

2017 Regular Session

HOUSE BILL NO. 446

BY REPRESENTATIVE MARINO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

REVENUE DEPARTMENT: Provides relative to confidentiality of certain taxpayer information

1 AN ACT

2 To amend and reenact R.S. 47:1508(B)(8) and (11), relative to the confidentiality of tax
3 records; to provide for the confidentiality of certain taxpayer information; to provide
4 for the disclosure of information relative to tobacco settlement enforcement; to
5 provide for the confidentiality of information shared by the state relative to the NPM
6 Adjustment Settlement Agreement; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:1508(B)(8) and (11) are hereby amended and reenacted to read
9 as follows:

10 §1508. ~~Confidential character~~ Confidentiality of tax records

11 * * *

12 B. Nothing herein contained shall be construed to prevent:

13 * * *

14 (8) The secretary from disclosing the name ~~and address~~ of any taxpayer who
15 has filed an income or corporation franchise tax return, but he shall not disclose any
16 tax data whatsoever with respect to any taxpayer, and such information shall be made
17 available to any taxpayer upon his request.

18 * * *

1 (11) The secretary from disclosing to any person upon request the name and
2 address of any registered wholesale tobacco dealer who holds a license or permit to
3 operate within this state, but the secretary shall not disclose any tax data whatsoever
4 with respect to the wholesaler, except for information provided to the tobacco
5 settlement enforcement unit of the Louisiana Department of Justice for the
6 enforcement of Parts XIII and XIII-A of Chapter 32 of Title 13 of the Louisiana
7 Revised Statutes of 1950 or to the Louisiana Office of Alcohol and Tobacco Control
8 for the enforcement of Chapter 7 of Title 26 of the Louisiana Revised Statutes of
9 1950. Such disclosure shall include any and all data with respect to dealers, including
10 but not limited to any wholesaler or retailer, as well as manufacturer, sales entity
11 affiliate, or importer. The secretary, attorney general, and commissioner shall share
12 with each other the information received under the provisions of R.S. 13:5061 et
13 seq., 5071 et seq., R.S. 26:901 et seq., and R.S. 47:841 et seq., and may share such
14 information with other federal, state, or local taxing agencies or law enforcement
15 authorities only for purposes of enforcement of those Sections and the corresponding
16 laws of other states. The secretary, attorney general, and commissioner may share
17 information received under this Paragraph with a court, arbitrator, or the professional
18 services firm or firms retained for the purpose of assessing compliance with or
19 otherwise calculating the tobacco revenue owed to the state pursuant to the Master
20 Settlement Agreement executed on November 23, 1998, as well as any subsequent
21 agreements that may be executed pertaining to the Master Settlement Agreement,
22 including the NPM Adjustment Settlement Agreement, as well as with counsel for
23 the parties or expert witnesses in any proceedings relating thereto. Any information
24 shared or furnished shall be considered and held to be confidential and privileged by
25 ~~the professional services firm or firms.~~ The attorney general, commissioner, or
26 secretary may also disclose any information obtained under this Paragraph pursuant
27 to an order by a court of competent jurisdiction or if agreed upon in writing by the
28 registered wholesale or retail tobacco dealer, sales entity affiliate, importer, or
29 manufacturer. The disclosure of information by the attorney general, commissioner,

1 or secretary permitted by this Paragraph shall not constitute a violation of any other
 2 provisions in law. Furthermore, any information received by the state pursuant to
 3 the NPM Adjustment Settlement Agreement shall be considered confidential and
 4 shall not be disclosed except in accordance with the terms of the NPM Adjustment
 5 Settlement Agreement or pursuant to an order from a court of competent jurisdiction.

6 * * *

7 Section 2. This Act shall become effective on July 1, 2017.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 446 Reengrossed

2017 Regular Session

Marino

Abstract: Requires confidentiality of certain taxpayer information and prohibits disclosure of information received by the state regarding the NPM Adjustment Settlement Agreement.

Present law requires the records and files held and maintained by the secretary for the Dept. of Revenue (DOR) or certain records and files maintained pursuant to a tax ordinance of any political subdivision be confidential and privileged and shall not be divulged except in the administration and enforcement of tax laws.

Present law authorizes the secretary of DOR to disclose the name and address of any taxpayer who has filed an income or corporation franchise tax return, but prohibits the disclosure of any tax data.

Proposed law retains present law with respect to the disclosure of any tax data, but proposed law changes present law by removing the secretary's authority to disclose the address of a taxpayer who filed an income or corporation franchise tax return.

Present law allows the secretary of DOR to disclose, upon request, the name and address of any registered wholesale tobacco dealer, but prevents the disclosure of any tax data of the wholesaler except for the information provided to the La. Dept. of Justice's tobacco settlement enforcement unit for the enforcement of the Master Settlement Agreement or tobacco laws.

Present law also allows the sharing of information between the secretary of DOR, attorney general, and the commissioner of the office of alcohol and tobacco control with professional service firms retained for calculating tobacco revenue owed to the state pursuant to the Master Settlement Agreement. Proposed law retains present law and allows for the sharing of this information with a court or arbitrator retained for calculating tobacco revenue owed to the state pursuant to the Master Settlement Agreement, the NPM Adjustment Agreement, and counsel for parties or experts in any related proceedings.

Proposed law further provides that any information received by the state pursuant to the NPM Adjustment Settlement Agreement shall be confidential and shall not be disclosed except in accordance with settlement terms or by court order.

Effective July 1, 2017.

(Amends R.S. 47:1508(B)(8) and (11))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Remove the authority of the secretary of DOR to disclose the address of a taxpayer who has filed an income or corporate franchise tax return.
2. Add an effective date of July 1, 2017.

The House Floor Amendments to the engrossed bill:

1. Delete "data clearinghouse" from the list of parties the secretary, attorney general, and the commissioner of the office of alcohol and tobacco control may share certain taxpayer information.