

TAX STATUS DISCLOSURE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Norman K. Thurston

Senate Sponsor: Lincoln Fillmore

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

Legislative Vote: 15 voting for 0 voting against 4 absent

General Description:

This bill requires the State Tax Commission to disclose tax status information to the Alcoholic Beverage Control Commission related to individuals who are obtaining or maintaining a license under the Alcoholic Beverage Control Act.

Highlighted Provisions:

This bill:

- requires the State Tax Commission to disclose to the Alcoholic Beverage Control Commission whether an individual applying for a license or a licensee is current on state tax obligations.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-403, as last amended by Laws of Utah 2020, Chapter 294



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

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

30 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

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

33 (i) a tax commissioner;

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

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

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

40 (i) in accordance with judicial order;

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

42 (A) this title; or

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

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

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

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

51 (2) This section does not prohibit:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

92 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
93 manufacturer and reported to the commission for the previous calendar year under Section
94 59-14-407; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

141 (ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
142 (3)(n)(ii)(B) or (C), the commission shall at the request of GOED provide to GOED all income
143 tax information.

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

147 (C) In providing income tax information to GOED, the commission shall in all
148 instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

149 (iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
150 (3)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax
151 information.

152 (B) Before providing other tax information to GOED, the commission shall redact or
153 remove any name, address, social security number, or taxpayer identification number.

154 (iv) GOED may provide tax information received from the commission in accordance
155 with this Subsection (3)(n) only:

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

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

159 (v) (A) A person may not request tax information from GOED under Title 63G,
160 Chapter 2, Government Records Access and Management Act, or this section, if GOED
161 received the tax information from the commission in accordance with this Subsection (3)(n).

162 (B) GOED may not provide to a person that requests tax information in accordance
163 with Subsection (3)(n)(v)(A) any tax information other than the tax information GOED
164 provides in accordance with Subsection (3)(n)(iv).

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

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

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

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

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

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

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

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

178 (i) requests the information; and

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

181 (q) Notwithstanding Subsection (1), the commission shall provide to the Utah
182 Communications Authority, or a division of the Utah Communications Authority, the

183 information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and
184 63H-7a-502.

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

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

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

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

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

200 (u) Notwithstanding Subsection (1), the commission shall provide a report regarding
201 any access line provider that is over 90 days delinquent in payment to the commission of
202 amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless
203 Telecommunications Service Charges, to the board of the Utah Communications Authority
204 created in Section 63H-7a-201.

205 (v) Notwithstanding Subsection (1), the commission shall provide the Department of
206 Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the
207 previous calendar year under Section 59-24-103.5.

208 (w) Notwithstanding Subsection (1), the commission may, upon request, provide to the
209 Department of Workforce Services any information received under Chapter 10, Part 4,
210 Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

211 (x) Notwithstanding Subsection (1), the commission may provide the Public Service
212 Commission or the Division of Public Utilities information related to a seller that collects and
213 remits to the commission a charge described in Subsection 69-2-405(2), including the seller's

214 identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

215 (y) Notwithstanding Subsection (1), the commission shall provide the Alcoholic
216 Beverage Control Commission, upon request, with taxpayer status information related to state
217 tax obligations necessary to comply with the requirements described in Section 32B-1-203.

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

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

221 (5) (a) Any individual who violates this section is guilty of a class A misdemeanor.

222 (b) If the individual described in Subsection (5)(a) is an officer or employee of the
223 state, the individual shall be dismissed from office and be disqualified from holding public
224 office in this state for a period of five years thereafter.

225 (c) Notwithstanding Subsection (5)(a) or (b), GOED, when requesting information in
226 accordance with Subsection (3)(n)(iii), or an individual who requests information in
227 accordance with Subsection (3)(n)(v):

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

229 (ii) is not subject to:

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

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

232 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.