



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4076

Introduced 1/15/2004, by Elaine Nekritz

SYNOPSIS AS INTRODUCED:

35 ILCS 5/917

from Ch. 120, par. 9-917

Amends the Illinois Income Tax Act. Provides that child support enforcement proceedings, either civil or criminal, by a state's attorney or the Attorney General in a case referred by the Department of Public Aid under the Illinois Public Aid Code are an exception from the requirement that all information received by the Department of Revenue from income tax returns or from any investigation shall be confidential. Effective immediately.

LRB093 15213 BDD 40809 b

1 AN ACT concerning taxes.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 917 as follows:

6 (35 ILCS 5/917) (from Ch. 120, par. 9-917)

7 Sec. 917. Confidentiality and information sharing.

8 (a) Confidentiality. Except as provided in this Section,
9 all information received by the Department from returns filed
10 under this Act, or from any investigation conducted under the
11 provisions of this Act, shall be confidential, except for
12 official purposes within the Department or pursuant to official
13 procedures for collection of any State tax or pursuant to an
14 investigation or audit by the Illinois State Scholarship
15 Commission of a delinquent student loan or monetary award or
16 enforcement of any civil or criminal penalty or sanction
17 imposed by this Act or by another statute imposing a State tax
18 or pursuant to a child support enforcement proceeding, either
19 civil or criminal, by a state's attorney or the Attorney
20 General in a case referred by the Department of Public Aid
21 involving persons receiving child support enforcement services
22 under Article X of the Illinois Public Aid Code, and any person
23 who divulges any such information in any manner, except for
24 such purposes and pursuant to order of the Director or in
25 accordance with a proper judicial order, shall be guilty of a
26 Class A misdemeanor. However, the provisions of this paragraph
27 are not applicable to information furnished to a licensed
28 attorney representing the taxpayer where an appeal or a protest
29 has been filed on behalf of the taxpayer.

30 (b) Public information. Nothing contained in this Act shall
31 prevent the Director from publishing or making available to the
32 public the names and addresses of persons filing returns under

1 this Act, or from publishing or making available reasonable
2 statistics concerning the operation of the tax wherein the
3 contents of returns are grouped into aggregates in such a way
4 that the information contained in any individual return shall
5 not be disclosed.

6 (c) Governmental agencies. The Director may make available
7 to the Secretary of the Treasury of the United States or his
8 delegate, or the proper officer or his delegate of any other
9 state imposing a tax upon or measured by income, for
10 exclusively official purposes, information received by the
11 Department in the administration of this Act, but such
12 permission shall be granted only if the United States or such
13 other state, as the case may be, grants the Department
14 substantially similar privileges. The Director may exchange
15 information with the Illinois Department of Public Aid and the
16 Department of Human Services (acting as successor to the
17 Department of Public Aid under the Department of Human Services
18 Act) for the purpose of verifying sources and amounts of income
19 and for other purposes directly connected with the
20 administration of this Act and the Illinois Public Aid Code.
21 The Director may exchange information with the Director of the
22 Department of Employment Security for the purpose of verifying
23 sources and amounts of income and for other purposes directly
24 connected with the administration of this Act and Acts
25 administered by the Department of Employment Security. The
26 Director may make available to the Illinois Industrial
27 Commission information regarding employers for the purpose of
28 verifying the insurance coverage required under the Workers'
29 Compensation Act and Workers' Occupational Diseases Act.

30 The Director may make available to any State agency,
31 including the Illinois Supreme Court, which licenses persons to
32 engage in any occupation, information that a person licensed by
33 such agency has failed to file returns under this Act or pay
34 the tax, penalty and interest shown therein, or has failed to
35 pay any final assessment of tax, penalty or interest due under
36 this Act. The Director may make available to any State agency,

1 including the Illinois Supreme Court, information regarding
2 whether a bidder, contractor, or an affiliate of a bidder or
3 contractor has failed to file returns under this Act or pay the
4 tax, penalty, and interest shown therein, or has failed to pay
5 any final assessment of tax, penalty, or interest due under
6 this Act, for the limited purpose of enforcing bidder and
7 contractor certifications. For purposes of this Section, the
8 term "affiliate" means any entity that (1) directly,
9 indirectly, or constructively controls another entity, (2) is
10 directly, indirectly, or constructively controlled by another
11 entity, or (3) is subject to the control of a common entity.
12 For purposes of this subsection (a), an entity controls another
13 entity if it owns, directly or individually, more than 10% of
14 the voting securities of that entity. As used in this
15 subsection (a), the term "voting security" means a security
16 that (1) confers upon the holder the right to vote for the
17 election of members of the board of directors or similar
18 governing body of the business or (2) is convertible into, or
19 entitles the holder to receive upon its exercise, a security
20 that confers such a right to vote. A general partnership
21 interest is a voting security.

22 The Director may make available to any State agency,
23 including the Illinois Supreme Court, units of local
24 government, and school districts, information regarding
25 whether a bidder or contractor is an affiliate of a person who
26 is not collecting and remitting Illinois Use taxes, for the
27 limited purpose of enforcing bidder and contractor
28 certifications.

29 The Director may also make available to the Secretary of
30 State information that a corporation which has been issued a
31 certificate of incorporation by the Secretary of State has
32 failed to file returns under this Act or pay the tax, penalty
33 and interest shown therein, or has failed to pay any final
34 assessment of tax, penalty or interest due under this Act. An
35 assessment is final when all proceedings in court for review of
36 such assessment have terminated or the time for the taking

1 thereof has expired without such proceedings being instituted.
2 For taxable years ending on or after December 31, 1987, the
3 Director may make available to the Director or principal
4 officer of any Department of the State of Illinois, information
5 that a person employed by such Department has failed to file
6 returns under this Act or pay the tax, penalty and interest
7 shown therein. For purposes of this paragraph, the word
8 "Department" shall have the same meaning as provided in Section
9 3 of the State Employees Group Insurance Act of 1971.

10 (d) The Director shall make available for public inspection
11 in the Department's principal office and for publication, at
12 cost, administrative decisions issued on or after January 1,
13 1995. These decisions are to be made available in a manner so
14 that the following taxpayer information is not disclosed:

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

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

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

26 The Director shall make available for public inspection and
27 publication an administrative decision within 180 days after
28 the issuance of the administrative decision. The term
29 "administrative decision" has the same meaning as defined in
30 Section 3-101 of Article III of the Code of Civil Procedure.
31 Costs collected under this Section shall be paid into the Tax
32 Compliance and Administration Fund.

33 (e) Nothing contained in this Act shall prevent the
34 Director from divulging information to any person pursuant to a
35 request or authorization made by the taxpayer, by an authorized
36 representative of the taxpayer, or, in the case of information

1 related to a joint return, by the spouse filing the joint
2 return with the taxpayer.

3 (Source: P.A. 93-25, eff. 6-20-03.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.