

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HOUSE BILL 2371

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 execute
9 a written authorization for a controlled subsidiary.
10 2. A corporate taxpayer may be disclosed to any principal officer, any
11 person designated by a principal officer or any person designated in a
12 resolution by the corporate board of directors or other similar governing
13 body.
14 3. A partnership may be disclosed to any partner of the partnership.
15 This exception does not include disclosure of confidential information of a
16 particular partner unless otherwise authorized.
17 4. An estate may be disclosed to the personal representative of the
18 estate and to any heir, next of kin or beneficiary under the will of the
19 decedent if the department finds that the heir, next of kin or beneficiary
20 has a material interest which will be affected by the confidential
21 information.
22 5. A trust may be disclosed to the trustee or trustees, jointly or
23 separately, and to the grantor or any beneficiary of the trust if the
24 department finds that the grantor or beneficiary has a material interest
25 which will be affected by the confidential information.
26 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
27 to confidentiality either in writing or on the record in any administrative
28 or judicial proceeding.
29 7. The name and taxpayer identification numbers of persons issued
30 direct payment permits may be publicly disclosed.
31 B. Confidential information may be disclosed to:
32 1. Any employee of the department whose official duties involve tax
33 administration.
34 2. The office of the attorney general solely for its use in
35 preparation for, or in an investigation which may result in, any proceeding
36 involving tax administration before the department or any other agency or
37 board of this state, or before any grand jury or any state or federal court.
38 3. The department of liquor licenses and control for its use in
39 determining whether a spirituous liquor licensee has paid all transaction
40 privilege taxes and affiliated excise taxes incurred as a result of the sale
41 of spirituous liquor, as defined in section 4-101, at the licensed
42 establishment and imposed on the licensed establishments by this state and
43 its political subdivisions.

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

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

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

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

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

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

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

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

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

32 (a) The processing, storage, transmission, destruction and
33 reproduction of the information.

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

36 8. The office of administrative hearings relating to taxes
37 administered by the department pursuant to section 42-1101, but the
38 department shall not disclose any confidential information:

39 (a) Regarding income tax, withholding tax or estate tax.

40 (b) On any tax issue relating to information associated with the
41 reporting of income tax, withholding tax or estate tax.

42 9. The United States treasury inspector general for tax administration
43 for the purpose of reporting a violation of internal revenue code section
44 7213A (26 United States Code section 7213A), unauthorized inspection of
45 returns or return information.

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

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

6 12. The department of commerce for its use in:

7 (a) Qualifying motion picture production companies for the tax
8 incentives provided for motion picture production under chapter 5 of this
9 title and sections 43-1075 and 43-1163.

10 (b) Fulfilling its annual reporting responsibility pursuant to section
11 41-1517, subsections S and T.

12 (c) Qualifying applicants for the motion picture infrastructure
13 project tax credits under sections 43-1075.01 and 43-1163.01.

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

15 14. The state fire marshal for use in determining compliance with and
16 enforcing title 41, chapter 16, article 3.1.

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

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

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

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

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

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

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

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

36 E. The department, upon the request of any person, shall provide the
37 names and addresses of bingo licensees as defined in section 5-401, verify
38 whether or not a person has a privilege license and number, a distributor's
39 license and number or a withholding license and number or disclose the
40 information to be posted on the department's web site or otherwise publicly
41 accessible pursuant to section 42-1124, subsection F and section 42-3201,
42 subsection A.

43 F. A department employee, in connection with the official duties
44 relating to any audit, collection activity or civil or criminal
45 investigation, may disclose return information to the extent that disclosure

1 is necessary to obtain information which is not otherwise reasonably
2 available. These official duties include the correct determination of and
3 liability for tax, the amount to be collected or the enforcement of other
4 state tax revenue laws.

5 G. If an organization is exempt from this state's income tax as
6 provided in section 43-1201 for any taxable year, the name and address of the
7 organization and the application filed by the organization upon which the
8 department made its determination for exemption together with any papers
9 submitted in support of the application and any letter or document issued by
10 the department concerning the application are open to public inspection.

11 H. Confidential information relating to transaction privilege tax, use
12 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
13 be disclosed to any county, city or town tax official if the information
14 relates to a taxpayer who is or may be taxable by the county, city or town.
15 Any taxpayer information released by the department to the county, city or
16 town:

- 17 1. May only be used for internal purposes.
- 18 2. May not be disclosed to the public in any manner that does not
19 comply with confidentiality standards established by the department. The
20 county, city or town shall agree in writing with the department that any
21 release of confidential information that violates the confidentiality
22 standards adopted by the department will result in the immediate suspension
23 of any rights of the county, city or town to receive taxpayer information
24 under this subsection.

25 I. The department may disclose statistical information gathered from
26 confidential information if it does not disclose confidential information
27 attributable to any one taxpayer. In order to comply with the requirements
28 of section 42-5029, subsection A, paragraph 3, the department may disclose to
29 the state treasurer statistical information gathered from confidential
30 information, even if it discloses confidential information attributable to a
31 taxpayer.

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

37 K. Except as provided in section 42-2002, subsection C, confidential
38 information, described in section 42-2001, paragraph 2, subdivision (a), item
39 (iii), may be disclosed to law enforcement agencies for law enforcement
40 purposes.

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

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

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

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

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

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

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

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

30 T. The department shall release confidential information as requested
31 by the attorney general for purposes of determining compliance with and
32 enforcing section 44-7101, the master settlement agreement referred to
33 therein and subsequent agreements to which the state is a party that amend or
34 implement the master settlement agreement. Information disclosed under this
35 subsection is limited to luxury tax information relating to tobacco
36 manufacturers, distributors, wholesalers and retailers and information
37 collected by the department pursuant to section 44-7101(2)(j).

38 U. For proceedings before the department, the office of administrative
39 hearings, the board of tax appeals or any state or federal court involving
40 penalties that were assessed against a return preparer or electronic return
41 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
42 information may be disclosed only before the judge or administrative law
43 judge adjudicating the proceeding, the parties to the proceeding and the
44 parties' representatives in the proceeding prior to its introduction into
45 evidence in the proceeding. The confidential information may be introduced

1 as evidence in the proceeding only if the taxpayer's name, the names of any
2 dependents listed on the return, all social security numbers, the taxpayer's
3 address, the taxpayer's signature and any attachments containing any of the
4 foregoing information are redacted and if either:

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

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

11 V. The department may disclose to the attorney general confidential
12 information received under section 44-7111 and requested by the attorney
13 general for purposes of determining compliance with and enforcing section
14 44-7111. The department and attorney general shall share with each other the
15 information received under section 44-7111, and may share the information
16 with other federal, state or local agencies only for the purposes of
17 enforcement of section 44-7101, section 44-7111 or corresponding laws of
18 other states.

19 W. THE DEPARTMENT MAY PROVIDE THE NAME AND ADDRESS OF QUALIFYING
20 HOSPITALS AND QUALIFYING HEALTH CARE ORGANIZATIONS, AS DEFINED IN SECTION
21 42-5001, TO A BUSINESS CLASSIFIED AND REPORTING TRANSACTION PRIVILEGE TAX
22 UNDER THE UTILITIES CLASSIFICATION.