

COMMITTEE ON WAYS AND MEANS

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2160

(Reference to printed bill)

1 Page 1, strike lines 2 through 4

2 Renumber to conform

3 Page 6, strike lines 4 through 44

4 Strike pages 7 through 13

5 Page 14, strike lines 1 through 24, insert:

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

8 42-2003. Authorized disclosure of confidential information

9 A. Confidential information relating to:

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

14 2. A corporate taxpayer may be disclosed to any principal officer, any
15 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.

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

21 4. An estate may be disclosed to the personal representative of the
22 estate and to any heir, next of kin or beneficiary under the will of the
23 decedent if the department finds that the heir, next of kin or beneficiary
24 has a material interest which will be affected by the confidential
25 information.

26 5. A trust may be disclosed to the trustee or trustees, jointly or
27 separately, and to the grantor or any beneficiary of the trust if the

1 department finds that the grantor or beneficiary has a material interest
2 which will be affected by the confidential information.

3 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
4 to confidentiality either in writing or on the record in any administrative
5 or judicial proceeding.

6 7. The name and taxpayer identification numbers of persons issued
7 direct payment permits may be publicly disclosed.

8 B. Confidential information may be disclosed to:

9 1. Any employee of the department whose official duties involve tax
10 administration.

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

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

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

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

1 (a) The United States internal revenue service, alcohol and tobacco
2 tax and trade bureau of the United States treasury, United States bureau of
3 alcohol, tobacco, firearms and explosives of the United States department of
4 justice, United States drug enforcement agency and federal bureau of
5 investigation.

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

7 (c) An organization of states, federation of tax administrators or
8 multistate tax commission that operates an information exchange for tax
9 administration purposes.

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

13 (e) An agency, official or organization of an Indian tribal government
14 with responsibilities comparable to the responsibilities of the agencies,
15 officials or organizations identified in subdivision (a), (b) or (c) of this
16 paragraph.

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

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

21 (a) The processing, storage, transmission, destruction and
22 reproduction of the information.

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

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

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

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

31 9. The United States treasury inspector general for tax administration
32 for the purpose of reporting a violation of internal revenue code section

1 7213A (26 United States Code section 7213A), unauthorized inspection of
2 returns or return information.

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

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

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

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

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

14 (c) Qualifying renewable energy operations for the tax incentives
15 under sections 42-12006, 43-1083.01 and 43-1164.01.

16 (d) Fulfilling its annual reporting responsibility pursuant to section
17 41-1511, subsections T and U and section 41-1517, subsections S and T.

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

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

21 C. Confidential information may be disclosed in any state or federal
22 judicial or administrative proceeding pertaining to tax administration
23 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 title
29 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.

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

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

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

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

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

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

29 H. Confidential information relating to transaction privilege tax, use
30 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may
31 be disclosed to any county, city or town tax official if the information
32 relates to a taxpayer who is or may be taxable by the county, city or town.

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

3 1. May only be used for internal purposes.

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

11 I. The department may disclose statistical information gathered from
12 confidential information if it does not disclose confidential information
13 attributable to any one taxpayer. ~~In order to comply with the requirements~~
14 ~~of section 42-5029, subsection A, paragraph 3, the department may disclose to~~
15 ~~the state treasurer statistical information gathered from confidential~~
16 ~~information, even if it discloses confidential information attributable to a~~
17 ~~taxpayer.~~ THE DEPARTMENT MAY DISCLOSE STATISTICAL INFORMATION GATHERED FROM
18 CONFIDENTIAL INFORMATION, EVEN IF IT DISCLOSES CONFIDENTIAL INFORMATION
19 ATTRIBUTABLE TO A TAXPAYER, TO:

20 1. THE STATE TREASURER IN ORDER TO COMPLY WITH THE REQUIREMENTS OF
21 SECTION 42-5029, SUBSECTION A, PARAGRAPH 3.

22 2. THE JOINT LEGISLATIVE INCOME TAX CREDIT REVIEW COMMITTEE AND THE
23 JOINT LEGISLATIVE BUDGET COMMITTEE STAFF IN ORDER TO COMPLY WITH THE
24 REQUIREMENTS OF SECTION 43-221.

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

30 K. Except as provided in section 42-2002, subsection C, confidential
31 information, described in section 42-2001, paragraph 2, subdivision (a), item

1 (iii), may be disclosed to law enforcement agencies for law enforcement
2 purposes.

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

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

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

14 O. This section does not prohibit the disclosure by the department of
15 any information or documents submitted to the department by a bingo licensee.
16 Before disclosing the information the department shall obtain the name and
17 address of the person requesting the information.

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

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

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

30 S. To comply with the requirements of section 42-5031, the department
31 may disclose to the state treasurer, to the county stadium district board of
32 directors and to any city or town tax official that is part of the county

1 stadium district confidential information attributable to a taxpayer's
2 business activity conducted in the county stadium district.

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

11 U. For proceedings before the department, the office of administrative
12 hearings, the board of tax appeals or any state or federal court involving
13 penalties that were assessed against a return preparer or electronic return
14 preparer pursuant to section 42-1103.02 or 42-1125.01, confidential
15 information may be disclosed only before the judge or administrative law
16 judge adjudicating the proceeding, the parties to the proceeding and the
17 parties' representatives in the proceeding prior to its introduction into
18 evidence in the proceeding. The confidential information may be introduced
19 as evidence in the proceeding only if the taxpayer's name, the names of any
20 dependents listed on the return, all social security numbers, the taxpayer's
21 address, the taxpayer's signature and any attachments containing any of the
22 foregoing information are redacted and if either:

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

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

29 V. The department may disclose to the attorney general confidential
30 information received under section 44-7111 and requested by the attorney
31 general for purposes of determining compliance with and enforcing section
32 44-7111. The department and attorney general shall share with each other the

1 information received under section 44-7111, and may share the information
2 with other federal, state or local agencies only for the purposes of
3 enforcement of section 44-7101, section 44-7111 or corresponding laws of
4 other states.

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

9 Renumber to conform

10 Page 17, strike lines 33 through 44

11 Strike pages 18 and 19

12 Page 20, strike lines 1 through 3

13 Renumber to conform

14 Amend title to conform

and, as so amended, it do pass

RICHARD A. MURPHY
Chairman

2160-wm
2/8/10
H:jmb