

HOUSE BILL No. 2413

By Legislative Post Audit Committee

11-17

1 AN ACT concerning criminal procedure; relating to aid to indigent
2 defendants; disclosure of tax information by department of revenue;
3 amending K.S.A. 2011 Supp. 79-3234 and repealing the existing
4 section; also repealing K.S.A. 2011 Supp. 79-3234b.
5

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

7 Section 1. K.S.A. 2011 Supp. 79-3234 is hereby amended to read as
8 follows: 79-3234. (a) All reports and returns required by this act shall be
9 preserved for three years and thereafter until the director orders them to be
10 destroyed.

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

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

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

36 (3) provide the post auditor access to all income tax reports or returns

1 in accordance with and subject to the provisions of subsection (g) of
2 K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

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

7 (5) disclose to the secretary of commerce the following: (A) Specific
8 taxpayer information related to financial information previously submitted
9 by the taxpayer to the secretary of commerce concerning or relevant to any
10 income tax credits, for purposes of verification of such information or
11 evaluating the effectiveness of any tax credit or economic incentive
12 program administered by the secretary of commerce; (B) the amount of
13 payroll withholding taxes an employer is retaining pursuant to K.S.A.
14 2011 Supp. 74-50,212, and amendments thereto; (C) information received
15 from businesses completing the form required by K.S.A. 2011 Supp. 74-
16 50,217, and amendments thereto; and (D) findings related to a compliance
17 audit conducted by the department of revenue upon the request of the
18 secretary of commerce pursuant to K.S.A. 2011 Supp. 74-50,215, and
19 amendments thereto;

20 (6) disclose income tax returns to the state gaming agency to be used
21 solely for the purpose of determining qualifications of licensees of and
22 applicants for licensure in tribal gaming. Any information received by the
23 state gaming agency shall be confidential and shall not be disclosed except
24 to the executive director, employees of the state gaming agency and
25 members and employees of the tribal gaming commission;

26 (7) disclose the taxpayer's name, last known address and residency
27 status to the department of wildlife and parks to be used solely in its
28 license fraud investigations;

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

43 (9) permit the commissioner of internal revenue of the United States,

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

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

18 (11) communicate to the executive director of the Kansas racing
19 commission as to whether a person, partnership or corporation has failed
20 to meet any tax obligation to the state of Kansas for the purpose of
21 determining whether such person, partnership or corporation is eligible for
22 a facility owner license or facility manager license pursuant to the Kansas
23 parimutuel racing act;

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

29 (13) (i) provide taxpayer information of persons suspected of
30 violating K.S.A. 2011 Supp. 44-766, and amendments thereto, to the
31 secretary of labor or such secretary's designee for the purpose of
32 determining compliance by any person with the provisions of K.S.A. 44-
33 703(i)(3)(D) and K.S.A. 2011 Supp. 44-766, and amendments thereto. The
34 information to be provided shall include all relevant information in the
35 possession of the department of revenue necessary for the secretary of
36 labor to make a proper determination of compliance with the provisions of
37 K.S.A. 44-703(i)(3)(D) and K.S.A. 2011 Supp. 44-766, and amendments
38 thereto, and to calculate any unemployment contribution taxes due. Such
39 information to be provided by the department of revenue shall include, but
40 not be limited to, withholding tax and payroll information, the identity of
41 any person that has been or is currently being audited or investigated in
42 connection with the administration and enforcement of the withholding
43 and declaration of estimated tax act, K.S.A. 79-3294 et seq., and

1 amendments thereto, and the results or status of such audit or
2 investigation.

3 (ii) Any person receiving tax information under the provisions of this
4 paragraph shall be subject to the same duty of confidentiality imposed by
5 law upon the personnel of the department of revenue and shall be subject
6 to any civil or criminal penalties imposed by law for violations of such
7 duty of confidentiality.

8 (iii) Each of the secretary of labor and the secretary of revenue may
9 adopt rules and regulations necessary to effect the provisions of this
10 paragraph;

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

18 *(15) disclosure taxpayer information from income tax returns to the*
19 *state board of indigents' defense services for the purpose of determining*
20 *whether a defendant is financially able to employ counsel and the ability*
21 *of a defendant to contribute to the cost of the defendant's legal defense*
22 *services.*

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

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

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

35 Sec. 2. K.S.A. 2011 Supp. 79-3234 and 79-3234b are hereby
36 repealed.

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

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