WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1991

ENROLLED

Committee Substitute for
SENATE BILL NO. 316

(By Senator Chafin, et al)

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 the importance of confidentiality of taxpayer information as a protection of taxpayers’ privacy rights and to enhance voluntary compliance with the tax law. The
Legislature also recognizes the citizens' right to accountable and efficient state government. To accomplish these ends, the Legislature hereby creates certain exceptions to the general principle of confidentiality of taxpayer information.

(b) Exceptions to confidentiality. —

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

(A) More than $1.00, but not more than $50,000;
(B) More than $50,000, but not more than $100,000;
(C) More than $100,000, but not more than $250,000;
(D) More than $250,000, but not more than $500,000;
(E) More than $500,000, but not more than $1,000,000;
(F) More than $1,000,000.

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

(A) The names and addresses of taxpayers that are
parties to such compromise;

(B) A summary of such compromise;

(C) Any written advice or recommendation rendered by the attorney general regarding such compromise; and

(D) Any written advice or recommendation rendered by the tax commissioner’s staff.

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

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

(4) Notwithstanding any provision in this code to the contrary, the tax commissioner may enter into written exchange of information agreements with the commissioners of labor, employment security and workers’ compensation to disclose and receive return information: Provided, That the tax commissioner may promulgate rules pursuant to chapter twenty-nine-a of this code regarding further agencies with which written exchange of information agreements may be sought: Provided, however, That the tax commissioner may not promulgate emergency rules regarding further agencies with which written exchange of information agreements may be sought. Such agreements shall be published in the state register and shall only be for the purpose of facilitating premium collection, tax collection and facilitating licensure requirements directly enforced, administered or collected by the respective agencies. The provisions of this subsection shall not be construed to preclude or limit disclosure of tax information authorized by other provisions of
this code. Any confidential return information so disclosed shall remain confidential in the hands of such other division to the extent provided by section five-d of this article and by other applicable federal or state laws.

(c) Tax expenditure reports. — Beginning on the fifteenth day of January, one thousand nine hundred ninety-two and every fifteenth day of January thereafter, the governor shall submit to the president of the Senate and the speaker of the House of Delegates a tax expenditure report. Such report shall expressly identify all tax expenditures. Within three-years cycles, such reports shall be considered together to analyze all tax expenditures by describing the annual revenue loss and benefits of the tax expenditure based upon information available to the tax commissioner. For purposes of this section, the term “tax expenditure” shall mean a provision in the tax laws administered under this article, including, but not limited to, exclusions, deductions, tax preferences, credits and deferrals designed to encourage certain kinds of activities or to aid taxpayers in special circumstances: Provided, That the tax commissioner shall promulgate rules setting forth the procedure by which he or she will compile such reports and setting forth a priority for the order in which the reports will be compiled according to type of tax expenditure.

(d) Federal and state return information confidential. — Notwithstanding any other provisions of this section or of this code, no return information made available to the tax commissioner by the Internal Revenue Service or department or agency of any other state may be disclosed to another person in any manner inconsistent with the provisions of Section 6103 of the Internal Revenue Code of 1986, as amended, or of such other states’ confidentiality laws.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor