

COMMITTEE ON WAYS & MEANS
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2429
(Reference to printed bill)

1 Page 7, line 41, after "contractor" strike remainder of line

2 Line 42, strike "internal revenue service guidelines or any other federal
3 guidelines"

4 Page 8, line 2, strike "preferred applicants, employees or contractors" insert
5 "APPLICANT, EMPLOYEE OR CONTRACTOR"

6 Line 10, strike "or temporary employee"

7 Between lines 30 and 31, insert:

8 "Sec. 4. Section 42-2001, Arizona Revised Statutes, is amended to
9 read:

10 42-2001. Definitions

11 In this article, unless the context otherwise requires:

12 1. "Confidential information":

13 (a) Includes the following information whether it concerns
14 individual taxpayers or is aggregate information for specifically
15 identified taxpayers:

16 (i) Returns and reports filed with the department for income tax,
17 withholding tax, transaction privilege tax, luxury tax, use tax, property
18 tax, EXCISE TAX ON MARIJUANA and severance tax.

19 (ii) Applications TO RECEIVE A LICENSE OR REGISTRATION for
20 transaction privilege ~~licenses~~ TAX, luxury tax ~~licenses~~, use tax ~~licenses~~,
21 EXCISE TAX ON MARIJUANA and withholding ~~licenses~~ TAX.

22 (iii) Information discovered concerning taxes and receipts by the
23 department, whether or not by compulsory process.

1 (iv) Return information obtained from the United States internal
2 revenue service and United States bureau of alcohol, tobacco and firearms.

3 (v) Information supplied at the special request of the department by
4 a taxpayer that the taxpayer requests to be held in confidence.

5 (vi) Guidelines, standards or procedures that are established by the
6 department for, or other information relating to, selecting returns or
7 taxpayers for examination or settling or compromising any tax liability.

8 (vii) A taxpayer's identity, the nature, source or amount of the
9 taxpayer's income, payments, receipts, deductions, exemptions, credits,
10 assets, liabilities, net worth, tax liability, tax withheld, deficiencies,
11 overassessments or tax payments, whether the taxpayer's return was, is
12 being or will be examined or subject to investigation, collection or
13 processing or any other data received by, recorded by, prepared by,
14 furnished to or collected by the department with respect to a return or
15 with respect to the termination, or possible existence, of liability of any
16 person for any tax, penalty or interest imposed pursuant to this title or
17 title 43.

18 (viii) Information supplied by an employee to an employer regarding
19 the employee's election to have the employee's withholding tax reduced for
20 the purposes of contributions to qualifying charitable organizations,
21 qualified school tuition organizations or public schools pursuant to
22 section 43-401, subsection G.

23 (b) Does not include information that is otherwise a public record.

24 2. "Report" includes a notice of insurance payments, a request for a
25 release of a bank account and an inventory of a safe deposit box.

26 3. "Return" includes any form prescribed by the department and any
27 supporting schedules, attachments and lists.

28 4. "Tax administration" includes assessment, collection,
29 investigation, litigation, statistical gathering functions, enforcement,
30 policy making functions or management of those functions of the tax revenue
31 laws of this state.

1 5. "Tax official" means a nonelected employee or the nonelected
2 employee's designee or agent who is responsible for tax administration.

3 6. "Taxpayer", with respect to a joint return, means either party.

4 Sec. 5. Section 42-2003, Arizona Revised Statutes, is amended to
5 read:

6 42-2003. Authorized disclosure of confidential information

7 A. Confidential information relating to:

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

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

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

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

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

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

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

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

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

14 10. Any taxpayer may be disclosed during a meeting or telephone call
15 if the taxpayer is present during the meeting or telephone call and
16 authorizes the disclosure of confidential information.

17 B. Confidential information may be disclosed to:

18 1. Any employee of the department whose official duties involve tax
19 administration.

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

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

31 4. Other state tax officials whose official duties require the
32 disclosure for proper tax administration purposes if the information is

1 sought in connection with an investigation or any other proceeding
2 conducted by the official. Any disclosure is limited to information of a
3 taxpayer who is being investigated or who is a party to a proceeding
4 conducted by the official.

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

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

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

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

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

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

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

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

1 (a) The processing, storage, transmission, destruction and
2 reproduction of the information.

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

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

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

10 (a) Regarding income tax or withholding tax.

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

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

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

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

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

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

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

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

30 (d) Certifying computer data centers for tax relief under section
31 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 ~~if~~ **THE FOLLOWING:**

(a) **WHETHER** a medical marijuana dispensary is in compliance with the tax requirements of ~~title 42,~~ 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

1 taxpayer's civil liability, with respect to any tax imposed under this
2 title or title 43.

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

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

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

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

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

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

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

1 subject to audit by the department pursuant to section 42-6002. Any
2 taxpayer information that is released by the department to the county, city
3 or town:

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

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

12 (i) The transaction privilege tax licensenumber.

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

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

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

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

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

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

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

28 2. May not be disclosed to the public in any manner that does not
29 comply with confidentiality standards established by the department. The
30 county, city or town shall agree in writing with the department that any
31 release of confidential information that violates the confidentiality
32 standards adopted by the department will result in the immediate suspension

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 3. The method of payment of the taxpayer's withholding tax liability
21 or the method of filing the taxpayer's withholding tax return is an issue
22 for the period.

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

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

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

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

7 V. The department may provide the name and address of qualifying
8 hospitals and qualifying health care organizations, as defined in section
9 42-5001, to a business that is classified and reporting transaction
10 privilege tax under the utilities classification.

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

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

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

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

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

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

5 Renumber to conform

6 Amend title to conform

And, as so amended, it do pass

SHAWNNA LM BOLICK
CHAIRMAN

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01/27/2021
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