BILL

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

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; PROVIDING FOR THE TAXATION AND REVENUE DEPARTMENT TO REVEAL INFORMATION ABOUT TAXPAYER CLAIMS FOR TAX INCENTIVES 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; DECLARING AN EMERGENCY.

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.--

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

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

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

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

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

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

C. If any provision of Sections 7-1-8.1 through 7-1-8.10 NMSA 1978 requires that a return or return information will only be revealed pursuant to a written agreement between a person and the department, the written agreement shall:

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

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

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

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

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

E. Information deemed essential by the department to assess the effectiveness of a tax incentive or tax benefit that is provided to the department to determine the eligibility of a person to receive a tax incentive or tax benefit, including a tax exemption, deduction, credit or exclusion or other tax exception from the state, may be released by the department as part of a tax expenditure report or a report on the effectiveness of the tax incentive or benefit."

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

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

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

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

(2) a tax exemption, deduction, credit or other tax incentive or tax benefit that, when claimed or relied upon by a person, acts to reduce the state tax liability of that taxpayer or another taxpayer;

B. the attorney general, return information acquired pursuant to the Cigarette Tax Act for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;

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

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

(1) under a written agreement with the department, the last known address with date of all names certified to the department as being absent parents of children

.183203.3

underscored material = new
[~~bracketed material~~] = delete

receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

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

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

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

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

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

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

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

J. the gaming control board, tax returns of license applicants and their affiliates as provided in Subsection E of Section 60-2E-14 NMSA 1978;

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

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

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

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

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

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

SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.