

**As Amended by House Committee**

*Session of 2012*

**HOUSE BILL No. 2413**

By Legislative Post Audit Committee

11-17

1 AN ACT concerning criminal procedure; relating to aid to indigent  
2 defendants; disclosure of tax information by department of revenue;  
3 amending K.S.A. 2011 Supp. 79-3234 and repealing the existing  
4 section; also repealing K.S.A. 2011 Supp. 79-3234b.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2011 Supp. 79-3234 is hereby amended to read as  
8 follows: 79-3234. (a) All reports and returns required by this act shall be  
9 preserved for three years and thereafter until the director orders them to be  
10 destroyed.

11 (b) Except in accordance with proper judicial order, or as provided in  
12 subsection (c) or in K.S.A. 17-7511, subsection (g) of K.S.A. 46-1106,  
13 K.S.A. 46-1114, or K.S.A. 79-32,153a, and amendments thereto, it shall be  
14 unlawful for the secretary, the director, any deputy, agent, clerk or other  
15 officer, employee or former employee of the department of revenue or any  
16 other state officer or employee or former state officer or employee to  
17 divulge, or to make known in any way, the amount of income or any  
18 particulars set forth or disclosed in any report, return, federal return or  
19 federal return information required under this act; and it shall be unlawful  
20 for the secretary, the director, any deputy, agent, clerk or other officer or  
21 employee engaged in the administration of this act to engage in the  
22 business or profession of tax accounting or to accept employment, with or  
23 without consideration, from any person, firm or corporation for the  
24 purpose, directly or indirectly, of preparing tax returns or reports required  
25 by the laws of the state of Kansas, by any other state or by the United  
26 States government, or to accept any employment for the purpose of  
27 advising, preparing material or data, or the auditing of books or records to  
28 be used in an effort to defeat or cancel any tax or part thereof that has been  
29 assessed by the state of Kansas, any other state or by the United States  
30 government.

31 (c) The secretary or the secretary's designee may: (1) Publish  
32 statistics, so classified as to prevent the identification of particular reports  
33 or returns and the items thereof;

34 (2) allow the inspection of returns by the attorney general or other  
35 legal representatives of the state;

36 (3) provide the post auditor access to all income tax reports or returns

1 in accordance with and subject to the provisions of subsection (g) of  
2 K.S.A. 46-1106 or K.S.A. 46-1114, and amendments thereto;

3 (4) disclose taxpayer information from income tax returns to persons  
4 or entities contracting with the secretary of revenue where the secretary  
5 has determined disclosure of such information is essential for completion  
6 of the contract and has taken appropriate steps to preserve confidentiality;

7 (5) disclose to the secretary of commerce the following: (A) Specific  
8 taxpayer information related to financial information previously submitted  
9 by the taxpayer to the secretary of commerce concerning or relevant to any  
10 income tax credits, for purposes of verification of such information or  
11 evaluating the effectiveness of any tax credit or economic incentive  
12 program administered by the secretary of commerce; (B) the amount of  
13 payroll withholding taxes an employer is retaining pursuant to K.S.A.  
14 2011 Supp. 74-50,212, and amendments thereto; (C) information received  
15 from businesses completing the form required by K.S.A. 2011 Supp. 74-  
16 50,217, and amendments thereto; and (D) findings related to a compliance  
17 audit conducted by the department of revenue upon the request of the  
18 secretary of commerce pursuant to K.S.A. 2011 Supp. 74-50,215, and  
19 amendments thereto;

20 (6) disclose income tax returns to the state gaming agency to be used  
21 solely for the purpose of determining qualifications of licensees of and  
22 applicants for licensure in tribal gaming. Any information received by the  
23 state gaming agency shall be confidential and shall not be disclosed except  
24 to the executive director, employees of the state gaming agency and  
25 members and employees of the tribal gaming commission;

26 (7) disclose the taxpayer's name, last known address and residency  
27 status to the department of wildlife and parks to be used solely in its  
28 license fraud investigations;

29 (8) disclose the name, residence address, employer or Kansas  
30 adjusted gross income of a taxpayer who may have a duty of support in a  
31 title IV-D case to the secretary of the Kansas department of social and  
32 rehabilitation services for use solely in administrative or judicial  
33 proceedings to establish, modify or enforce such support obligation in a  
34 title IV-D case. In addition to any other limits on use, such use shall be  
35 allowed only where subject to a protective order which prohibits  
36 disclosure outside of the title IV-D proceeding. As used in this section,  
37 "title IV-D case" means a case being administered pursuant to part D of  
38 title IV of the federal social security act (42 U.S.C. § 651 et seq.) and  
39 amendments thereto. Any person receiving any information under the  
40 provisions of this subsection shall be subject to the confidentiality  
41 provisions of subsection (b) and to the penalty provisions of subsection  
42 (e);

43 (9) permit the commissioner of internal revenue of the United States,

1 or the proper official of any state imposing an income tax, or the  
 2 authorized representative of either, to inspect the income tax returns made  
 3 under this act and the secretary of revenue may make available or furnish  
 4 to the taxing officials of any other state or the commissioner of internal  
 5 revenue of the United States or other taxing officials of the federal  
 6 government, or their authorized representatives, information contained in  
 7 income tax reports or returns or any audit thereof or the report of any  
 8 investigation made with respect thereto, filed pursuant to the income tax  
 9 laws, as the secretary may consider proper, but such information shall not  
 10 be used for any other purpose than that of the administration of tax laws of  
 11 such state, the state of Kansas or of the United States;

12 (10) communicate to the executive director of the Kansas lottery  
 13 information as to whether a person, partnership or corporation is current in  
 14 the filing of all applicable tax returns and in the payment of all taxes,  
 15 interest and penalties to the state of Kansas, excluding items under formal  
 16 appeal, for the purpose of determining whether such person, partnership or  
 17 corporation is eligible to be selected as a lottery retailer;

18 (11) communicate to the executive director of the Kansas racing  
 19 commission as to whether a person, partnership or corporation has failed  
 20 to meet any tax obligation to the state of Kansas for the purpose of  
 21 determining whether such person, partnership or corporation is eligible for  
 22 a facility owner license or facility manager license pursuant to the Kansas  
 23 parimutuel racing act;

24 (12) provide such information to the executive director of the Kansas  
 25 public employees retirement system for the purpose of determining that  
 26 certain individuals' reported compensation is in compliance with the  
 27 Kansas public employees retirement act, K.S.A. 74-4901 et seq., and  
 28 amendments thereto;~~and~~

29 (13) (i) provide taxpayer information of persons suspected of  
 30 violating K.S.A. 2011 Supp. 44-766, and amendments thereto, to the  
 31 secretary of labor or such secretary's designee for the purpose of  
 32 determining compliance by any person with the provisions of K.S.A. 44-  
 33 703(i)(3)(D) and K.S.A. 2011 Supp. 44-766, and amendments thereto. The  
 34 information to be provided shall include all relevant information in the  
 35 possession of the department of revenue necessary for the secretary of  
 36 labor to make a proper determination of compliance with the provisions of  
 37 K.S.A. 44-703(i)(3)(D) and K.S.A. 2011 Supp. 44-766, and amendments  
 38 thereto, and to calculate any unemployment contribution taxes due. Such  
 39 information to be provided by the department of revenue shall include, but  
 40 not be limited to, withholding tax and payroll information, the identity of  
 41 any person that has been or is currently being audited or investigated in  
 42 connection with the administration and enforcement of the withholding  
 43 and declaration of estimated tax act, K.S.A. 79-3294 et seq., and

1 amendments thereto, and the results or status of such audit or  
2 investigation.

3 (ii) Any person receiving tax information under the provisions of this  
4 paragraph shall be subject to the same duty of confidentiality imposed by  
5 law upon the personnel of the department of revenue and shall be subject  
6 to any civil or criminal penalties imposed by law for violations of such  
7 duty of confidentiality.

8 (iii) Each of the secretary of labor and the secretary of revenue may  
9 adopt rules and regulations necessary to effect the provisions of this  
10 paragraph;

11 (14) *provide such information to the state treasurer for the sole*  
12 *purpose of carrying out the provisions of K.S.A. 58-3934, and amendments*  
13 *thereto. Such information shall be limited to current and prior addresses*  
14 *of taxpayers or associated persons who may have knowledge as to the*  
15 *location of an owner of unclaimed property. For the purposes of this*  
16 *paragraph, "associated persons" includes spouses or dependents listed on*  
17 *income tax returns; and*

18 (15) ~~disclosure~~ **disclose taxpayer information described hereafter**  
19 *from income tax returns to the state board of indigents' defense services*  
20 *for the purpose of determining whether a defendant is financially able to*  
21 *employ counsel and the ability of a defendant to contribute to the cost of*  
22 *the defendant's legal defense services. **The board shall provide the***  
23 *department a list, in electronic format and in the manner determined*  
24 *by the department, of the names, social security numbers and relevant*  
25 *tax year of the defendants. The department shall provide to the board*  
26 *in electronic format, in the manner determined by the department, the*  
27 *relevant tax year, Kansas adjusted gross income and number of*  
28 *dependents reported by the defendant on the Kansas individual*  
29 *income tax return as shown on the department's record.*

30 (d) Any person receiving information under the provisions of  
31 subsection (c) shall be subject to the confidentiality provisions of  
32 subsection (b) and to the penalty provisions of subsection (e).

33 (e) Any violation of subsection (b) or (c) is a class A nonperson  
34 misdemeanor and, if the offender is an officer or employee of the state,  
35 such officer or employee shall be dismissed from office.

36 (f) Nothing in this section shall be construed to allow disclosure of  
37 the amount of income or any particulars set forth or disclosed in any  
38 report, return, federal return or federal return information, where such  
39 disclosure is prohibited by the federal internal revenue code as in effect on  
40 September 1, 1996, and amendments thereto, related federal internal  
41 revenue rules or regulations, or other federal law.

42 Sec. 2. K.S.A. 2011 Supp. 79-3234 and 79-3234b are hereby  
43 repealed.

1       Sec. 3. This act shall take effect and be in force from and after its  
2       publication in the statute book.  
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