

House Bill 3203

Sponsored by COMMITTEE ON CONSUMER PROTECTION

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Department of Revenue to disclose tax information to state agencies responsible for administration or enforcement of laws requiring interpretation of provisions governing status as independent contractor.

Applies to tax information disclosed on or after January 1, 2010.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to disclosure of tax information by Department of Revenue to state agencies; creating new
3 provisions; amending ORS 314.840; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 314.840 is amended to read:

6 314.840. (1) The Department of Revenue may:

7 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
8 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
9 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
10 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
11 any other information the department considers necessary.

12 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

13 (c) Publish statistics so classified as to prevent the identification of income or any particulars
14 contained in any report or return.

15 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
16 Security number, employer identification number or other taxpayer identification number to the ex-
17 tent necessary in connection with collection activities or the processing and mailing of correspond-
18 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to
19 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-
20 come.

21 (2) The department also may disclose and give access to information described in ORS 314.835
22 to:

23 (a) The Governor of the State of Oregon or the authorized representative of the Governor:

24 (A) With respect to an individual who is designated as being under consideration for appoint-
25 ment or reappointment to an office or for employment in the office of the Governor. The information
26 disclosed shall be confined to whether the individual:

27 (i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not more
28 than the three immediately preceding years for which the individual was required to file an Oregon
29 individual income tax return.

30 (ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 otherwise respond to a deficiency notice within 30 days of its mailing.

2 (iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature
3 of the penalty.

4 (iv) Has been or is under investigation for possible criminal offenses under the Oregon personal
5 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose
6 of making the appointment, reappointment or decision to employ or not to employ the individual in
7 the office of the Governor.

8 (B) For use by an officer or employee of the Oregon Department of Administrative Services duly
9 authorized or employed to prepare revenue estimates, or a person contracting with the Oregon De-
10 partment of Administrative Services to prepare revenue estimates, in the preparation of revenue
11 estimates required for the Governor’s budget under ORS 291.201 to 291.226, or required for sub-
12 mission to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee
13 on Ways and Means, and to the Legislative Revenue Officer under ORS 291.342, 291.348 and 291.445.
14 The Department of Revenue shall disclose and give access to the information described in ORS
15 314.835 for the purposes of this subparagraph only if:

16 (i) The request for information is made in writing, specifies the purposes for which the request
17 is made and is signed by an authorized representative of the Oregon Department of Administrative
18 Services. The form for request for information shall be prescribed by the Oregon Department of
19 Administrative Services and approved by the Director of the Department of Revenue.

20 (ii) The officer, employee or person receiving the information does not remove from the premises
21 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-
22 rate taxpayer.

23 (b) The Commissioner of Internal Revenue or authorized representative, for tax administration
24 and compliance purposes only.

25 (c) For tax administration and compliance purposes, the proper officer or authorized represen-
26 tative of any of the following entities that has or is governed by a provision of law that meets the
27 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

28 (A) A state;

29 (B) A city, county or other political subdivision of a state;

30 (C) The District of Columbia; or

31 (D) An association established exclusively to provide services to federal, state or local taxing
32 authorities.

33 (d) The Multistate Tax Commission or its authorized representatives, for tax administration and
34 compliance purposes only. The Multistate Tax Commission may make the information available to
35 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
36 governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.

37 (e) The Attorney General, assistants and employees in the Department of Justice, or other legal
38 representative of the State of Oregon, to the extent the department deems disclosure or access
39 necessary for the performance of the duties of advising or representing the department pursuant to
40 ORS 180.010 to 180.240 and the tax laws of this state.

41 (f) Employees of the State of Oregon, other than of the Department of Revenue or Department
42 of Justice, to the extent the department deems disclosure or access necessary for such employees
43 to perform their duties under contracts or agreements between the department and any other de-
44 partment, agency or subdivision of the State of Oregon, in the department’s administration of the
45 tax laws.

1 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to
2 the extent the department deems disclosure or access necessary for the performance of such others'
3 duties under contracts or agreements between the department and such legal entities, in the de-
4 partment's administration of the tax laws.

5 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
6 173.850. Such officer or representative shall not remove from the premises of the department any
7 materials that would reveal the identity of any taxpayer or any other person.

8 (i) The Department of Consumer and Business Services, to the extent the department requires
9 such information to determine whether it is appropriate to adjust those workers' compensation
10 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
11 earned income received by an individual.

12 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
13 or person to whom disclosure or access is given by state law and not otherwise referred to in this
14 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
15 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
16 ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district
17 attorney regarding cases for which they are providing support enforcement services under ORS
18 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; [and] the Oregon Board of
19 Accountancy, pursuant to ORS 673.415[.]; **and any other state agency responsible for the ad-
20 ministration or enforcement of laws requiring the application of the provisions of ORS
21 670.600.**

22 (k) The Director of the Department of Consumer and Business Services to determine that a
23 person complies with ORS chapter 656 and the Director of the Employment Department to determine
24 that a person complies with ORS chapter 657, the following employer information:

25 (A) Identification numbers.

26 (B) Names and addresses.

27 (C) Inception date as employer.

28 (D) Nature of business.

29 (E) Entity changes.

30 (F) Date of last payroll.

31 (L) The Director of Human Services to determine that a person has the ability to pay for care
32 that includes services provided by the state institutions as described in ORS 179.321 or the Depart-
33 ment of Human Services or to collect any unpaid cost of care as provided by ORS chapter 179.

34 (m) Employees of the Employment Department to the extent the Department of Revenue deems
35 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
36 to performance of their duties in administering the tax imposed by ORS chapter 657.

37 (n) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
38 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and
39 standard industrial classification, if available.

40 (o) Employees of the Department of State Lands for the purposes of identifying, locating and
41 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
42 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
43 refund amount.

44 (p) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
45 agencies to assist in the investigation or prosecution of the following criminal activities:

1 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
2 to the stolen document, the name, address and taxpayer identification number of the payee, the
3 amount of the check and the date printed on the check.

4 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
5 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
6 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
7 dress and taxpayer identification number of the payee, the amount of the check, the date printed
8 on the check and the altered name and address.

9 (q) The United States Postal Inspection Service or a federal law enforcement agency, including
10 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
11 lowing criminal activities:

12 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
13 to the stolen document, the name, address and taxpayer identification number of the payee, the
14 amount of the check and the date printed on the check.

15 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
16 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
17 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
18 dress and taxpayer identification number of the payee, the amount of the check, the date printed
19 on the check and the altered name and address.

20 (r) The United States Financial Management Service, for purposes of facilitating the reciprocal
21 offsets described in ORS 305.612.

22 (s) A municipal corporation of this state for purposes of assisting the municipal corporation in
23 the administration of a tax of the municipal corporation that is imposed on or measured by income,
24 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
25 pursuant to a written agreement between the Department of Revenue and the municipal corporation
26 that ensures the confidentiality of the information disclosed.

27 (3)(a) Each officer or employee of the department and each person described or referred to in
28 subsection (2)(a), (e) to (k) or (m) to (p) of this section to whom disclosure or access to the tax in-
29 formation is given under subsection (2) of this section or any other provision of state law, prior to
30 beginning employment or the performance of duties involving such disclosure or access, shall be
31 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
32 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
33 certificate for the department, in a form prescribed by the department, stating in substance that the
34 person has read these provisions of law, that the person has had them explained and that the person
35 is aware of the penalties for the violation of ORS 314.835.

36 (b) The disclosure authorized in subsection (2)(q) of this section shall be made only after a
37 written agreement has been entered into between the Department of Revenue and the person de-
38 scribed in subsection (2)(q) of this section to whom disclosure or access to the tax information is
39 given, providing that:

40 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
41 section (2)(q) of this section is confidential information that may not be disclosed, except to the ex-
42 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(q) of
43 this section;

44 (B) The information shall be protected as confidential under applicable federal and state laws;
45 and

1 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
2 give notice to the Department of Revenue of any request received under the federal Freedom of In-
3 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

4 (4) The Department of Revenue may recover the costs of furnishing the information described
5 in subsection (2)(k), (L) and (n) to (p) of this section from the respective agencies.

6 **SECTION 2. The amendments to ORS 314.840 by section 1 of this 2009 Act apply to tax**
7 **information disclosed on or after January 1, 2010.**

8 **SECTION 3. This 2009 Act takes effect on the 91st day after the date on which the reg-**
9 **ular session of the Seventy-fifth Legislative Assembly adjourns sine die.**

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