

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3458

By: Moore

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6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2021, Section 205, as amended by Section 9,
9 Chapter 344, O.S.L. 2022 (68 O.S. Supp. 2023, Section
10 205), which relates to confidential information and
11 the Oklahoma Tax Commission; modifying provisions
12 related to confidential information; authorizing
13 release of certain information to district attorneys
14 and to the Attorney General; authorizing release of
15 information to the Oklahoma Medical Marijuana
16 Authority; and declaring an emergency.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 68 O.S. 2021, Section 205, as
19 amended by Section 9, Chapter 354, O.S.L. 2022 (68 O.S. Supp. 2023,
20 Section 205), is amended to read as follows:

21 Section 205. A. The records and files of the Oklahoma Tax
22 Commission concerning the administration of the Uniform Tax
23 Procedure Code or of any state tax law shall be considered
24 confidential and privileged, except as otherwise provided for by
-- law, and neither the Tax Commission nor any employee engaged in the
administration of the Tax Commission or charged with the custody of

1 any such records or files nor any person who may have secured
2 information from the Tax Commission shall disclose any information
3 obtained from the records or files or from any examination or
4 inspection of the premises or property of any person.

5 B. Except as provided in paragraph 26 of subsection C of this
6 section, neither the Tax Commission nor any employee engaged in the
7 administration of the Tax Commission or charged with the custody of
8 any such records or files shall be required by any court of this
9 state to produce any of the records or files for the inspection of
10 any person or for use in any action or proceeding, except when the
11 records or files or the facts shown thereby are directly involved in
12 an action or proceeding pursuant to the provisions of the Uniform
13 Tax Procedure Code or of the state tax law, or when the
14 determination of the action or proceeding will affect the validity
15 or the amount of the claim of the state pursuant to any state tax
16 law, or when the information contained in the records or files
17 constitutes evidence of violation of the provisions of the Uniform
18 Tax Procedure Code or of any state tax law.

19 C. The provisions of this section shall not prevent the Tax
20 Commission, or with respect to the Oklahoma Department of Commerce
21 in administration of the Oklahoma Rural Jobs Act as provided by
22 paragraph 22 of this subsection, from disclosing the following
23 information and no liability whatsoever, civil or criminal, shall
24 attach to any member of the Tax Commission, or the Oklahoma
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1 Department of Commerce as applicable, or any employee thereof for
2 any error or omission in the disclosure of such information:

3 1. The delivery to a taxpayer or a duly authorized
4 representative of the taxpayer of a copy of any report or any other
5 paper filed by the taxpayer pursuant to the provisions of the
6 Uniform Tax Procedure Code or of any state tax law;

7 2. The exchange of information that is not protected by the
8 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,
9 pursuant to reciprocal agreements entered into by the Tax Commission
10 and other state agencies or agencies of the federal government;

11 3. The publication of statistics so classified as to prevent
12 the identification of a particular report and the items thereof;

13 4. The examination of records and files by the State Auditor
14 and Inspector or the duly authorized agents of the State Auditor and
15 Inspector;

16 5. The disclosing of information or evidence to the Oklahoma
17 State Bureau of Investigation, Attorney General, Oklahoma State
18 Bureau of Narcotics and Dangerous Drugs Control, any district
19 attorney or agent of any federal law enforcement agency when the
20 information or evidence is to be used by such officials to
21 investigate or prosecute violations of the criminal provisions of
22 the Uniform Tax Procedure Code or of any state tax law or of any
23 federal crime committed against this state. Any information
24 disclosed to the Oklahoma State Bureau of Investigation, Attorney

1 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs
2 Control, any district attorney or agent of any federal law
3 enforcement agency shall be kept confidential by such person and not
4 be disclosed except when presented to a court in a prosecution for
5 violation of the tax laws of this state or except as specifically
6 authorized by law, and a violation by the Oklahoma State Bureau of
7 Investigation, Attorney General, Oklahoma State Bureau of Narcotics
8 and Dangerous Drugs Control, district attorney or agent of any
9 federal law enforcement agency by otherwise releasing the
10 information shall be a felony;

11 6. The use by any division of the Tax Commission of any
12 information or evidence in the possession of or contained in any
13 report or return filed with any other division of the Tax
14 Commission;

15 7. The furnishing, at the discretion of the Tax Commission, of
16 any information disclosed by its records or files to any official
17 person or body of this state, any other state, the United States or
18 foreign country who is concerned with the administration or
19 assessment of any similar tax in this state, any other state or the
20 United States. The provisions of this paragraph shall include the
21 furnishing of information by the Tax Commission to a county assessor
22 to determine the amount of gross household income pursuant to the
23 provisions of Section 8C of Article X of the Oklahoma Constitution
24 or Section 2890 of this title. The Tax Commission shall promulgate
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1 rules to give guidance to the county assessors regarding the type of
2 information which may be used by the county assessors in determining
3 the amount of gross household income pursuant to Section 8C of
4 Article X of the Oklahoma Constitution or Section 2890 of this
5 title. The provisions of this paragraph shall also include the
6 furnishing of information to the State Treasurer for the purpose of
7 administration of the Uniform Unclaimed Property Act;

8 8. The furnishing of information to other state agencies for
9 the limited purpose of aiding in the collection of debts owed by
10 individuals to such requesting agencies;

11 9. The furnishing of information requested by any member of the
12 general public and stated in the sworn lists or schedules of taxable
13 property of public service corporations organized, existing, or
14 doing business in this state which are submitted to and certified by
15 the State Board of Equalization pursuant to the provisions of
16 Section 2858 of this title and Section 21 of Article X of the
17 Oklahoma Constitution, provided such information would be a public
18 record if filed pursuant to Sections 2838 and 2839 of this title on
19 behalf of a corporation other than a public service corporation;

20 10. The furnishing of information requested by any member of
21 the general public and stated in the findings of the Tax Commission
22 as to the adjustment and equalization of the valuation of real and
23 personal property of the counties of the state, which are submitted
24 to and certified by the State Board of Equalization pursuant to the
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1 provisions of Section 2865 of this title and Section 21 of Article X
2 of the Oklahoma Constitution;

3 11. The furnishing of information as to the issuance or
4 revocation of any tax permit, license or exemption by the Tax
5 Commission as provided for by law. Such information shall be
6 limited to the name of the person issued the permit, license or
7 exemption, the name of the business entity authorized to engage in
8 business pursuant to the permit, license or exemption, the address
9 of the business entity and the grounds for revocation;

10 12. The posting of notice of revocation of any tax permit or
11 license upon the premises of the place of business of any business
12 entity which has had any tax permit or license revoked by the Tax
13 Commission as provided for by law. Such notice shall be limited to
14 the name of the person issued the permit or license, the name of the
15 business entity authorized to engage in business pursuant to the
16 permit or license, the address of the business entity and the
17 grounds for revocation;

18 13. The furnishing of information upon written request by any
19 member of the general public as to the outstanding and unpaid amount
20 due and owing by any taxpayer of this state for any delinquent tax,
21 together with penalty and interest, for which a tax warrant or a
22 certificate of indebtedness has been filed pursuant to law;

23 14. After the filing of a tax warrant pursuant to law, the
24 furnishing of information upon written request by any member of the
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1 general public as to any agreement entered into by the Tax
2 Commission concerning a compromise of tax liability for an amount
3 less than the amount of tax liability stated on such warrant;

4 15. The disclosure of information necessary to complete the
5 performance of any contract authorized by this title to any person
6 with whom the Tax Commission has contracted;

7 16. The disclosure of information to any person for a purpose
8 as authorized by the taxpayer pursuant to a waiver of
9 confidentiality. The waiver shall be in writing and shall be made
10 upon such form as the Tax Commission may prescribe;

11 17. The disclosure of information required in order to comply
12 with the provisions of Section 2369 of this title;

13 18. The disclosure to an employer, as defined in Sections
14 2385.1 and 2385.3 of this title, of information required in order to
15 collect the tax imposed by Section 2385.2 of this title;

16 19. The disclosure to a plaintiff of a corporation's last-known
17 address shown on the records of the Franchise Tax Division of the
18 Tax Commission in order for such plaintiff to comply with the
19 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

20 20. The disclosure of information directly involved in the
21 resolution of the protest by a taxpayer to an assessment of tax or
22 additional tax or the resolution of a claim for refund filed by a
23 taxpayer, including the disclosure of the pendency of an
24 administrative proceeding involving such protest or claim, to a
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1 person called by the Tax Commission as an expert witness or as a
2 witness whose area of knowledge or expertise specifically addresses
3 the issue addressed in the protest or claim for refund. Such
4 disclosure to a witness shall be limited to information pertaining
5 to the specific knowledge of that witness as to the transaction or
6 relationship between taxpayer and witness;

7 21. The disclosure of information necessary to implement an
8 agreement authorized by Section 2702 of this title when such
9 information is directly involved in the resolution of issues arising
10 out of the enforcement of a municipal sales tax ordinance. Such
11 disclosure shall be to the governing body or to the municipal
12 attorney, if so designated by the governing body;

13 22. The furnishing of information regarding incentive payments
14 made pursuant to the provisions of Sections 3601 through 3609 of
15 this title, incentive payments made pursuant to the provisions of
16 Sections 3501 through 3508 of this title, or tax credits claimed
17 pursuant to the provisions of Sections 1 through 8 of this act;

18 23. The furnishing to a prospective purchaser of any business,
19 or his or her authorized representative, of information relating to
20 any liabilities, delinquencies, assessments or warrants of the
21 prospective seller of the business which have not been filed of
22 record, established or become final and which relate solely to the
23 seller's business. Any disclosure under this paragraph shall only
24 be allowed upon the presentment by the prospective buyer, or the
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1 buyer's authorized representative, of the purchase contract and a
2 written authorization between the parties;

3 24. The furnishing of information as to the amount of state
4 revenue affected by the issuance or granting of any tax permit,
5 license, exemption, deduction, credit or other tax preference by the
6 Tax Commission as provided for by law. Such information shall be
7 limited to the type of permit, license, exemption, deduction, credit
8 or other tax preference issued or granted, the date and duration of
9 such permit, license, exemption, deduction, credit or other tax
10 preference and the amount of such revenue. The provisions of this
11 paragraph shall not authorize the disclosure of the name of the
12 person issued such permit, license, exemption, deduction, credit or
13 other tax preference, or the name of the business entity authorized
14 to engage in business pursuant to the permit, license, exemption,
15 deduction, credit or other tax preference;

16 25. The examination of records and files of a person or entity
17 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
18 Control, district attorney or the Attorney General pursuant to a
19 court order by a magistrate in whose territorial jurisdiction the
20 person or entity resides, or where the Tax Commission records and
21 files are physically located. Such an order may only be issued upon
22 a sworn application by an agent of the Oklahoma State Bureau of
23 Narcotics and Dangerous Drugs Control or the Attorney General,
24 certifying that the person or entity whose records and files are to
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1 be examined is the target of an ongoing investigation of a felony
2 violation of the Uniform Controlled Dangerous Substances Act and
3 that information resulting from such an examination would likely be
4 relevant to that investigation. Any records or information obtained
5 pursuant to such an order may only be used by the Oklahoma State
6 Bureau of Narcotics and Dangerous Drugs Control, district attorney
7 or the Attorney General in the investigation and prosecution of a
8 felony violation of the Uniform Controlled Dangerous Substances Act
9 or money laundering pursuant to Section 2001 of Title 21 of the
10 Oklahoma Statutes. Any such order issued pursuant to this
11 paragraph, along with the underlying application, shall be sealed
12 and not disclosed to the person or entity whose records were
13 examined, for a period of ninety (90) days. The issuing magistrate
14 may grant extensions of such period upon a showing of good cause in
15 furtherance of the investigation. Upon the expiration of ninety
16 (90) days and any extensions granted by the magistrate, a copy of
17 the application and order shall be served upon the person or entity
18 whose records were examined, along with a copy of the records or
19 information actually provided by the Tax Commission;

20 26. The disclosure of information, as prescribed by this
21 paragraph, which is related to the proposed or actual usage of tax
22 credits pursuant to Section 2357.7 of this title, the Small Business
23 Capital Formation Incentive Act or the Rural Venture Capital
24 Formation Incentive Act. Unless the context clearly requires
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1 otherwise, the terms used in this paragraph shall have the same
2 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this
3 title. The disclosure of information authorized by this paragraph
4 shall include:

- 5 a. the legal name of any qualified venture capital
6 company, qualified small business capital company or
7 qualified rural small business capital company,
- 8 b. the identity or legal name of any person or entity
9 that is a shareholder or partner of a qualified
10 venture capital company, qualified small business
11 capital company or qualified rural small business
12 capital company,
- 13 c. the identity or legal name of any Oklahoma business
14 venture, Oklahoma small business venture or Oklahoma
15 rural small business venture in which a qualified
16 investment has been made by a capital company, or
- 17 d. the amount of funds invested in a qualified venture
18 capital company, the amount of qualified investments
19 in a qualified small business capital company or
20 qualified rural small business capital company and the
21 amount of investments made by a qualified venture
22 capital company, qualified small business capital
23 company, or qualified rural small business capital
24 company;

1 27. The disclosure of specific information as required by
2 Section 46 of Title 62 of the Oklahoma Statutes;

3 28. The disclosure of specific information as required by
4 Section 205.5 of this title;

5 29. The disclosure of specific information as required by
6 Section 205.6 of this title;

7 30. The disclosure of information to the State Treasurer
8 necessary to implement Section 2368.27 of this title;

9 31. The disclosure of specific information to the Oklahoma
10 Health Care Authority for purposes of determining eligibility for
11 current or potential recipients of assistance from the Oklahoma
12 Medicaid Program; ~~or~~

13 32. The disclosure of information to the Oklahoma Department of
14 Veterans Affairs including but not limited to the name and basis for
15 eligibility of each individual who qualifies for the sales tax
16 exemption authorized in paragraph 34 of Section 1357 of this title;
17 or

18 33. The disclosure of information to the Oklahoma Medical
19 Marijuana Authority for the purposes of compliance with the Oklahoma
20 Medical Marijuana and Patient Protection Act or Section 420 et seq.
21 of Title 63 of the Oklahoma Statutes.

22 D. The Tax Commission shall cause to be prepared and made
23 available for public inspection in the office of the Tax Commission
24 in such manner as it may determine an annual list containing the
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1 name and post office address of each person, whether individual,
2 corporate or otherwise, making and filing an income tax return with
3 the Tax Commission.

4 It is specifically provided that no liability whatsoever, civil
5 or criminal, shall attach to any member of the Tax Commission or any
6 employee thereof for any error or omission of any name or address in
7 the preparation and publication of the list.

8 E. The Tax Commission shall prepare or cause to be prepared a
9 report on all provisions of state tax law that reduce state revenue
10 through exclusions, deductions, credits, exemptions, deferrals or
11 other preferential tax treatments. The report shall be prepared not
12 later than October 1 of each even-numbered year and shall be
13 submitted to the Governor, the President Pro Tempore of the Senate
14 and the Speaker of the House of Representatives. The Tax Commission
15 may prepare and submit supplements to the report at other times of
16 the year if additional or updated information relevant to the report
17 becomes available. The report shall include, for the previous
18 fiscal year, the Tax Commission's best estimate of the amount of
19 state revenue that would have been collected but for the existence
20 of each such exclusion, deduction, credit, exemption, deferral or
21 other preferential tax treatment allowed by law. The Tax Commission
22 may request the assistance of other state agencies as may be needed
23 to prepare the report. The Tax Commission is authorized to require
24 any recipient of a tax incentive or tax expenditure to report to the
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1 Tax Commission such information as requested so that the Tax
2 Commission may fulfill its obligations as required by this
3 subsection. The Tax Commission may require this information to be
4 submitted in an electronic format. The Tax Commission may disallow
5 any claim of a person for a tax incentive due to its failure to file
6 a report as required under the authority of this subsection.

7 F. It is further provided that the provisions of this section
8 shall be strictly interpreted and shall not be construed as
9 permitting the disclosure of any other information contained in the
10 records and files of the Tax Commission relating to income tax or to
11 any other taxes.

12 G. Unless otherwise provided for in this section, any violation
13 of the provisions of this section shall constitute a misdemeanor and
14 shall be punishable by the imposition of a fine not exceeding One
15 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail
16 for a term not exceeding one (1) year, or by both such fine and
17 imprisonment, and the offender shall be removed or dismissed from
18 office.

19 H. Offenses described in Section 2376 of this title shall be
20 reported to the appropriate district attorney of this state by the
21 Tax Commission as soon as the offenses are discovered by the Tax
22 Commission or its agents or employees. The Tax Commission shall
23 make available to the appropriate district attorney or to the
24 authorized agent of the district attorney its records and files
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1 pertinent to prosecutions, and such records and files shall be fully
2 admissible as evidence for the purpose of such prosecutions.

3 SECTION 2. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

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