

TAX ADMINISTRATION AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies the Revenue and Taxation code by amending provisions relating to the disclosure of confidential tax information.

Highlighted Provisions:

This bill:

- ▶ authorizes the Tax Commission to provide certain individual income tax withholding information to the Department of Workforce Services.

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 2017, Chapters 181, 277, and 430

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

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

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

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

(i) a tax commissioner;

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

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

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

35 (i) in accordance with judicial order;

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

37 (A) this title; or

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

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

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

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

46 (2) This section does not prohibit:

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

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

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

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

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

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

57 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the

58 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
59 Rulemaking Act, provide for a reciprocal exchange of information with:

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

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

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

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

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

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

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

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

85 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,

86 as defined in Section 59-22-202, the commission shall report to the manufacturer:

87 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
88 manufacturer and reported to the commission for the previous calendar year under Section
89 59-14-407; and

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

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

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

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

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

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

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

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

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

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

112 (l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of
113 Recovery Services within the Department of Human Services any relevant information

114 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
115 who has become obligated to the Office of Recovery Services.

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

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

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

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

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

129 (B) "Office" means the Office of the Legislative Fiscal Analyst, established in Section
130 36-12-13, the Office of Legislative Research and General Counsel, established in Section
131 36-12-12, the Governor's Office of Economic Development, created in Section 63N-1-201, or
132 the Governor's Office of Management and Budget, created in Section 63J-4-2011.

133 (C) "Other 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 except for a return
135 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual
136 Income Tax Act.

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

138 (ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
139 (3)(n)(ii)(B) or (C), the commission shall at the request of an office provide to the office all
140 income tax information.

141 (B) For purposes of a request for income tax information made under Subsection

142 (3)(n)(ii)(A), an office may not request and the commission may not provide to an office a
143 person's address, name, social security number, or taxpayer identification number.

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

146 (iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
147 (3)(n)(iii)(B), the commission shall at the request of an office provide to the office other tax
148 information.

149 (B) Before providing other tax information to an office, the commission shall redact or
150 remove any name, address, social security number, or taxpayer identification number.

151 (iv) An office may provide tax information received from the commission in
152 accordance with this Subsection (3)(n) only:

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

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

156 (v) (A) A person may not request tax information from an office under Title 63G,
157 Chapter 2, Government Records Access and Management Act, or this section, if that office
158 received the tax information from the commission in accordance with this Subsection (3)(n).

159 (B) An office may not provide to a person that requests tax information in accordance
160 with Subsection (3)(n)(v)(A) any tax information other than the tax information the office
161 provides in accordance with Subsection (3)(n)(iv).

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

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

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

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

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

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

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

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

175 (i) requests the information; and

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

178 (q) Notwithstanding Subsection (1), the commission shall provide to the Utah
179 Communications Authority, or a division of the Utah Communications Authority, the
180 information requested by the authority under Sections [63H-7a-302](#), [63H-7a-402](#), and
181 [63H-7a-502](#).

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

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

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

191 (ii) the eligibility worker has complied with the identity verification and consent
192 provisions of Sections [26-18-2.5](#) and [26-40-105](#).

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

197 (u) Notwithstanding Subsection (1), the commission shall provide a report regarding

198 any access line provider that is over 90 days delinquent in payment to the commission of
199 amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency
200 Service Charges, to:

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

202 and

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

204 (v) Notwithstanding Subsection (1), the commission may, upon request, provide to the

205 Department of Workforce Services any information received under Chapter 10, Part 4,

206 Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

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

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

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

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

214 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
215 accordance with Subsection (3)(n)(iii) or a person that requests information in accordance with
216 Subsection (3)(n)(v):

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

218 (ii) is not subject to:

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

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

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