

REFERENCE TITLE: **statistical information; disclosure; review committee**

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Senate
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SB 1688

Introduced by
Senators Epstein: Alston, Burch, Fernandez, Gabaldón, Miranda, 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. If ~~a~~ THE
10 taxpayer elects to file an Arizona small business income tax return under
11 section 43-302, a written authorization by a taxpayer to allow the
12 department to disclose personal income tax information to a designee
13 includes the corresponding Arizona small business income tax return.

14 2. A corporate taxpayer may be disclosed to any principal officer,
15 any person designated by a principal officer or any person designated in a
16 resolution by the corporate board of directors or other similar governing
17 body. If a corporate officer signs a statement under penalty of perjury
18 representing that the officer is a principal officer, the department may
19 rely on the statement until the statement is shown to be false. For the
20 purposes of this paragraph, "principal officer" includes a chief executive
21 officer, president, secretary, treasurer, vice president of tax, chief
22 financial officer, chief operating officer or chief tax officer or any
23 other corporate officer who has the authority to bind the taxpayer on
24 matters related to state taxes.

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

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

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

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

39 7. A government entity may be disclosed to the head of the entity
40 or a member of the governing board of the entity, or any employee of the
41 entity who has been delegated the authorization in writing by the head of
42 the entity or the governing board of the entity.

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

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

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

6 B. Confidential information may be disclosed to:

7 1. Any employee of the department whose official duties involve tax
8 administration.

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

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

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

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

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

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

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

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

43 (e) An agency, official or organization of an Indian tribal
44 government with responsibilities comparable to the responsibilities of the

1 agencies, officials or organizations identified in subdivision (a), (b) or
2 (c) of this paragraph.

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

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

7 (a) The processing, storage, transmission, destruction and
8 reproduction of the information.

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

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

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

16 (a) Regarding income tax or withholding tax.

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

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

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

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

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

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

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

33 (c) Fulfilling its annual reporting responsibility pursuant to
34 section 41-1512, subsections U and V and section 41-1517, subsection L.

35 (d) Certifying computer data centers for tax relief under section
36 41-1519.

37 (e) Certifying applicants for the tax credit for motion picture
38 production costs under sections 43-1082 and 43-1165.

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

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

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

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

1 17. The department of administration risk management division and
2 the office of the attorney general if the information relates to a claim
3 against this state pursuant to section 12-821.01 involving the department
4 of revenue.

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

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

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

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

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

19 21. The Arizona department of agriculture for the purpose of
20 ascertaining compliance with the licensing provisions in title 3.

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

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

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

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

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

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

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

39 D. Identity information may be disclosed for purposes of notifying
40 persons entitled to tax refunds if the department is unable to locate the
41 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. Confidential information relating to transaction privilege tax,
16 use tax, severance tax, jet fuel excise and use tax and any other tax
17 collected by the department on behalf of any jurisdiction may be disclosed
18 to any county, city or town tax official if the information relates to a
19 taxpayer who is or may be taxable by a county, city or town or who may be
20 subject to audit by the department pursuant to section 42-6002. Any
21 taxpayer information that is released by the department to the county,
22 city or town:

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

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

31 (i) The transaction privilege tax license number.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 N. This section does not prohibit the disclosure by the department
44 of any information or documents submitted to the department by a bingo

1 licensee. Before disclosing the information, the department shall obtain
2 the name and address of the person requesting the information.

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

6 P. Except as provided in section 42-2002, subsection D, the
7 department of revenue shall release confidential information as requested
8 by the department of economic security pursuant to section 42-1122 or
9 46-291. Information disclosed under this subsection is limited to the
10 same type of information that the United States internal revenue service
11 is authorized to disclose under section 6103(1)(6) of the internal revenue
12 code.

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

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

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

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

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

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

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

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

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

7 3. The method of payment of the taxpayer's withholding tax
8 liability or the method of filing the taxpayer's withholding tax return is
9 an issue for the period.

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

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

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

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

25 V. The department may provide the name and address of qualifying
26 hospitals and qualifying health care organizations, as defined in section
27 42-5001, to a business that is classified and reporting transaction
28 privilege tax under the utilities classification.

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

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

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

43 X. Notwithstanding any other provision of this section, the
44 department may not disclose information provided by an online lodging
45 marketplace, as defined in section 42-5076, without the written consent of

1 the online lodging marketplace, and the information may be disclosed only
2 pursuant to subsection A, paragraphs 1 through 6, 8 and 10, subsection B,
3 paragraphs 1, 2, 7 and 8 and subsections C, D and G of this section. Such
4 information:

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

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