



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0368

Introduced 1/29/2021, by Rep. Jaime M. Andrade, Jr.

SYNOPSIS AS INTRODUCED:

30 ILCS 5/6-1
35 ILCS 5/917

from Ch. 15, par. 306-1
from Ch. 120, par. 9-917

Amends the Illinois State Auditing Act. Provides that federal tax information disclosed under the Act shall only be provided in accordance with federal law and regulation applicable to the safeguarding of federal tax information. Provides that the specified requirements concerning confidentiality of information apply to contractors of the Office of the Auditor General. Removes prior provisions concerning the release of confidential income tax records. Amends the Illinois Income Tax Act. Provides that the furnishing upon request of the Auditor General, or his or her authorized agents, for official use of tax returns filed and information related thereto under the Act is deemed to be an official purpose within the Department of Revenue for the purposes of confidentiality and information sharing. Effective immediately.

LRB102 03880 RJF 13895 b

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois State Auditing Act is amended by
5 changing Section 6-1 as follows:

6 (30 ILCS 5/6-1) (from Ch. 15, par. 306-1)

7 Sec. 6-1. Effect on other laws. The powers and duties of
8 the Auditor General under this Act and the system of audits
9 established by this Act are in addition to any other powers,
10 duties or audits required or authorized by law.

11 Where records or information are classified as
12 confidential, by or pursuant to law, such records or
13 information shall be disclosed to the Office of the Auditor
14 General as necessary and to the extent required for the
15 performance of an authorized post audit. Federal tax
16 information shall only be provided in accordance with federal
17 law and regulation applicable to the safeguarding of federal
18 tax information. ~~However, only a payroll employee of the~~
19 ~~Office of the Auditor General, specifically designated in~~
20 ~~writing by the Auditor General, may receive confidential~~
21 ~~income tax records.~~

22 Confidential records or information disclosed to the
23 Office of the Auditor General shall be subject to the same

1 legal confidentiality and protective restrictions in the
2 Office of the Auditor General as such records and information
3 have in the hands of the official authorized custodian. Any
4 penalties applicable to the officially authorized custodian or
5 his employees for the violation of any confidentiality or
6 protective restrictions applicable to such records or
7 information shall also apply to the officers, employees,
8 contractors, and agents of the Office of the Auditor General.

9 The Office of the Auditor General may not publish any
10 confidential information or records in any report, including
11 data and statistics, if such information as published is
12 directly or indirectly matchable to any individual.

13 Inside the Office of the Auditor General, confidential
14 records or information may be used only for official purposes.

15 Any officer, employee, contractor, or agent of the Office
16 of the Auditor General who violates any legal confidentiality
17 or protective restriction governing any records or information
18 shall be guilty of a Class A misdemeanor unless a greater
19 penalty is otherwise provided by law.

20 Where this Act expressly governs or grants authority for
21 regulations to govern other auditing procedures, this Act
22 supersedes all other statutes to the contrary. To the extent
23 that this Act conflicts with another statute, this Act
24 prevails.

25 Except as provided in this Section, this Act does not
26 supersede or repeal by implication any other statute.

1 (Source: P.A. 82-414.)

2 Section 10. The Illinois Income Tax Act is amended by
3 changing Section 917 as follows:

4 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

5 Sec. 917. Confidentiality and information sharing.

6 (a) Confidentiality. Except as provided in this Section,
7 all information received by the Department from returns filed
8 under this Act, or from any investigation conducted under the
9 provisions of this Act, shall be confidential, except for
10 official purposes within the Department or pursuant to
11 official procedures for collection of any State tax or
12 pursuant to an investigation or audit by the Illinois State
13 Scholarship Commission of a delinquent student loan or
14 monetary award or enforcement of any civil or criminal penalty
15 or sanction imposed by this Act or by another statute imposing
16 a State tax, and any person who divulges any such information
17 in any manner, except for such purposes and pursuant to order
18 of the Director or in accordance with a proper judicial order,
19 shall be guilty of a Class A misdemeanor. However, the
20 provisions of this paragraph are not applicable to information
21 furnished to (i) the Department of Healthcare and Family
22 Services (formerly Department of Public Aid), State's
23 Attorneys, and the Attorney General for child support
24 enforcement purposes and (ii) a licensed attorney representing

1 the taxpayer where an appeal or a protest has been filed on
2 behalf of the taxpayer. If it is necessary to file information
3 obtained pursuant to this Act in a child support enforcement
4 proceeding, the information shall be filed under seal. The
5 furnishing upon request of the Auditor General, or his or her
6 authorized agents, for official use of returns filed and
7 information related thereto under this Act is deemed to be an
8 official purpose within the Department within the meaning of
9 this Section.

10 (b) Public information. Nothing contained in this Act
11 shall prevent the Director from publishing or making available
12 to the public the names and addresses of persons filing
13 returns under this Act, or from publishing or making available
14 reasonable statistics concerning the operation of the tax
15 wherein the contents of returns are grouped into aggregates in
16 such a way that the information contained in any individual
17 return shall not be disclosed.

18 (c) Governmental agencies. The Director may make available
19 to the Secretary of the Treasury of the United States or his
20 delegate, or the proper officer or his delegate of any other
21 state imposing a tax upon or measured by income, for
22 exclusively official purposes, information received by the
23 Department in the administration of this Act, but such
24 permission shall be granted only if the United States or such
25 other state, as the case may be, grants the Department
26 substantially similar privileges. The Director may exchange

1 information with the Department of Healthcare and Family
2 Services and the Department of Human Services (acting as
3 successor to the Department of Public Aid under the Department
4 of Human Services Act) for the purpose of verifying sources
5 and amounts of income and for other purposes directly
6 connected with the administration of this Act, the Illinois
7 Public Aid Code, and any other health benefit program
8 administered by the State. The Director may exchange
9 information with the Director of the Department of Employment
10 Security for the purpose of verifying sources and amounts of
11 income and for other purposes directly connected with the
12 administration of this Act and Acts administered by the
13 Department of Employment Security. The Director may make
14 available to the Illinois Workers' Compensation Commission
15 information regarding employers for the purpose of verifying
16 the insurance coverage required under the Workers'
17 Compensation Act and Workers' Occupational Diseases Act. The
18 Director may exchange information with the Illinois Department
19 on Aging for the purpose of verifying sources and amounts of
20 income for purposes directly related to confirming eligibility
21 for participation in the programs of benefits authorized by
22 the Senior Citizens and Persons with Disabilities Property Tax
23 Relief and Pharmaceutical Assistance Act. The Director may
24 exchange information with the State Treasurer's Office and the
25 Department of Employment Security for the purpose of
26 implementing, administering, and enforcing the Illinois Secure

1 Choice Savings Program Act. The Director may exchange
2 information with the State Treasurer's Office for the purpose
3 of administering the Revised Uniform Unclaimed Property Act or
4 successor Acts.

5 The Director may make available to any State agency,
6 including the Illinois Supreme Court, which licenses persons
7 to engage in any occupation, information that a person
8 licensed by such agency has failed to file returns under this
9 Act or pay the tax, penalty and interest shown therein, or has
10 failed to pay any final assessment of tax, penalty or interest
11 due under this Act. The Director may make available to any
12 State agency, including the Illinois Supreme Court,
13 information regarding whether a bidder, contractor, or an
14 affiliate of a bidder or contractor has failed to file returns
15 under this Act or pay the tax, penalty, and interest shown
16 therein, or has failed to pay any final assessment of tax,
17 penalty, or interest due under this Act, for the limited
18 purpose of enforcing bidder and contractor certifications. For
19 purposes of this Section, the term "affiliate" means any
20 entity that (1) directly, indirectly, or constructively
21 controls another entity, (2) is directly, indirectly, or
22 constructively controlled by another entity, or (3) is subject
23 to the control of a common entity. For purposes of this
24 subsection (a), an entity controls another entity if it owns,
25 directly or individually, more than 10% of the voting
26 securities of that entity. As used in this subsection (a), the

1 term "voting security" means a security that (1) confers upon
2 the holder the right to vote for the election of members of the
3 board of directors or similar governing body of the business
4 or (2) is convertible into, or entitles the holder to receive
5 upon its exercise, a security that confers such a right to
6 vote. A general partnership interest is a voting security.

7 The Director may make available to any State agency,
8 including the Illinois Supreme Court, units of local
9 government, and school districts, information regarding
10 whether a bidder or contractor is an affiliate of a person who
11 is not collecting and remitting Illinois Use taxes, for the
12 limited purpose of enforcing bidder and contractor
13 certifications.

14 The Director may also make available to the Secretary of
15 State information that a corporation which has been issued a
16 certificate of incorporation by the Secretary of State has
17 failed to file returns under this Act or pay the tax, penalty
18 and interest shown therein, or has failed to pay any final
19 assessment of tax, penalty or interest due under this Act. An
20 assessment is final when all proceedings in court for review
21 of such assessment have terminated or the time for the taking
22 thereof has expired without such proceedings being instituted.
23 For taxable years ending on or after December 31, 1987, the
24 Director may make available to the Director or principal
25 officer of any Department of the State of Illinois,
26 information that a person employed by such Department has

1 failed to file returns under this Act or pay the tax, penalty
2 and interest shown therein. For purposes of this paragraph,
3 the word "Department" shall have the same meaning as provided
4 in Section 3 of the State Employees Group Insurance Act of
5 1971.

6 (d) The Director shall make available for public
7 inspection in the Department's principal office and for
8 publication, at cost, administrative decisions issued on or
9 after January 1, 1995. These decisions are to be made
10 available in a manner so that the following taxpayer
11 information is not disclosed:

12 (1) The names, addresses, and identification numbers
13 of the taxpayer, related entities, and employees.

14 (2) At the sole discretion of the Director, trade
15 secrets or other confidential information identified as
16 such by the taxpayer, no later than 30 days after receipt
17 of an administrative decision, by such means as the
18 Department shall provide by rule.

19 The Director shall determine the appropriate extent of the
20 deletions allowed in paragraph (2). In the event the taxpayer
21 does not submit deletions, the Director shall make only the
22 deletions specified in paragraph (1).

23 The Director shall make available for public inspection
24 and publication an administrative decision within 180 days
25 after the issuance of the administrative decision. The term
26 "administrative decision" has the same meaning as defined in

1 Section 3-101 of Article III of the Code of Civil Procedure.
2 Costs collected under this Section shall be paid into the Tax
3 Compliance and Administration Fund.

4 (e) Nothing contained in this Act shall prevent the
5 Director from divulging information to any person pursuant to
6 a request or authorization made by the taxpayer, by an
7 authorized representative of the taxpayer, or, in the case of
8 information related to a joint return, by the spouse filing
9 the joint return with the taxpayer.

10 (Source: P.A. 99-143, eff. 7-27-15; 99-571, eff. 7-15-16;
11 100-47, eff. 8-11-17; 100-863, eff. 8-14-18.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.