

701—5.8(17A,22,421,422) Disclosures without the consent of the subject. Open records and certain confidential records may be disclosed by the department without the consent of the subject. The guidelines governing such disclosures are described below.

5.8(1) Disclosure of open records. All open records may be disclosed without the consent of the subject.

5.8(2) Disclosure of confidential records that do not contain confidential state tax information. Certain confidential records that do not contain confidential state tax information may, in limited circumstances, be disclosed without the consent of the subject. The following disclosures will generally occur without notice to the subject:

a. For routine use. The following uses are considered routine uses:

(1) Disclosure to those officers, employees, and agents of the department who have a need for the record in the performance of their duties;

(2) Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory action;

(3) Information released to staff of federal and state entities for audit purposes for purposes of determining whether the department is operating a program lawfully;

(4) Any disclosure specifically authorized by statute.

b. To a recipient who has provided the department with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request pursuant to rule 701—5.4(17A,22,421,422) to the department specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual. Confidential information will be disclosed pursuant to this paragraph only after notice is sent by the department to the last-known address of the subject of the confidential information.

e. To the legislative services agency.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a lawful court order or subpoena.

5.8(3) Disclosure of confidential state tax information.

a. Permitted disclosures. Confidential state tax information may be disclosed without the consent of the subject only to the extent that it is expressly permitted by law. The following is a nonexclusive list of permitted disclosures:

(1) Disclosures to other agencies, employees, or officials of this state to the extent required as part of their official duties and responsibilities pursuant to Iowa Code section 422.72(1)“*b.*” Officers or employees of the state of Iowa may examine confidential state tax information belonging to the department to the extent that access to the information is required as part of their official duties and responsibilities. Such information will only be disclosed upon the express written approval of the director of revenue or the director’s designee. Written approval will be granted in only those situations where the information obtained is used for a tax administrative purpose. The written approval will cover the conditions and procedures under which specific information will be released.

(2) Disclosures permitted by statute for purposes other than tax administration. Confidential state tax information may be disclosed without the consent of the subject when disclosure is expressly permitted by statute. Such disclosures may be made without a tax administrative purpose, unless the authorizing statute provides otherwise.

(3) Disclosures to the federal government and agencies of other states. The director of revenue or director’s designee may disclose confidential state tax information to tax officials of another state or the United States government without the consent of the subject so long as the disclosures are made for a tax administrative purpose and are made only to officers of those jurisdictions which by agreement with this

state limit the disclosure of the information as strictly as the laws of this state protecting the confidentiality of returns and return information.

(4) Disclosure pursuant to subpoena. The director of revenue or the director's designee must provide confidential state tax information in response to a subpoena as outlined in Iowa Code section 422.72(7).

(5) Disclosure pursuant to Iowa Code section 421.19. The department may disclose confidential state tax information in exercising any power under Iowa Code section 421.19, regardless of whether such disclosure is made for a tax administration purpose.

b. Penalties for unlawful disclosure of confidential state tax information. Any officer, employee, agent, former officer, former employee, or former agent of the state of Iowa who engages in any of the following activities commits a serious misdemeanor:

(1) Knowingly files a false affidavit with the department to secure confidential state tax information;

(2) Willfully or recklessly divulges, prints, publishes, inspects or permits unauthorized examination of confidential state tax information in violation of Iowa Code sections 422.20 and 422.72 or divulges information received under this rule in any manner prohibited by this rule.

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