

HOUSE BILL No. 2235

By Committee on Taxation

2-1

9 AN ACT concerning income taxation; relating to credits; disclosures;
10 amending K.S.A. 2004 Supp. 79-3234 and repealing the existing
11 section.
12

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

14 Section 1. K.S.A. 2004 Supp. 79-3234 is hereby amended to read as
15 follows: 79-3234. (a) All reports and returns required by this act shall be
16 preserved for three years and thereafter until the director orders them
17 to be destroyed.

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

37 (c) Nothing in this section shall be construed to prohibit the publi-
38 cation of statistics, so classified as to prevent the identification of partic-
39 ular reports or returns and the items thereof, or the inspection of returns
40 by the attorney general or other legal representatives of the state. Nothing
41 in this section shall prohibit the post auditor from access to all income
42 tax reports or returns in accordance with and subject to the provisions of
43 subsection (g) of K.S.A. 46-1106 or K.S.A. 46-1114, and amendments

1 thereto. Nothing in this section shall be construed to prohibit the disclo-
2 sure of taxpayer information from income tax returns to persons or en-
3 tities contracting with the secretary of revenue where the secretary has
4 determined disclosure of such information is essential for completion of
5 the contract and has taken appropriate steps to preserve confidentiality.
6 Nothing in this section shall be construed to prohibit the disclosure of
7 job creation and investment information derived from tax schedules re-
8 quired to be filed under the Kansas income tax act to the secretary of
9 commerce. *Nothing in this section shall be construed to prohibit the dis-*
10 *closure of specific taxpayer information concerning or relevant to any*
11 *income tax credits or incentives, in an aggregate amount of \$20,000,000*
12 *or more to any one taxpayer in a single fiscal year, and amounts thereof*
13 *claimed by such taxpayer or evaluating the effectiveness of any tax credit*
14 *or incentive program.* Nothing in this section shall be construed to pro-
15 hibit the disclosure of income tax returns to the state gaming agency to
16 be used solely for the purpose of determining qualifications of licensees
17 of and applicants for licensure in tribal gaming. Any information received
18 by the state gaming agency shall be confidential and shall not be disclosed
19 except to the executive director, employees of the state gaming agency
20 and members and employees of the tribal gaming commission. Nothing
21 in this section shall be construed to prohibit the disclosure of the tax-
22 payer's name, last known address and residency status to the department
23 of wildlife and parks to be used solely in its license fraud investigations.
24 Nothing in this section shall prohibit the disclosure of the name, residence
25 address, employer or Kansas adjusted gross income of a taxpayer who
26 may have a duty of support in a title IV-D case to the secretary of the
27 Kansas department of social and rehabilitation services for use solely in
28 administrative or judicial proceedings to establish, modify or enforce such
29 support obligation in a title IV-D case. In addition to any other limits on
30 use, such use shall be allowed only where subject to a protective order
31 which prohibits disclosure outside of the title IV-D proceeding. As used
32 in this section, "title IV-D case" means a case being administered pur-
33 suant to part D of title IV of the federal social security act (42 U.S.C. §
34 651 *et seq.*) and amendments thereto. Any person receiving any infor-
35 mation under the provisions of this subsection shall be subject to the
36 confidentiality provisions of subsection (b) and to the penalty provisions
37 of subsection (d).

38 (d) Any violation of subsection (b) or (c) is a class B nonperson mis-
39 demeanor and, if the offender is an officer or employee of the state, such
40 officer or employee shall be dismissed from office.

41 (e) Notwithstanding the provisions of this section, the secretary of
42 revenue may permit the commissioner of internal revenue of the United
43 States, or the proper official of any state imposing an income tax, or the

1 authorized representative of either, to inspect the income tax returns
2 made under this act and the secretary of revenue may make available or
3 furnish to the taxing officials of any other state or the commissioner of
4 internal revenue of the United States or other taxing officials of the fed-
5 eral government, or their authorized representatives, information con-
6 tained in income tax reports or returns or any audit thereof or the report
7 of any investigation made with respect thereto, filed pursuant to the in-
8 come tax laws, as the secretary may consider proper, but such information
9 shall not be used for any other purpose than that of the administration
10 of tax laws of such state, the state of Kansas or of the United States.

11 (f) Notwithstanding the provisions of this section, the secretary of
12 revenue may:

13 (1) Communicate to the executive director of the Kansas lottery in-
14 formation as to whether a person, partnership or corporation is current
15 in the filing of all applicable tax returns and in the payment of all taxes,
16 interest and penalties to the state of Kansas, excluding items under formal
17 appeal, for the purpose of determining whether such person, partnership
18 or corporation is eligible to be selected as a lottery retailer;

19 (2) communicate to the executive director of the Kansas racing com-
20 mission as to whether a person, partnership or corporation has failed to
21 meet any tax obligation to the state of Kansas for the purpose of deter-
22 mining whether such person, partnership or corporation is eligible for a
23 facility owner license or facility manager license pursuant to the Kansas
24 parimutuel racing act; and

25 (3) provide such information to the president of Kansas, Inc. as re-
26 quired by K.S.A. 74-8017, and amendments thereto. The president and
27 any employees or former employees of Kansas, Inc. receiving any such
28 information shall be subject to the confidentiality provisions of subsection
29 (b) and to the penalty provisions of subsection (d).

30 (g) Nothing in this section shall be construed to allow disclosure of
31 the amount of income or any particulars set forth or disclosed in any
32 report, return, federal return or federal return information, where such
33 disclosure is prohibited by the federal internal revenue code as in effect
34 on September 1, 1996, and amendments thereto, related federal internal
35 revenue rules or regulations, or other federal law.

36 Sec. 2. K.S.A. 2004 Supp. 79-3234 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the statute book.