona Revised Statutes, is amended to read:

43-222. Income tax credit review schedule
The joint legislative income tax credit EXEMPTION review committee shall review the following income tax credits:

1. For years ending in 0 and 5, sections 43-1079.01, 43-1080, 43-1089.04, 43-1167.01 and 43-1175.
2. For years ending in 1 and 6, sections 43-1072.02, 43-1074.02, 43-1075, 43-1076.01, 43-1077, 43-1078, 43-1083, 43-1083.02, 43-1162, 43-1164.03 and 43-1183.

3. For years ending in 2 and 7, sections 43-1073, 43-1085, 43-1086, 43-1089, 43-1089.01, 43-1089.02, 43-1089.03, 43-1164, 43-1169 and 43-1181.

4. For years ending in 3 and 8, sections 43-1074.01, 43-1081, 43-1168, 43-1170 and 43-1178.

5. For years ending in 4 and 9, sections 43-1073.01, 43-1076, 43-1081.01, 43-1083.03, 43-1164.04, 43-1164.05 and 43-1184.

1. For years ending in 1, sections 43-1074.02, 43-1083, 43-1083.02, 43-1167.01 and 43-1175.

2. For years ending in 2, section 43-1084.

3. For years ending in 3, sections 43-1073, 43-1164.03 and 43-1183.

4. For years ending in 4, sections 43-1073.01, 43-1085 and 43-1089.

5. For years ending in 5, sections 43-1089.01, 43-1089.02, 43-1089.03, 43-1164 and 43-1181.

6. For years ending in 6, sections 43-1072.02, 43-1074.01, 43-1075, 43-1076.01, 43-1077, 43-1078, 43-1162, 43-1163 and 43-1169.

7. For years ending in 7, sections 43-1081, 43-1086, 43-1168, 43-1170 and 43-1178.

8. For years ending in 8, sections 43-1074, 43-1076, 43-1081.01 and 43-1161.

9. For years ending in 9, sections 43-1083.03, 43-1164.04, 43-1164.05 and 43-1184.

10. For years ending in 0, sections 43-1079.01, 43-1088 and 43-1089.04.

Sec. 5. Section 43-223, Arizona Revised Statutes, is amended to read:

43-223. Requirements for new income tax credits established by the legislature

Any new individual or corporate income tax credit that is enacted by the legislature shall include in its enabling legislation:

1. A specific review year for the joint legislative income tax credit EXEMPTION review committee to review the credit. The specific review year shall be the fifth full calendar year following the date the credit is enacted.

2. A purpose clause that explains the rationale and objective of the tax credit.

Sec. 6. Transaction privilege tax exemption review schedule

Pursuant to section 43-221, subsection C, Arizona Revised Statutes, as added by this act, the joint legislative tax exemption review committee shall compile and adopt a ten-year review schedule for transaction privilege tax exemptions under title 42, chapter 5, Arizona Revised Statutes, on or before December 15, 2022.