

TAX INCENTIVE REVIEW AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: Curtis S. Bramble

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill amends provisions related to the sharing of tax information between the State Tax Commission and legislative staff offices and requires a study related to sales and use tax exemptions.

Highlighted Provisions:

This bill:

- ▶ addresses what tax information the State Tax Commission can provide to a legislative staff office;
- ▶ requires the State Tax Commission and Office of the Legislative Fiscal Analyst to conduct a study and report findings on establishing a methodology for estimating state revenue losses due to sales and use tax exemptions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a repeal date.

Utah Code Sections Affected:

AMENDS:



28 **59-1-403**, as last amended by Laws of Utah 2015, Chapters 411 and 451

29 **Uncodified Material Affected:**

30 ENACTS UNCODIFIED MATERIAL



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

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

34 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

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

- 37 (i) a tax commissioner;
- 38 (ii) an agent, clerk, or other officer or employee of the commission; or
- 39 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
40 town.

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

- 44 (i) in accordance with judicial order;
- 45 (ii) on behalf of the commission in any action or proceeding under:
 - 46 (A) this title; or
 - 47 (B) other law under which persons are required to file returns with the commission;
- 48 (iii) on behalf of the commission in any action or proceeding to which the commission
49 is a party; or
- 50 (iv) on behalf of any party to any action or proceeding under this title if the report or
51 facts shown by the return are directly involved in the action or proceeding.

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

55 (2) This section does not prohibit:

- 56 (a) a person or that person's duly authorized representative from receiving a copy of
57 any return or report filed in connection with that person's own tax;
- 58 (b) the publication of statistics as long as the statistics are classified to prevent the

59 identification of particular reports or returns; and

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

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

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

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

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

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

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

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

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

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

89 (e) Notwithstanding Subsection (1), at the request of any person the commission shall

90 provide that person sales and purchase volume data reported to the commission on a report,
91 return, or other information filed with the commission under:

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

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

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

96 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
97 manufacturer and reported to the commission for the previous calendar year under Section
98 59-14-407; and

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

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

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

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

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

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

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

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

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

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

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

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

128 (m) (i) Notwithstanding Subsection (1), upon request from the state court
 129 administrator, the commission shall provide to the state court administrator, the name, address,
 130 telephone number, county of residence, and Social Security number on resident returns filed
 131 under Chapter 10, Individual Income Tax Act.

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

134 (n) Notwithstanding Subsection (1), the commission shall at the request of a
 135 committee, commission, or task force of the Legislature provide to the committee, commission,
 136 or task force of the Legislature any information relating to a tax imposed under Chapter 9,
 137 Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

138 (o) (i) As used in this Subsection (3)(o) [~~,"office"~~]:

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

142 (B) "Office" means the~~[(A)]~~ Office of the Legislative Fiscal Analyst~~[:]~~ or ~~[(B)]~~ the
 143 Office of Legislative Research and General Counsel.

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

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

149 (ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
 150 (3)(o)~~[(iii)]~~(ii)(B) or (C), the commission shall at the request of an office provide to the office
 151 all income tax information~~[:]~~.

152 ~~[(A) gained by the commission; and]~~

153 ~~[(B) required to be attached to or included in returns filed with the commission.]~~

154 ~~[(iii)(A) An]~~ (B) For purposes of a request for income tax information made under
155 Subsection (3)(o)(ii)(A), an office may not request and the commission may not provide to an
156 office a person's[:] address, name, social security number, or taxpayer identification number.

157 ~~[(f) address;]~~

158 ~~[(H) name;]~~

159 ~~[(III) Social Security number; or]~~

160 ~~[(IV) taxpayer identification number.]~~

161 ~~[(B) The]~~ (C) In providing income tax information to an office, the commission shall
162 in all instances protect the privacy of a person as required by Subsection (3)(o)~~[(iii)(A)]~~(ii)(B).

163 (iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection
164 (3)(o)(iii)(B), the commission shall at the request of an office provide to the office other tax
165 information.

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

168 (iv) An office may provide tax information received from the commission in
169 accordance with this Subsection (3)(o) only:

170 (A) as[:] a fiscal estimate, fiscal note information, or statistical information; and

171 ~~[(f) a fiscal estimate;]~~

172 ~~[(H) fiscal note information; or]~~

173 ~~[(III) statistical information; and]~~

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

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

179 (B) An office may not provide to a person that requests tax information in accordance
180 with Subsection (3)(o)(v)(A) any tax information other than the tax information the office
181 provides in accordance with Subsection (3)(o)(iv).

182 (p) Notwithstanding Subsection (1), the commission may provide to the governing

183 board of the agreement or a taxing official of another state, the District of Columbia, the United
184 States, or a territory of the United States:

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

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

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

188 (C) a schedule related to Subsection (3)(p)(i)(A) or (B); or

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

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

192 (q) Notwithstanding Subsection (1), the commission may provide information
193 concerning a taxpayer's state income tax return or state income tax withholding information to
194 the Driver License Division if the Driver License Division:

195 (i) requests the information; and

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

198 (r) Notwithstanding Subsection (1), the commission shall provide to the Utah
199 Communications Authority, or a division of the Utah Communications Authority, the
200 information requested by the authority under Sections [63H-7a-302](#), [63H-7a-402](#), and
201 [63H-7a-502](#).

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

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

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

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

213 (u) Notwithstanding Subsection (1), the commission may provide to a county, as

214 determined by the commission, information declared on an individual income tax return in
 215 accordance with Section [59-10-103.1](#) that relates to eligibility to claim a residential exemption
 216 authorized under Section [59-2-103](#).

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

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

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

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

224 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
 225 accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with
 226 Subsection (3)(o)(v):

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

228 (ii) is not subject to:

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

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

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

232 Section 2. **Sales tax exemption study.**

233 (1) The Utah State Tax Commission, in consultation with the Office of the Legislative
 234 Fiscal Analyst, shall study ~~§~~ → [] and ← ~~§~~ prepare a report ~~§~~ → [~~and make recommendations~~] ← ~~§~~
 234a on ~~§~~ → [~~providing~~] ← ~~§~~ state
 235 revenue losses due to sales and use tax exemptions under Section [59-12-104](#).

236 (2) The Utah State Tax Commission and Office of the Legislative Fiscal Analyst shall
 237 present the findings of the report ~~§~~ → [~~including recommendations~~] ← ~~§~~ to the Revenue and
 237a Taxation
 238 Interim Committee before November 30, 2017.

239 Section 3. **Repeal date.**

240 Uncodified Section 2, Sales tax exemption study, is repealed on November 30, 2017.