

Substitute for HOUSE BILL No. 2056

By Committee on Taxation

1-29

1 AN ACT concerning taxation; relating to permitted use of tax information;
2 tax warrants; amending K.S.A. 2013 Supp. 75-5133, 79-3234 and 79-
3 3235a and repealing the existing sections; also repealing K.S.A. 2013
4 Supp. 79-3235b.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2013 Supp. 75-5133 is hereby amended to read as
8 follows: 75-5133.(a) Except as otherwise more specifically provided by
9 law, all information received by the secretary of revenue, the director of
10 taxation or the director of alcoholic beverage control from returns, reports,
11 license applications or registration documents made or filed under the
12 provisions of any law imposing any sales, use or other excise tax
13 administered by the secretary of revenue, the director of taxation, or the
14 director of alcoholic beverage control, or from any investigation conducted
15 under such provisions, shall be confidential, and it shall be unlawful for
16 any officer or employee of the department of revenue to divulge any such
17 information except in accordance with other provisions of law respecting
18 the enforcement and collection of such tax, in accordance with proper
19 judicial order or as provided in K.S.A. 74-2424, and amendments thereto.

20 (b) The secretary of revenue or the secretary's designee may:

21 (1) Publish statistics, so classified as to prevent identification of
22 particular reports or returns and the items thereof;

23 (2) allow the inspection of returns by the attorney general or the
24 attorney general's designee;

25 (3) provide the post auditor access to all such excise tax reports or
26 returns in accordance with and subject to the provisions of subsection (g)
27 of K.S.A. 46-1106, and amendments thereto;

28 (4) disclose taxpayer information from excise tax returns to persons
29 or entities contracting with the secretary of revenue where the secretary
30 has determined disclosure of such information is essential for completion
31 of the contract and has taken appropriate steps to preserve confidentiality;

32 (5) provide information from returns and reports filed under article 42
33 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto,
34 to county appraisers as is necessary to insure proper valuations of property.
35 Information from such returns and reports may also be exchanged with any
36 other state agency administering and collecting conservation or other taxes

1 and fees imposed on or measured by mineral production;

2 (6) provide, upon request by a city or county clerk or treasurer or
3 finance officer of any city or county receiving distributions from a local
4 excise tax, monthly reports identifying each retailer doing business in such
5 city or county or making taxable sales sourced to such city or county,
6 setting forth the tax liability and the amount of such tax remitted by each
7 retailer during the preceding month, and identifying each business location
8 maintained by the retailer and such retailer's sales or use tax registration or
9 account number;

10 (7) provide information from returns and applications for registration
11 filed pursuant to K.S.A. 12-187, and amendments thereto, and K.S.A. 79-
12 3601, and amendments thereto, to a city or county treasurer or clerk or
13 finance officer to explain the basis of statistics contained in reports
14 provided by subsection (b)(6);

15 (8) disclose the following oil and gas production statistics received by
16 the department of revenue in accordance with K.S.A. 79-4216 et seq., and
17 amendments thereto: Volumes of production by well name, well number,
18 operator's name and identification number assigned by the state
19 corporation commission, lease name, leasehold property description,
20 county of production or zone of production, name of purchaser and
21 purchaser's tax identification number assigned by the department of
22 revenue, name of transporter, field code number or lease code, tax period,
23 exempt production volumes by well name or lease, or any combination of
24 this information;

25 (9) release or publish liquor brand registration information provided
26 by suppliers, farm wineries, microdistilleries and microbreweries in
27 accordance with the liquor control act. The information to be released is
28 limited to: Item number, universal numeric code, type status, product
29 description, alcohol percentage, selling units, unit size, unit of
30 measurement, supplier number, supplier name, distributor number and
31 distributor name;

32 (10) release or publish liquor license information provided by liquor
33 licensees, distributors, suppliers, farm wineries, microdistilleries and
34 microbreweries in accordance with the liquor control act. The information
35 to be released is limited to: County name, owner, business name, address,
36 license type, license number, license expiration date and the process agent
37 contact information;

38 (11) release or publish cigarette and tobacco license information
39 obtained from cigarette and tobacco licensees in accordance with the
40 Kansas cigarette and tobacco products act. The information to be released
41 is limited to: County name, owner, business name, address, license type
42 and license number;

43 (12) provide environmental surcharge or solvent fee, or both,

1 information from returns and applications for registration filed pursuant to
2 K.S.A. 65-34,150 and 65-34,151, and amendments thereto, to the secretary
3 of health and environment or the secretary's designee for the sole purpose
4 of ensuring that retailers collect the environmental surcharge tax or solvent
5 fee, or both;

6 (13) provide water protection fee information from returns and
7 applications for registration filed pursuant to K.S.A. 82a-954, and
8 amendments thereto, to the secretary of the state board of agriculture or the
9 secretary's designee and the secretary of the Kansas water office or the
10 secretary's designee for the sole purpose of verifying revenues deposited to
11 the state water plan fund;

12 (14) provide to the secretary of commerce copies of applications for
13 project exemption certificates sought by any taxpayer under the enterprise
14 zone sales tax exemption pursuant to subsection (cc) of K.S.A. 79-3606,
15 and amendments thereto;

16 (15) disclose information received pursuant to the Kansas cigarette
17 and tobacco act and subject to the confidentiality provisions of this act to
18 any criminal justice agency, as defined in subsection (c) of K.S.A. 22-
19 4701, and amendments thereto, or to any law enforcement officer, as
20 defined in K.S.A. 2013 Supp. 21-5111, and amendments thereto, on behalf
21 of a criminal justice agency, when requested in writing in conjunction with
22 a pending investigation;

23 (16) provide to retailers tax exemption information for the sole
24 purpose of verifying the authenticity of tax exemption numbers issued by
25 the department;

26 (17) provide information concerning remittance by sellers, as defined
27 in K.S.A. 2013 Supp. 12-5363, and amendments thereto, of prepaid
28 wireless 911 fees from returns to the local collection point administrator,
29 as defined in K.S.A. 2013 Supp. 12-5363, and amendments thereto, for
30 purposes of verifying seller compliance with collection and remittance of
31 such fees; and

32 (18) release or publish charitable gaming information obtained in
33 bingo licensee and registration applications and renewals in accordance
34 with the bingo act, K.S.A. 79-4701 et seq., and amendments thereto. The
35 information to be released is limited to: The name, address, phone number,
36 license registration number and email address of the organization,
37 distributor or of premises; *and*

38 *(19) disclose taxpayer information in any civil or criminal action or*
39 *proceeding, or both, brought to enforce the tax or revenue laws of this*
40 *state with respect to such taxpayer.*

41 (c) Any person receiving any information under the provisions of
42 subsection (b) shall be subject to the confidentiality provisions of
43 subsection (a) and to the penalty provisions of subsection (d).

1 (d) Any violation of this section shall be a class A, nonperson
2 misdemeanor, and if the offender is an officer or employee of this state,
3 such officer or employee shall be dismissed from office. Reports of
4 violations of this paragraph shall be investigated by the attorney general.
5 The district attorney or county attorney and the attorney general shall have
6 authority to prosecute any violation of this section if the offender is a city
7 or county clerk or treasurer or finance officer of a city or county.

8 Sec. 2. K.S.A. 2013 Supp. 79-3234 is hereby amended to read as
9 follows: 79-3234. (a) All reports and returns required by this act shall be
10 preserved for three years and thereafter until the director orders them to be
11 destroyed.

12 (b) Except in accordance with proper judicial order, or as provided in
13 subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,
14 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be
15 unlawful for the secretary, the director, any deputy, agent, clerk or other
16 officer, employee or former employee of the department of revenue or any
17 other state officer or employee or former state officer or employee to
18 divulge, or to make known in any way, the amount of income or any
19 particulars set forth or disclosed in any report, return, federal return or
20 federal return information required under this act; and it shall be unlawful
21 for the secretary, the director, any deputy, agent, clerk or other officer or
22 employee engaged in the administration of this act to engage in the
23 business or profession of tax accounting or to accept employment, with or
24 without consideration, from any person, firm or corporation for the
25 purpose, directly or indirectly, of preparing tax returns or reports required
26 by the laws of the state of Kansas, by any other state or by the United
27 States government, or to accept any employment for the purpose of
28 advising, preparing material or data, or the auditing of books or records to
29 be used in an effort to defeat or cancel any tax or part thereof that has been
30 assessed by the state of Kansas, any other state or by the United States
31 government.

32 (c) The secretary or the secretary's designee may: (1) Publish
33 statistics, so classified as to prevent the identification of particular reports
34 or returns and the items thereof;

35 (2) allow the inspection of returns by the attorney general or other
36 legal representatives of the state;

37 (3) provide the post auditor access to all income tax reports or returns
38 in accordance with and subject to the provisions of subsection (g) of
39 K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

40 (4) disclose taxpayer information from income tax returns to persons
41 or entities contracting with the secretary of revenue where the secretary
42 has determined disclosure of such information is essential for completion
43 of the contract and has taken appropriate steps to preserve confidentiality;

1 (5) disclose to the secretary of commerce the following: (A) Specific
2 taxpayer information related to financial information previously submitted
3 by the taxpayer to the secretary of commerce concerning or relevant to any
4 income tax credits, for purposes of verification of such information or
5 evaluating the effectiveness of any tax credit or economic incentive
6 program administered by the secretary of commerce; (B) the amount of
7 payroll withholding taxes an employer is retaining pursuant to K.S.A.
8 2013 Supp. 74-50,212, and amendments thereto; (C) information received
9 from businesses completing the form required by K.S.A. 2013 Supp. 74-
10 50,217, and amendments thereto; and (D) findings related to a compliance
11 audit conducted by the department of revenue upon the request of the
12 secretary of commerce pursuant to K.S.A. 2013 Supp. 74-50,215, and
13 amendments thereto;

14 (6) disclose income tax returns to the state gaming agency to be used
15 solely for the purpose of determining qualifications of licensees of and
16 applicants for licensure in tribal gaming. Any information received by the
17 state gaming agency shall be confidential and shall not be disclosed except
18 to the executive director, employees of the state gaming agency and
19 members and employees of the tribal gaming commission;

20 (7) disclose the taxpayer's name, last known address and residency
21 status to the Kansas department of wildlife, parks and tourism to be used
22 solely in its license fraud investigations;

23 (8) disclose the name, residence address, employer or Kansas
24 adjusted gross income of a taxpayer who may have a duty of support in a
25 title IV-D case to the secretary of the Kansas department of social and
26 rehabilitation services for use solely in administrative or judicial
27 proceedings to establish, modify or enforce such support obligation in a
28 title IV-D case. In addition to any other limits on use, such use shall be
29 allowed only where subject to a protective order which prohibits
30 disclosure outside of the title IV-D proceeding. As used in this section,
31 "title IV-D case" means a case being administered pursuant to part D of
32 title IV of the federal social security act (42 U.S.C. § 651 et seq.), and
33 amendments thereto. Any person receiving any information under the
34 provisions of this subsection shall be subject to the confidentiality
35 provisions of subsection (b) and to the penalty provisions of subsection
36 (e);

37 (9) permit the commissioner of internal revenue of the United States,
38 or the proper official of any state imposing an income tax, or the
39 authorized representative of either, to inspect the income tax returns made
40 under this act and the secretary of revenue may make available or furnish
41 to the taxing officials of any other state or the commissioner of internal
42 revenue of the United States or other taxing officials of the federal
43 government, or their authorized representatives, information contained in

1 income tax reports or returns or any audit thereof or the report of any
2 investigation made with respect thereto, filed pursuant to the income tax
3 laws, as the secretary may consider proper, but such information shall not
4 be used for any other purpose than that of the administration of tax laws of
5 such state, the state of Kansas or of the United States;

6 (10) communicate to the executive director of the Kansas lottery
7 information as to whether a person, partnership or corporation is current in
8 the filing of all applicable tax returns and in the payment of all taxes,
9 interest and penalties to the state of Kansas, excluding items under formal
10 appeal, for the purpose of determining whether such person, partnership or
11 corporation is eligible to be selected as a lottery retailer;

12 (11) communicate to the executive director of the Kansas racing
13 commission as to whether a person, partnership or corporation has failed
14 to meet any tax obligation to the state of Kansas for the purpose of
15 determining whether such person, partnership or corporation is eligible for
16 a facility owner license or facility manager license pursuant to the Kansas
17 parimutuel racing act;

18 (12) provide such information to the executive director of the Kansas
19 public employees retirement system for the purpose of determining that
20 certain individuals' reported compensation is in compliance with the
21 Kansas public employees retirement act, K.S.A. 74-4901 et seq., and
22 amendments thereto;

23 (13) (i) provide taxpayer information of persons suspected of
24 violating K.S.A. 2013 Supp. 44-766, and amendments thereto, to the
25 secretary of labor or such secretary's designee for the purpose of
26 determining compliance by any person with the provisions of subsection
27 (i)(3)(D) of K.S.A. 44-703 and K.S.A. 2013 Supp. 44-766, and
28 amendments thereto. The information to be provided shall include all
29 relevant information in the possession of the department of revenue
30 necessary for the secretary of labor to make a proper determination of
31 compliance with the provisions of subsection (i)(3)(D) of K.S.A. 44-703
32 and K.S.A. 2013 Supp. 44-766, and amendments thereto, and to calculate
33 any unemployment contribution taxes due. Such information to be
34 provided by the department of revenue shall include, but not be limited to,
35 withholding tax and payroll information, the identity of any person that
36 has been or is currently being audited or investigated in connection with
37 the administration and enforcement of the withholding and declaration of
38 estimated tax act, K.S.A. 79-3294 et seq., and amendments thereto, and the
39 results or status of such audit or investigation;

40 (ii) any person receiving tax information under the provisions of this
41 paragraph shall be subject to the same duty of confidentiality imposed by
42 law upon the personnel of the department of revenue and shall be subject
43 to any civil or criminal penalties imposed by law for violations of such

1 duty of confidentiality; and

2 (iii) each of the secretary of labor and the secretary of revenue may
3 adopt rules and regulations necessary to effect the provisions of this
4 paragraph;

5 (14) provide such information to the state treasurer for the sole
6 purpose of carrying out the provisions of K.S.A. 58-3934, and
7 amendments thereto. Such information shall be limited to current and prior
8 addresses of taxpayers or associated persons who may have knowledge as
9 to the location of an owner of unclaimed property. For the purposes of this
10 paragraph, "associated persons" includes spouses or dependents listed on
11 income tax returns; ~~and~~

12 (15) after receipt of information pursuant to subsection (f), forward
13 such information and provide the following reported Kansas individual
14 income tax information for each listed defendant, if available, to the state
15 board of indigents' defense services in an electronic format and in the
16 manner determined by the secretary: (A) The defendant's name; (B) social
17 security number; (C) Kansas adjusted gross income; (D) number of
18 exemptions claimed; and (E) the relevant tax year of such records. Any
19 social security number provided to the secretary and the state board of
20 indigents' defense services pursuant to this section shall remain
21 confidential; *and*

22 (16) *disclose taxpayer information in any civil or criminal action or*
23 *proceeding, or both, brought to enforce the tax or revenue laws of this*
24 *state with respect to such taxpayer.*

25 (d) Any person receiving information under the provisions of
26 subsection (c) shall be subject to the confidentiality provisions of
27 subsection (b) and to the penalty provisions of subsection (e).

28 (e) Any violation of subsection (b) or (c) is a class A nonperson
29 misdemeanor and, if the offender is an officer or employee of the state,
30 such officer or employee shall be dismissed from office.

31 (f) For the purpose of determining whether a defendant is financially
32 able to employ legal counsel under the provisions of K.S.A. 22-4504, and
33 amendments thereto, in all felony cases with appointed counsel where the
34 defendant's social security number is accessible from the records of the
35 district court, the court shall electronically provide the defendant's name,
36 social security number, district court case number and county to the
37 secretary of revenue in the manner and format agreed to by the office of
38 judicial administration and the secretary.

39 (g) Nothing in this section shall be construed to allow disclosure of
40 the amount of income or any particulars set forth or disclosed in any
41 report, return, federal return or federal return information, where such
42 disclosure is prohibited by the federal internal revenue code as in effect on
43 September 1, 1996, and amendments thereto, related federal internal

1 revenue rules or regulations, or other federal law.

2 Sec. 3. K.S.A. 2013 Supp. 79-3235a is hereby amended to read as
3 follows: 79-3235a. (a) Notwithstanding any provision of K.S.A. 79-3235,
4 and amendments thereto, to the contrary, the procedures set forth by this
5 section shall apply to the issuance of any warrant and the levy upon
6 property pursuant to such provisions.

7 (b) The secretary or the secretary's designee shall notify in writing the
8 person who is the subject of the warrant of the filing of a warrant under
9 K.S.A. 79-3235, and amendments thereto. The notice required shall be
10 ~~given in person, left at the dwelling or usual place of business of such~~
11 ~~person or sent by certified or registered mail to such person's last known~~
12 ~~dwelling address, not more than five business days after the day of the~~
13 ~~filing of the notice of lien with the warrant.~~ The notice shall include in
14 simple and nontechnical terms the amount of unpaid taxes, the
15 administrative appeals available to the taxpayer with respect to such
16 warrant and the procedures relating to such appeals, and the provisions of
17 law and procedures relating to the release of warrants on property.

18 Sec. 4. K.S.A. 2013 Supp. 75-5133, 79-3234, 79-3235a and 79-3235b
19 are hereby repealed.

20 Sec. 5. This act shall take effect and be in force from and after its
21 publication in the statute book.