

COMMITTEE ON RULES

SENATE AMENDMENTS TO S.B. 1490

(Reference to FINANCE Committee amendment)

1 Page 1, before line 1, insert "Page 1, between lines 1 and 2, insert:

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

3 42-2003. Authorized disclosure of confidential information

4 A. Confidential information relating to:

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

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

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

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

25 5. An estate may be disclosed to the personal representative of the
26 estate and to any heir, next of kin or beneficiary under the will of the

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

4 6. A trust may be disclosed to the trustee or trustees, jointly or
5 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 or
9 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 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 9. The name and taxpayer identification numbers of persons issued
16 direct payment permits may be publicly disclosed.

17 10. Any taxpayer may be disclosed during a meeting or telephone call
18 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

1 establishment and imposed on the licensed establishments by this state and
2 its political subdivisions.

3 4. Other state tax officials whose official duties require the
4 disclosure for proper tax administration purposes if the information is
5 sought in connection with an investigation or any other proceeding
6 conducted by the official. Any disclosure is limited to information of a
7 taxpayer who is being investigated or who is a party to a proceeding
8 conducted by the official.

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

14 (a) The United States internal revenue service, alcohol and tobacco
15 tax and trade bureau of the United States treasury, United States bureau of
16 alcohol, tobacco, firearms and explosives of the United States department
17 of justice, United States drug enforcement agency and federal bureau of
18 investigation.

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

20 (c) An organization of states, federation of tax administrators or
21 multistate tax commission that operates an information exchange for tax
22 administration purposes.

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

26 (e) An agency, official or organization of an Indian tribal
27 government with responsibilities comparable to the responsibilities of the
28 agencies, officials or organizations identified in subdivision (a), (b) or
29 (c) of this paragraph.

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

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

3 (a) The processing, storage, transmission, destruction and
4 reproduction of the information.

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

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

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

12 (a) Regarding income tax or withholding tax.

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

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

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

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

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

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

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

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

1 (d) Certifying computer data centers for tax relief under section
2 41-1519.

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

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

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

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

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

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

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

20 20. The department of health services for its use in determining if
21 a medical marijuana dispensary is in compliance with the tax requirements
22 of ~~title 42~~, chapter 5 OF THIS TITLE for purposes of section 36-2806,
23 subsection A.

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

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

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

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

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

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

19 F. A department employee, in connection with the official duties
20 relating to any audit, collection activity or civil or criminal
21 investigation, may disclose return information to the extent that
22 disclosure is necessary to obtain information that is not otherwise
23 reasonably available. These official duties include the correct
24 determination of and liability for tax, the amount to be collected or the
25 enforcement of other state tax revenue laws.

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

1 taxpayer information that is released by the department to the county, city
2 or town:

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

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

11 (i) The transaction privilege tax license number.

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

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

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

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

19 (vi) THE OCCUPANCY DATA AND THE NUMBER OF NIGHTS A VACATION RENTAL
20 OR SHORT-TERM RENTAL IS RENTED, PER SITUS ADDRESS, BY TRANSACTION PRIVILEGE
21 TAX LICENSE NUMBER.

22 ~~(vii)~~ (vii) The name, address and telephone number for each owner,
23 partner, corporate officer, member, managing member or official of the
24 employing unit.

25 (b) Redisclosure is limited to nonelected officials in other units
26 within the county, city or town. The information may not be redisclosed to
27 an elected official or the elected official's staff~~;~~, EXCEPT THE
28 TRANSACTION PRIVILEGE TAX INFORMATION MAY BE REDISCLOSED TO THE COUNTY
29 ASSESSOR'S OFFICE TO USE TO PROPERLY CLASSIFY A PROPERTY FOR PROPERTY TAX
30 CLASSIFICATION PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

13 P. Except as provided in section 42-2002, subsection D, the
14 department of revenue shall release confidential information as requested
15 by the department of economic security pursuant to section 42-1122 or
16 46-291. Information disclosed under this subsection is limited to the same
17 type of information that the United States internal revenue service is
18 authorized to disclose under section 6103(1)(6) of the internal revenue
19 code.

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

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

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

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

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

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

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

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

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

25 3. The method of payment of the taxpayer's withholding tax liability
26 or the method of filing the taxpayer's withholding tax return is an issue
27 for the period.

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

30 1. Federal, state or local agencies located in this state for the
31 purposes of enforcement of the statutes or agreements specified in

1 subsection S of this section or for the purposes of enforcement of
2 corresponding laws of other states.

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

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

12 V. The department may provide the name and address of qualifying
13 hospitals and qualifying health care organizations, as defined in section
14 42-5001, to a business that is classified and reporting transaction
15 privilege tax under the utilities classification.

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

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

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

30 X. Notwithstanding any other provision of this section, the
31 department may not disclose information provided by an online lodging
32 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."

9 Renumber to conform

10 Page 1, strike lines 5 through 24

11 Strike pages 2 through 11

12 Page 12, strike lines 1 through 16

13 Amend title to conform

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02/17/2020
10:13 AM
S: RH