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HOUSE BILL 405

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO TAXATION; PROVIDING FOR THE TAXATION AND REVENUE DEPARTMENT TO REVEAL TAXPAYER INFORMATION ABOUT CLAIMS FOR CERTAIN BUSINESS AND ECONOMIC DEVELOPMENT TAX CREDITS FOR REPORTING AND ANALYSIS PURPOSES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2009, CHAPTER 241, SECTION 1 AND LAWS 2009, CHAPTER 242, SECTION 2; AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-1-8 NMSA 1978 (being Laws 1965, Chapter 248, Section 13, as amended by Laws 2009, Chapter 241, Section 1 and by Laws 2009, Chapter 242, Section 2 and also by Laws 2009, Chapter 243, Section 2) is amended to read:

"7-1-8. CONFIDENTIALITY OF RETURNS AND OTHER INFORMATION.--

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1 A. It is unlawful for any person other than the
2 taxpayer to reveal to any other person the taxpayer's return or
3 return information, except as provided in Subsection E of this
4 section and Sections 7-1-8.1 through 7-1-8.10 NMSA 1978.

5 B. A return or return information revealed under
6 Sections 7-1-8.1 through 7-1-8.10 NMSA 1978:

7 (1) may only be revealed to a person
8 specifically authorized to receive the return or return
9 information and the employees, directors, officers and agents
10 of such person whose official duties or duties in the course of
11 their employment require the return or return information and
12 to an employee of the department;

13 (2) may only be revealed for the authorized
14 purpose and only to the extent necessary to perform that
15 authorized purpose;

16 (3) shall at all times be protected from being
17 revealed to an unauthorized person by physical, electronic or
18 any other safeguards specified by directive by the secretary;
19 and

20 (4) shall be returned to the secretary or the
21 secretary's delegate or destroyed as soon as it is no longer
22 required for the authorized purpose.

23 C. If any provision of Sections 7-1-8.1 through
24 7-1-8.10 NMSA 1978 requires that a return or return information
25 will only be revealed pursuant to a written agreement between a

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1 person and the department, the written agreement shall:

2 (1) list the name and position of any official
3 or employee of the person to whom a return or return
4 information is authorized to be revealed under the provision;

5 (2) describe the specific purpose for which
6 the return or return information is to be used;

7 (3) describe the procedures and safeguards the
8 person has in place to ensure that the requirements of
9 Subsection B of this section are met; and

10 (4) provide for reimbursement to the
11 department for all costs incurred by the department in
12 supplying the returns or return information to, and
13 administering the agreement with, the person.

14 D. A return or return information that is lawfully
15 made public by an employee of the department or any other
16 person, or that is made public by the taxpayer, is not subject
17 to the provisions of this section once it is made public.

18 E. Information deemed essential by the department
19 to assess the effectiveness of a tax credit that encourages
20 business development or promotes economic development may be
21 released by the department as part of a report to the
22 legislature on the performance of the tax credit in serving its
23 purpose. Taxpayers allowed tax credits by the department
24 pursuant to Sections 7-2-18.2, 7-2-18.4, 7-2-18.8, 7-2-18.11,
25 7-2-18.14, 7-2-18.17 through 7-2-18-22, 7-2-18.24 through

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1 7-2-18.26, 7-2A-14, 7-2A-15, 7-2A-17.1 through 7-2A-19, 7-2A-21
2 through 7-2A-24, 7-2E-1.1, 7-2F-1, 7-9G-1 and 7-9G-2 NMSA 1978
3 and the Investment Credit Act, the Laboratory Partnership with
4 Small Business Tax Credit Act and the Technology Jobs Tax
5 Credit Act or as required by the law that creates a tax credit,
6 shall authorize the department to reveal information as
7 determined by the department to be necessary for reporting and
8 evaluation purposes from information gathered from that
9 taxpayer's application for the tax credit. Reports shall
10 aggregate taxpayer information to retain confidentiality where
11 possible.

12 SECTION 2. Section 7-1-8.8 NMSA 1978 (being Laws 2009,
13 Chapter 243, Section 10) is amended to read:

14 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE
15 AGENCIES.--An employee of the department may reveal to:

16 A. a committee of the legislature for a valid
17 legislative purpose, return information concerning [~~any~~]:

18 (1) a tax or fee imposed pursuant to the
19 Cigarette Tax Act; and

20 (2) a tax credit that encourages business
21 development or promotes economic growth as listed in Subsection
22 E of Section 7-1-8 NMSA 1978.

23 B. the attorney general, return information
24 acquired pursuant to the Cigarette Tax Act for purposes of
25 Section 6-4-13 NMSA 1978 and the master settlement agreement

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1 defined in Section 6-4-12 NMSA 1978;

2 C. the commissioner of public lands, return
3 information for use in auditing that pertains to rentals,
4 royalties, fees and other payments due the state under land
5 sale, land lease or other land use contracts;

6 D. the secretary of human services or the
7 secretary's delegate:

8 (1) under a written agreement with the
9 department, the last known address with date of all names
10 certified to the department as being absent parents of children
11 receiving public financial assistance, but only for the purpose
12 of enforcing the support liability of the absent parents by the
13 child support enforcement division or any successor
14 organizational unit;

15 (2) that information needed for reports
16 required to be made to the federal government concerning the
17 use of general funds for low-income working families; and

18 (3) the names and addresses of low-income
19 taxpayers for the limited purpose of outreach to those
20 taxpayers; provided that the human services department shall
21 pay the taxation and revenue department for expenses incurred
22 by the taxation and revenue department to derive the
23 information requested by the human services department if the
24 information requested is not readily available in reports for
25 which the taxation and revenue department's information systems

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1 are programmed;

2 E. the department of information technology, by
3 electronic media, a database updated quarterly that contains
4 the names, addresses, county of address and taxpayer
5 identification numbers of New Mexico personal income tax
6 filers, but only for the purpose of producing the random jury
7 list for the selection of petit or grand jurors for the state
8 courts pursuant to Section 38-5-3 NMSA 1978;

9 F. the state courts, the random jury lists produced
10 by the department of information technology under Subsection E
11 of this section;

12 G. the director of the New Mexico department of
13 agriculture or the director's authorized representative, upon
14 request of the director or representative, the names and
15 addresses of all gasoline or special fuel distributors,
16 wholesalers and retailers;

17 H. the public regulation commission, return
18 information with respect to the Corporate Income and Franchise
19 Tax Act required to enable the commission to carry out its
20 duties;

21 I. the state racing commission, return information
22 with respect to the state, municipal and county gross receipts
23 taxes paid by racetracks;

24 J. the gaming control board, tax returns of license
25 applicants and their affiliates as provided in Subsection E of

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1 Section 60-2E-14 NMSA 1978;

2 K. the director of the workers' compensation
3 administration or to the director's representatives authorized
4 for this purpose, return information to facilitate the
5 identification of taxpayers that are delinquent or noncompliant
6 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA
7 1978; ~~and~~

8 L. the secretary of workforce solutions or the
9 secretary's delegate, return information for use in enforcement
10 of unemployment insurance collections pursuant to the terms of
11 a written reciprocal agreement entered into by the department
12 with the secretary of workforce solutions for exchange of
13 information; and

14 M. a water and sanitation district of this state
15 that has in effect a water and sanitation gross receipts tax
16 imposed by the water and sanitation district upon its request
17 for data for a period specified by that water and sanitation
18 district within the twelve months preceding the request for the
19 information by that water and sanitation district:

20 (1) the names, taxpayer identification numbers
21 and addresses of registered gross receipts taxpayers reporting
22 gross receipts for that water and sanitation district; the
23 department may also release the information described in this
24 paragraph quarterly or upon any other periodic basis to which
25 the secretary and the district agree; and

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1 (2) information indicating whether the persons
2 shown on a list of businesses within the water and sanitation
3 district have reported gross receipts to the department but
4 have not reported gross receipts for that water and sanitation
5 district."

6 SECTION 3. REPEAL.--Laws 2009, Chapter 241, Section 1
7 and Laws 2009, Chapter 242, Section 2 are repealed.

8 SECTION 4. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2011.

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