

HOUSE BILL NO. 94

INTRODUCED BY M. BERTOGLIO

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CONFIDENTIALITY OF TAX RECORD LAWS TO ALLOW THE COMMISSIONER OF SECURITIES AND INSURANCE TO INVESTIGATE ~~NONCOMPLIANCE,~~ FRAUD, AND ABUSE UNDER SECURITIES AND INSURANCE LAWS; AND AMENDING SECTION 15-30-2618, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-30-2618, MCA, is amended to read:

"15-30-2618. (Temporary) Confidentiality of tax records. (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections (6) through (8) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an action or proceeding:

(i) to which the department is a party under the provisions of this chapter or any other taxing act; or

(ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

(b) The court may require the production of and may admit in evidence only as much of the reports

or of the facts shown by the reports as are pertinent to the action or proceedings.

(3) This section does not prohibit:

(a) the delivery to a taxpayer or the taxpayer's authorized representative of a certified copy of any return or report filed in connection with the taxpayer's tax;

(b) the publication of statistics classified to prevent the identification of particular reports or returns and the items of particular reports or returns;

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630; or

(d) the delivery of information to the revenue interim committee relating to the annual job growth incentive tax credit as provided in 15-30-2361.

(4) Reports and returns must be preserved for at least 3 years and may be preserved until the department orders them to be destroyed.

(5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$500. If the offender is an officer or employee of the state, the offender must be dismissed from office or employment and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in the case of a former officer or employee, for 1 year after conviction.

(6) This section may not be construed to prohibit the department from providing taxpayer return information and information from employers' payroll withholding reports to:

(a) the department of labor and industry to be used for the purpose of investigation and prevention of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws;

(b) the state fund to be used for the purpose of investigation and prevention of noncompliance, fraud, and abuse under the workers' compensation program; or

(c) the department of public health and human services to verify, as required under 53-6-133, the income reported by applicants for medical assistance; or

(d) the office of the Montana state auditor, commissioner of securities and insurance, upon service of a warrant or valid subpoena issued by a district court, to be used for the purpose of investigation, and detection, and prevention of noncompliance, of fraud, and abuse under the securities and insurance laws. The

1 department shall inform the taxpayer that it provided information to the office of the state auditor, commissioner
2 of securities and insurance, under this subsection (6)(d).

3 (7) The department may permit the commissioner of internal revenue of the United States or the
4 proper officer of any state imposing a tax on the incomes of individuals or the authorized representative of
5 either officer to inspect the return of income of any individual or may furnish to the officer or an authorized
6 representative an abstract of the return of income of any individual or supply the officer with information
7 concerning an item of income contained in a return or disclosed by the report of an investigation of the income
8 or return of income of an individual, but the permission may be granted or information furnished only if the
9 statutes of the United States or of the other state grant substantially similar privileges to the proper officer of
10 this state charged with the administration of this chapter.

11 (8) On written request to the director or a designee of the director, the department shall furnish:

12 (a) to the department of public health and human services information acquired under 15-30-2616,
13 pertaining to an applicant for public assistance, reasonably necessary for the prevention and detection of public
14 assistance fraud and abuse, provided notice to the applicant has been given;

15 (b) to the department of labor and industry for the purpose of:

16 (i) prevention and detection of fraud and abuse in and eligibility for benefits under the
17 unemployment compensation and workers' compensation programs, information on whether a taxpayer who is
18 the subject of an ongoing investigation by the department of labor and industry is an employee, an independent
19 contractor, or self-employed;

20 (ii) administering the apprenticeship tax credit provided for in 39-6-109, employer and apprentice
21 information necessary to implement 15-30-2357, 15-31-173, and 39-6-109; and

22 (iii) administering the annual job growth incentive tax credit provided for in 39-11-404, taxpayer and
23 employee information necessary to implement 15-30-2361 and 15-31-175;

24 (c) to the department of fish, wildlife, and parks specific information that is available from income
25 tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and
26 fishing licenses;

27 (d) to the board of regents information required under 20-26-1111;

28 (e) to the legislative fiscal analyst and the office of budget and program planning individual income

tax information as provided in 5-12-303, 15-1-106, and 17-7-111. The information provided to the office of budget and program planning must be the same as the information provided to the legislative fiscal analyst.

(f) to the department of transportation farm income information based on the most recent income tax return filed by an applicant applying for a refund under 15-70-430, provided that notice to the applicant has been given as provided in 15-70-430. The information obtained by the department of transportation is subject to the same restrictions on disclosure as are individual income tax returns.

(g) to the department of commerce tax information about a taxpayer whose debt is assigned to the department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The information provided to the department of commerce must be used for the purposes of preventing and detecting fraud or abuse and determining eligibility for grants or loans.

(h) to the office of the Montana state auditor, commissioner of securities and insurance, for the purpose of investigation, ~~and detection, and prevention of noncompliance, of fraud, and abuse under the securities and insurance laws, information relating to taxpayer returns, delinquency, and employers' payroll withholding reports. The department shall inform the taxpayer that it provided information to the office of the state auditor, commissioner of securities and insurance, under this subsection (8)(h).~~ (Terminates June 30, 2025, on occurrence of contingency--sec. 48, Ch. 415, L. 2019; subsections (3)(d) and (8)(b)(iii) terminate December 31, 2028--sec. 4, Ch. 391, L. 2023.)

15-30-2618. (Effective July 1, 2025, on occurrence of contingency) Confidentiality of tax records. (1) Except as provided in 5-12-303, 15-1-106, 17-7-111, and subsections (7) and (8) of this section, in accordance with a proper judicial order, or as otherwise provided by law, it is unlawful to divulge or make known in any manner:

(a) the amount of income or any particulars set forth or disclosed in any individual report or individual return required under this chapter or any other information secured in the administration of this chapter; or

(b) any federal return or federal return information disclosed on any return or report required by rule of the department or under this chapter.

(2) (a) The officers charged with the custody of the reports and returns may not be required to produce them or evidence of anything contained in them in an action or proceeding in a court, except in an

1 action or proceeding:

2 (i) to which the department is a party under the provisions of this chapter or any other taxing act;

3 or

4 (ii) on behalf of a party to any action or proceedings under the provisions of this chapter or other
5 taxes when the reports or facts shown by the reports are directly involved in the action or proceedings.

6 (b) The court may require the production of and may admit in evidence only as much of the reports
7 or of the facts shown by the reports as are pertinent to the action or proceedings.

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10 return or report filed in connection with the taxpayer's tax;

11 (b) the publication of statistics classified to prevent the identification of particular reports or returns
12 and the items of particular reports or returns;

13 (c) the inspection by the attorney general or other legal representative of the state of the report or
14 return of any taxpayer who brings an action to set aside or review the tax based on the report or return or
15 against whom an action or proceeding has been instituted in accordance with the provisions of 15-30-2630; or

16 (d) the delivery of information to the revenue interim committee relating to the annual job growth
17 incentive tax credit as provided in 15-30-2361.

18 (4) Reports and returns must be preserved for at least 3 years and may be preserved until the
19 department orders them to be destroyed.

20 (5) Any offense against subsections (1) through (4) is punishable by a fine not exceeding \$500. If
21 the offender is an officer or employee of the state, the offender must be dismissed from office or employment
22 and may not hold any public office or public employment in this state for a period of 1 year after dismissal or, in
23 the case of a former officer or employee, for 1 year after conviction.

24 (6) This section may not be construed to prohibit the department from providing taxpayer return
25 information and information from employers' payroll withholding reports to:

26 (a) the department of labor and industry to be used for the purpose of investigation and prevention
27 of noncompliance, tax evasion, fraud, and abuse under the unemployment insurance laws; or

28 (b) the state fund to be used for the purpose of investigation and prevention of noncompliance,

1 fraud, and abuse under the workers' compensation program; or

2 (c) the office of the Montana state auditor, commissioner of securities and insurance, to be used
3 for the purpose of investigation, ~~and detection, and prevention of noncompliance,~~ of fraud, and abuse under the
4 securities and insurance laws. The department shall inform the taxpayer that it provided information to the office
5 of the state auditor, commissioner of securities and insurance, under this subsection (6)(c).

6 (7) The department may permit the commissioner of internal revenue of the United States or the
7 proper officer of any state imposing a tax on the incomes of individuals or the authorized representative of
8 either officer to inspect the return of income of any individual or may furnish to the officer or an authorized
9 representative an abstract of the return of income of any individual or supply the officer with information
10 concerning an item of income contained in a return or disclosed by the report of an investigation of the income
11 or return of income of an individual, but the permission may be granted or information furnished only if the
12 statutes of the United States or of the other state grant substantially similar privileges to the proper officer of
13 this state charged with the administration of this chapter.

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17 assistance fraud and abuse, provided notice to the applicant has been given;

18 (b) to the department of labor and industry for the purpose of:

19 (i) prevention and detection of fraud and abuse in and eligibility for benefits under the
20 unemployment compensation and workers' compensation programs, information on whether a taxpayer who is
21 the subject of an ongoing investigation by the department of labor and industry is an employee, an independent
22 contractor, or self-employed;

23 (ii) administering the apprenticeship tax credit provided for in 39-6-109, employer and apprentice
24 information necessary to implement 15-30-2357, 15-31-173, and 39-6-109; and

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26 employee information necessary to implement 15-30-2361 and 15-31-175;

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28 tax returns and required under 87-2-102 to establish the residency requirements of an applicant for hunting and

1 fishing licenses;

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3 (e) to the legislative fiscal analyst and the office of budget and program planning individual income
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5 budget and program planning must be the same as the information provided to the legislative fiscal analyst.

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11 department of revenue for offset or collection pursuant to the terms of Title 17, chapter 4, part 1. The
12 information provided to the department of commerce must be used for the purposes of preventing and detecting
13 fraud or abuse and determining eligibility for grants or loans.

14 (h) to the office of the ~~Montana~~ state auditor, commissioner of securities and insurance, for the
15 purpose of investigation, ~~and detection, and prevention of noncompliance, of fraud, and abuse under the~~
16 ~~securities and insurance laws, information relating to taxpayer returns, delinquency, and employers' payroll~~
17 ~~withholding reports. The department shall inform the taxpayer that it provided information to the office of the~~
18 ~~state auditor, commissioner of securities and insurance, under this subsection (8)(h).~~ (Subsections (3)(d) and
19 (8)(b)(iii) terminate December 31, 2028--sec. 4, Ch. 391, L. 2023.)"

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