

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 HOUSE BILL 3458

By: Moore of the House

5 and

6 **Jech** of the Senate

7
8
9 AS INTRODUCED

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

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

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

26 Section 205. A. The records and files of the Oklahoma Tax
27 Commission concerning the administration of the Uniform Tax
28 Procedure Code or of any state tax law shall be considered

1 confidential and privileged, except as otherwise provided for by
2 law, and neither the Tax Commission nor any employee engaged in the
3 administration of the Tax Commission or charged with the custody of
4 any such records or files nor any person who may have secured
5 information from the Tax Commission shall disclose any information
6 obtained from the records or files or from any examination or
7 inspection of the premises or property of any person.

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

22 C. The provisions of this section shall not prevent the Tax
23 Commission, or with respect to the Oklahoma Department of Commerce
24 in administration of the Oklahoma Rural Jobs Act as provided by

1 paragraph 22 of this subsection, from disclosing the following
2 information and no liability whatsoever, civil or criminal, shall
3 attach to any member of the Tax Commission, or the Oklahoma
4 Department of Commerce as applicable, or any employee thereof for
5 any error or omission in the disclosure of such information:

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

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

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

16 4. The examination of records and files by the State Auditor
17 and Inspector or the duly authorized agents of the State Auditor and
18 Inspector;

19 5. The disclosing of information or evidence to the Oklahoma
20 State Bureau of Investigation, Attorney General, Oklahoma State
21 Bureau of Narcotics and Dangerous Drugs Control, any district
22 attorney or agent of any federal law enforcement agency when the
23 information or evidence is to be used by such officials to
24 investigate or prosecute violations of the criminal provisions of

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

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

18 7. The furnishing, at the discretion of the Tax Commission, of
19 any information disclosed by its records or files to any official
20 person or body of this state, any other state, the United States or
21 foreign country who is concerned with the administration or
22 assessment of any similar tax in this state, any other state or the
23 United States. The provisions of this paragraph shall include the
24 furnishing of information by the Tax Commission to a county assessor

1 to determine the amount of gross household income pursuant to the
2 provisions of Section 8C of Article X of the Oklahoma Constitution
3 or Section 2890 of this title. The Tax Commission shall promulgate
4 rules to give guidance to the county assessors regarding the type of
5 information which may be used by the county assessors in determining
6 the amount of gross household income pursuant to Section 8C of
7 Article X of the Oklahoma Constitution or Section 2890 of this
8 title. The provisions of this paragraph shall also include the
9 furnishing of information to the State Treasurer for the purpose of
10 administration of the Uniform Unclaimed Property Act;

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

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

23 10. The furnishing of information requested by any member of
24 the general public and stated in the findings of the Tax Commission

1 as to the adjustment and equalization of the valuation of real and
2 personal property of the counties of the state, which are submitted
3 to and certified by the State Board of Equalization pursuant to the
4 provisions of Section 2865 of this title and Section 21 of Article X
5 of the Oklahoma Constitution;

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

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

21 13. The furnishing of information upon written request by any
22 member of the general public as to the outstanding and unpaid amount
23 due and owing by any taxpayer of this state for any delinquent tax,
24

1 together with penalty and interest, for which a tax warrant or a
2 certificate of indebtedness has been filed pursuant to law;

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

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

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

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

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

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

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

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

18 22. The furnishing of information regarding incentive payments
19 made pursuant to the provisions of Sections 3601 through 3609 of
20 this title, incentive payments made pursuant to the provisions of
21 Sections 3501 through 3508 of this title, or tax credits claimed
22 pursuant to the provisions of Sections 1 through 8 of this act;

23 23. The furnishing to a prospective purchaser of any business,
24 or his or her authorized representative, of information relating to

1 any liabilities, delinquencies, assessments or warrants of the
2 prospective seller of the business which have not been filed of
3 record, established or become final and which relate solely to the
4 seller's business. Any disclosure under this paragraph shall only
5 be allowed upon the presentment by the prospective buyer, or the
6 buyer's authorized representative, of the purchase contract and a
7 written authorization between the parties;

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

21 25. The examination of records and files of a person or entity
22 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs
23 Control, district attorney or the Attorney General pursuant to a
24 court order by a magistrate in whose territorial jurisdiction the

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

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

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

1 qualified rural small business capital company and the
2 amount of investments made by a qualified venture
3 capital company, qualified small business capital
4 company, or qualified rural small business capital
5 company;

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

8 28. The disclosure of specific information as required by
9 Section 205.5 of this title;

10 29. The disclosure of specific information as required by
11 Section 205.6 of this title;

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

14 31. The disclosure of specific information to the Oklahoma
15 Health Care Authority for purposes of determining eligibility for
16 current or potential recipients of assistance from the Oklahoma
17 Medicaid Program; ~~or~~

18 32. The disclosure of information to the Oklahoma Department of
19 Veterans Affairs including but not limited to the name and basis for
20 eligibility of each individual who qualifies for the sales tax
21 exemption authorized in paragraph 34 of Section 1357 of this title;
22 or

23 33. The disclosure of information to the Oklahoma Medical
24 Marijuana Authority for the purposes of compliance with the Oklahoma

1 Medical Marijuana and Patient Protection Act or Section 420 et seq.
2 of Title 63 of the Oklahoma Statutes.

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

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

13 E. The Tax Commission shall prepare or cause to be prepared a
14 report on all provisions of state tax law that reduce state revenue
15 through exclusions, deductions, credits, exemptions, deferrals or
16 other preferential tax treatments. The report shall be prepared not
17 later than October 1 of each even-numbered year and shall be
18 submitted to the Governor, the President Pro Tempore of the Senate
19 and the Speaker of the House of Representatives. The Tax Commission
20 may prepare and submit supplements to the report at other times of
21 the year if additional or updated information relevant to the report
22 becomes available. The report shall include, for the previous
23 fiscal year, the Tax Commission's best estimate of the amount of
24 state revenue that would have been collected but for the existence

1 of each such exclusion, deduction, credit, exemption, deferral or
2 other preferential tax treatment allowed by law. The Tax Commission
3 may request the assistance of other state agencies as may be needed
4 to prepare the report. The Tax Commission is authorized to require
5 any recipient of a tax incentive or tax expenditure to report to the
6 Tax Commission such information as requested so that the Tax
7 Commission may fulfill its obligations as required by this
8 subsection. The Tax Commission may require this information to be
9 submitted in an electronic format. The Tax Commission may disallow
10 any claim of a person for a tax incentive due to its failure to file
11 a report as required under the authority of this subsection.

12 F. It is further provided that the provisions of this section
13 shall be strictly interpreted and shall not be construed as
14 permitting the disclosure of any other information contained in the
15 records and files of the Tax Commission relating to income tax or to
16 any other taxes.

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

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

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

13
14 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
15 02/22/2024 - DO PASS, As Coauthored.
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