

1 **TAX COMMISSION INFORMATION SHARING AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Bradley G. Last**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to certain offices' access to information attached to
10 or included with a return filed with the State Tax Commission.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends the circumstances under which the State Tax Commission shall share
- 14 income tax return information with certain offices; and
- 15 ▶ amends the offices' responsibility regarding privacy of return information.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 This bill provides a special effective date.

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **59-1-403**, as last amended by Laws of Utah 2017, Chapters 181, 277, and 430

23 ENACTS:

24 **59-1-403.1**, Utah Code Annotated 1953

26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **59-1-403** is amended to read:



28 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

29 (1) (a) Any of the following may not divulge or make known in any manner any
30 information gained by that person from any return filed with the commission:

31 (i) a tax commissioner;

32 (ii) an agent, clerk, or other officer or employee of the commission; or

33 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
34 town.

35 (b) An official charged with the custody of a return filed with the commission is not
36 required to produce the return or evidence of anything contained in the return in any action or
37 proceeding in any court, except:

38 (i) in accordance with judicial order;

39 (ii) on behalf of the commission in any action or proceeding under:

40 (A) this title; or

41 (B) other law under which persons are required to file returns with the commission;

42 (iii) on behalf of the commission in any action or proceeding to which the commission
43 is a party; or

44 (iv) on behalf of any party to any action or proceeding under this title if the report or
45 facts shown by the return are directly involved in the action or proceeding.

46 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
47 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
48 pertinent to the action or proceeding.

49 (2) This section does not prohibit:

50 (a) a person or that person's duly authorized representative from receiving a copy of
51 any return or report filed in connection with that person's own tax;

52 (b) the publication of statistics as long as the statistics are classified to prevent the
53 identification of particular reports or returns; and

54 (c) the inspection by the attorney general or other legal representative of the state of the
55 report or return of any taxpayer:

56 (i) who brings action to set aside or review a tax based on the report or return;

57 (ii) against whom an action or proceeding is contemplated or has been instituted under
58 this title; or

59 (iii) against whom the state has an unsatisfied money judgment.

60 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
61 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
62 Rulemaking Act, provide for a reciprocal exchange of information with:

63 (i) the United States Internal Revenue Service; or

64 (ii) the revenue service of any other state.

65 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
66 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
67 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
68 other written statements with the federal government, any other state, any of the political
69 subdivisions of another state, or any political subdivision of this state, except as limited by
70 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
71 government grant substantially similar privileges to this state.

72 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
73 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
74 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
75 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
76 due.

77 (d) Notwithstanding Subsection (1), the commission shall provide to the director of the
78 Division of Environmental Response and Remediation, as defined in Section 19-6-402, as
79 requested by the director of the Division of Environmental Response and Remediation, any
80 records, returns, or other information filed with the commission under Chapter 13, Motor and
81 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
82 participation fee.

83 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
84 provide that person sales and purchase volume data reported to the commission on a report,
85 return, or other information filed with the commission under:

86 (i) Chapter 13, Part 2, Motor Fuel; or

87 (ii) Chapter 13, Part 4, Aviation Fuel.

88 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
89 as defined in Section 59-22-202, the commission shall report to the manufacturer:

90 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
91 manufacturer and reported to the commission for the previous calendar year under Section
92 59-14-407; and

93 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
94 manufacturer for which a tax refund was granted during the previous calendar year under
95 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

96 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
97 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
98 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

99 (h) Notwithstanding Subsection (1), the commission may:

100 (i) provide to the Division of Consumer Protection within the Department of
101 Commerce and the attorney general data:

102 (A) reported to the commission under Section 59-14-212; or

103 (B) related to a violation under Section 59-14-211; and

104 (ii) upon request, provide to any person data reported to the commission under
105 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

106 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
107 of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of
108 Management and Budget, provide to the committee or office the total amount of revenues
109 collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the
110 time period specified by the committee or office.

111 (j) Notwithstanding Subsection (1), the commission shall make the directory required
112 by Section 59-14-603 available for public inspection.

113 (k) Notwithstanding Subsection (1), the commission may share information with
114 federal, state, or local agencies as provided in Subsection 59-14-606(3).

115 (l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of
116 Recovery Services within the Department of Human Services any relevant information
117 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
118 who has become obligated to the Office of Recovery Services.

119 (ii) The information described in Subsection (3)(l)(i) may be provided by the Office of
120 Recovery Services to any other state's child support collection agency involved in enforcing

121 that support obligation.

122 (m) (i) Notwithstanding Subsection (1), upon request from the state court
123 administrator, the commission shall provide to the state court administrator, the name, address,
124 telephone number, county of residence, and social security number on resident returns filed
125 under Chapter 10, Individual Income Tax Act.

126 (ii) The state court administrator may use the information described in Subsection
127 (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

128 (n) (i) As used in this Subsection (3)(n):

129 (A) "GOED" means the Governor's Office of Economic Development created in
130 Section 63N-1-201.

131 ~~[(A)]~~ (B) "Income tax information" means information gained by the commission that
132 is required to be attached to or included in a return filed with the commission under Chapter 7,
133 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

134 ~~[(B) "Office" means the Office of the Legislative Fiscal Analyst, established in Section~~
135 ~~36-12-13, the Office of Legislative Research and General Counsel, established in Section~~
136 ~~36-12-12, the Governor's Office of Economic Development, created in Section 63N-1-201, or~~
137 ~~the Governor's Office of Management and Budget, created in Section 63J-4-2011.]~~

138 (C) "Other tax information" means information gained by the commission that is
139 required to be attached to or included in a return filed with the commission except for a return
140 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual
141 Income Tax Act.

142 (D) "Tax information" means income tax information or other tax information.

143 (ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
144 (3)(n)(ii)(B) or (C), the commission shall at the request of ~~[an office]~~ GOED provide to ~~[the~~
145 ~~office]~~ GOED all income tax information.

146 (B) For purposes of a request for income tax information made under Subsection
147 (3)(n)(ii)(A), ~~[an office]~~ GOED may not request and the commission may not provide to ~~[an~~
148 ~~office]~~ GOED a person's address, name, social security number, or taxpayer identification
149 number.

150 (C) In providing income tax information to ~~[an office]~~ GOED, the commission shall in
151 all instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

152 (iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
153 (3)(n)(iii)(B), the commission shall at the request of [~~an office~~] GOED provide to [~~the office~~]
154 GOED other tax information.

155 (B) Before providing other tax information to [~~an office~~] GOED, the commission shall
156 redact or remove any name, address, social security number, or taxpayer identification number.

157 (iv) [~~An office~~] GOED may provide tax information received from the commission in
158 accordance with this Subsection (3)(n) only:

159 (A) as a fiscal estimate, fiscal note information, or statistical information; and

160 (B) if the tax information is classified to prevent the identification of a particular
161 return.

162 (v) (A) A person may not request tax information from [~~an office~~] GOED under Title
163 63G, Chapter 2, Government Records Access and Management Act, or this section, if [~~that~~
164 ~~office~~] GOED received the tax information from the commission in accordance with this
165 Subsection (3)(n).

166 (B) [~~An office~~] GOED may not provide to a person that requests tax information in
167 accordance with Subsection (3)(n)(v)(A) any tax information other than the tax information
168 [~~the office~~] GOED provides in accordance with Subsection (3)(n)(iv).

169 (o) Notwithstanding Subsection (1), the commission may provide to the governing
170 board of the agreement or a taxing official of another state, the District of Columbia, the United
171 States, or a territory of the United States:

172 (i) the following relating to an agreement sales and use tax:

173 (A) information contained in a return filed with the commission;

174 (B) information contained in a report filed with the commission;

175 (C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

176 (D) a document filed with the commission; or

177 (ii) a report of an audit or investigation made with respect to an agreement sales and
178 use tax.

179 (p) Notwithstanding Subsection (1), the commission may provide information
180 concerning a taxpayer's state income tax return or state income tax withholding information to
181 the Driver License Division if the Driver License Division:

182 (i) requests the information; and

183 (ii) provides the commission with a signed release form from the taxpayer allowing the
184 Driver License Division access to the information.

185 (q) Notwithstanding Subsection (1), the commission shall provide to the Utah
186 Communications Authority, or a division of the Utah Communications Authority, the
187 information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and
188 63H-7a-502.

189 (r) Notwithstanding Subsection (1), the commission shall provide to the Utah
190 Educational Savings Plan information related to a resident or nonresident individual's
191 contribution to a Utah Educational Savings Plan account as designated on the resident or
192 nonresident's individual income tax return as provided under Section 59-10-1313.

193 (s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under
194 Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the
195 Department of Health or its designee with the adjusted gross income of an individual if:

196 (i) an eligibility worker with the Department of Health or its designee requests the
197 information from the commission; and

198 (ii) the eligibility worker has complied with the identity verification and consent
199 provisions of Sections 26-18-2.5 and 26-40-105.

200 (t) Notwithstanding Subsection (1), the commission may provide to a county, as
201 determined by the commission, information declared on an individual income tax return in
202 accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption
203 authorized under Section 59-2-103.

204 (u) Notwithstanding Subsection (1), the commission shall provide a report regarding
205 any access line provider that is over 90 days delinquent in payment to the commission of
206 amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency
207 Service Charges, to:

208 (i) the board of the Utah Communications Authority created in Section 63H-7a-201;
209 and

210 (ii) the Public Utilities, Energy, and Technology Interim Committee.

211 (4) (a) Each report and return shall be preserved for at least three years.

212 (b) After the three-year period provided in Subsection (4)(a) the commission may
213 destroy a report or return.

214 (5) (a) Any [person] individual who violates this section is guilty of a class A
215 misdemeanor.

216 (b) If the [person] individual described in Subsection (5)(a) is an officer or employee of
217 the state, the [person] individual shall be dismissed from office and be disqualified from
218 holding public office in this state for a period of five years thereafter.

219 (c) Notwithstanding Subsection (5)(a) or (b), ~~[an office that requests]~~ GOED, when
220 requesting information in accordance with Subsection (3)(n)(iii)₂ or a person that requests
221 information in accordance with Subsection (3)(n)(v):

222 (i) is not guilty of a class A misdemeanor; and

223 (ii) is not subject to:

224 (A) dismissal from office in accordance with Subsection (5)(b); or

225 (B) disqualification from holding public office in accordance with Subsection (5)(b).

226 (6) Except as provided in Section [59-1-404](#), this part does not apply to the property tax.
227 Section 2. Section **59-1-403.1** is enacted to read:

228 **59-1-403.1. Disclosure of return information.**

229 (1) As used in this section:

230 (a) "Office" means:

231 (i) the Office of the Legislative Fiscal Analyst, established in Section [36-12-13](#);

232 (ii) the Office of Legislative Research and General Counsel, established in Section
233 [36-12-12](#); or

234 (iii) the Governor's Office of Management and Budget, created in Section [63J-4-201](#).

235 (b) "Return information" means information gained by the commission that is required
236 to be attached to or included in a return filed with the commission.

237 (2) (a) Notwithstanding Subsection [59-1-403](#)(1), the commission, at the request of an
238 office, shall provide to the office all return information with the items described in Subsection
239 (2)(b) removed.

240 (b) For purposes of a request for return information made under Subsection (2)(a), the
241 commission shall redact or remove any name, address, social security number, or taxpayer
242 identification number.

243 (3) (a) An office may disclose return information received from the commission in
244 accordance with this section only:

245 (i) (A) as a fiscal estimate, fiscal note information, or statistical information; and
246 (B) in a manner that reasonably protects the identification of a particular taxpayer; or
247 (ii) to another office.

248 (b) A person may not request return information, other than the return information that
249 the office discloses in accordance with Subsection (3)(a), from an office under Title 63G,
250 Chapter 2, Government Records Access and Management Act, or this section, if that office
251 received the return information from the commission in accordance with this section.

252 (c) An office may not disclose to a person that requests return information any return
253 information other than the return information that the office discloses in accordance with
254 Subsection (3)(a).

255 (4) This section governs an office's authority to access or use return information, and
256 an office's authority to access or use return information may not be limited by any agreement.

257 **Section 3. Effective date.**

258 If approved by two-thirds of all the members elected to each house, this bill takes effect
259 upon approval by the governor, or the day following the constitutional time limit of Utah
260 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
261 the date of veto override.

Legislative Review Note
Office of Legislative Research and General Counsel