

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1991

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SECRETARY OF STATE

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Committee Substitute for
SENATE BILL NO. 316

(By Senator Chafin, et al)

PASSED March 7, 1991

In Effect from Passage

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COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 316

(By SENATORS CHAFIN, JONES, CRAIGO, WAGNER, HOLLIDAY,
HECK, PRITT AND CHERNENKO, *original sponsors*)

[Passed March 7, 1991; in effect from passage.]

AN ACT to amend article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-s, relating to exceptions to confidentiality of taxpayer information; and disclosure of certain taxpayer information.

Be it enacted by the Legislature of West Virginia:

That article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five-s, to read as follows:

ARTICLE 10. PROCEDURE AND ADMINISTRATION.

§11-10-5s. Disclosure of certain taxpayer information.

- 1 (a) *Purpose.* — The Legislature hereby recognizes
- 2 the importance of confidentiality of taxpayer informa-
- 3 tion as a protection of taxpayers' privacy rights and to
- 4 enhance voluntary compliance with the tax law. The

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5 Legislature also recognizes the citizens' right to
6 accountable and efficient state government. To accom-
7 plish these ends, the Legislature hereby creates
8 certain exceptions to the general principle of confiden-
9 tiality of taxpayer information.

10 (b) *Exceptions to confidentiality.* —

11 (1) Notwithstanding any provision in this code to the
12 contrary, the tax commissioner shall publish in the
13 state register the name and address of every taxpayer,
14 and the amount, by category, of any credit asserted on
15 a tax return under articles thirteen-c, thirteen-d,
16 thirteen-e, thirteen-f, thirteen-g and thirteen-h of this
17 chapter and article one, chapter five-e of this code for
18 any tax year beginning on or after the first day of
19 July, one thousand nine hundred ninety-one. The
20 categories by dollar amount of credit received, shall be
21 as follows:

22 (A) More than \$1.00, but not more than \$50,000;

23 (B) More than \$50,000, but not more than \$100,000;

24 (C) More than \$100,000, but not more than \$250,000;

25 (D) More than \$250,000, but not more than \$500,000;

26 (E) More than \$500,000, but not more than \$1,000,000;

27 (F) More than \$1,000,000.

28 (2) Notwithstanding any provision in this code to the
29 contrary, the tax commissioner shall publish in the
30 state register the following information regarding any
31 compromise of a pending civil tax case that occurs on
32 or after the effective date of this section in which the
33 tax commissioner is required to seek the written
34 recommendation of the attorney general and the
35 attorney general has not recommended acceptance of
36 such compromise or when the tax commissioner
37 compromises any civil tax case for an amount that is
38 more than two hundred and fifty thousand dollars less
39 than the assessment of tax owed made by the tax
40 commissioner.

41 (A) The names and addresses of taxpayers that are

42 parties to such compromise;

43 (B) A summary of such compromise;

44 (C) Any written advice or recommendation ren-
45 dered by the attorney general regarding such compro-
46 mise; and

47 (D) Any written advice or recommendation ren-
48 dered by the tax commissioner's staff.

49 Under no circumstances may the tax return of the
50 taxpayer nor any other information which would
51 otherwise be confidential under any other provisions
52 of law be disclosed pursuant to the provisions of this
53 subsection.

54 (3) Notwithstanding any provision in this code to the
55 contrary, the tax commissioner may disclose any
56 relevant return information to the prosecuting attor-
57 ney for the county in which venue lies for a criminal
58 tax offense when there is reasonable cause, based
59 upon and substantiated by such information, to believe
60 that a criminal tax law has been or is being violated.

61 (4) Notwithstanding any provision in this code to the
62 contrary, the tax commissioner may enter into written
63 exchange of information agreements with the commis-
64 sioners of labor, employment security and workers'
65 compensation to disclose and receive return informa-
66 tion: *Provided*, That the tax commissioner may pro-
67 mulgate rules pursuant to chapter twenty-nine-a of
68 this code regarding further agencies with which
69 written exchange of information agreements may be
70 sought: *Provided, however*, That the tax commissioner
71 may not promulgate emergency rules regarding fur-
72 ther agencies with which written exchange of infor-
73 mation agreements may be sought. Such agreements
74 shall be published in the state register and shall only
75 be for the purpose of facilitating premium collection,
76 tax collection and facilitating licensure requirements
77 directly enforced, administered or collected by the
78 respective agencies. The provisions of this subsection
79 shall not be construed to preclude or limit disclosure
80 of tax information authorized by other provisions of

81 this code. Any confidential return information so
82 disclosed shall remain confidential in the hands of
83 such other division to the extent provided by section
84 five-d of this article and by other applicable federal or
85 state laws.

86 (c) *Tax expenditure reports.* — Beginning on the
87 fifteenth day of January, one thousand nine hundred
88 ninety-two and every fifteenth day of January there-
89 after, the governor shall submit to the president of the
90 Senate and the speaker of the House of Delegates a tax
91 expenditure report. Such report shall expressly iden-
92 tify all tax expenditures. Within three-years cycles,
93 such reports shall be considered together to analyze all
94 tax expenditures by describing the annual revenue
95 loss and benefits of the tax expenditure based upon
96 information available to the tax commissioner. For
97 purposes of this section, the term “tax expenditure”
98 shall mean a provision in the tax laws administered
99 under this article, including, but not limited to,
100 exclusions, deductions, tax preferences, credits and
101 deferrals designed to encourage certain kinds of
102 activities or to aid taxpayers in special circumstances:
103 *Provided,* That the tax commissioner shall promulgate
104 rules setting forth the procedure by which he or she
105 will compile such reports and setting forth a priority
106 for the order in which the reports will be compiled
107 according to type of tax expenditure.

108 (d) *Federal and state return information confiden-*
109 *tial.* — Notwithstanding any other provisions of this
110 section or of this code, no return information made
111 available to the tax commissioner by the Internal
112 Revenue Service or department or agency of any
113 other state may be disclosed to another person in any
114 manner inconsistent with the provisions of Section
115 6103 of the Internal Revenue Code of 1986, as
116 amended, or of such other states’ confidentiality laws.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Somer Leek
.....
Chairman Senate Committee

Ernest C. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Harrell A. Albrus
.....
Clerk of the Senate

Daniel Z. Hoop
.....
Clerk of the House of Delegates

Walter Burdette
.....
President of the Senate

Bob Cole
.....
Speaker House of Delegates

The within *is approved* this the *20th* day of *March*, 1991.

Yaston Capinton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/14/91

Time 4:10 pm