

Act on the public disclosure and confidentiality of tax information

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Gov't proposal 237/2002.

Act on the public disclosure and confidentiality of tax information

In accordance with the decision of Parliament the following is decreed:

Chapter 1, General provisions

§ 1

Scope of the Act

This Act applies to documents concerning individual taxpayers which are submitted to or prepared by the tax administration (*taxation documents*) and the information contained therein (*taxation information*). The provisions concerning the taxpayer in this Act apply to other persons required to report information, and also to joint tax corporations.

This Act also applies to documents which are submitted to or prepared by an appeal authority or other authority and contain the information referred to in paragraph 1.

§ 2

Relation to other provisions

The provisions of the Act on the Openness of Government Activities (621/1999) and the Personal Data Act (523/1999) apply to taxation documents and information unless otherwise provided by this or some other act.

See Act on the Openness of Government Activities, Yh 301; Personal Data Act, Si 111; Excise tax Act §§ 66 and 67, Ve 508; Car tax Act § 86 etc.

§ 3

Public disclosure of and right of access to taxation information

Taxation information is public to the extent provided in this Act.

Everyone has the right to obtain information on a public taxation document in the possession of the tax administration as provided by the Act on the Openness of Government Activities, unless otherwise provided by this Act.

§ 4

Confidential taxation information

Taxation documents concerning a taxpayer's financial position and any other taxation documents containing information on an identifiable taxpayer are confidential with the exceptions provided in §§ 5 to 9 and 21.

Notwithstanding the confidentiality obligation, the tax administration may handle and disclose information contained in a confidential taxation document as provided by this Act.

The Act on the Openness of Government Activities contains provisions on the concerned party's right to obtain information on a confidential taxation document.

Chapter 2, Public information in the tax administration

§ 5

Public information on income and property taxation

In annual taxation, the information concerning income and property taxation which is public consists of the taxpayer's name, year of birth and municipality of domicile, unless otherwise provided by § 24, paragraph 1, subparagraph 31, of the Act on the Openness of Government Activities or by § 25, paragraph 4, of the Population Information Act (507/1993). In addition, the following are public information:

- (1) earned income taxable in State taxation;
- (2) capital income and property taxable in State taxation;
- (3) income taxable in municipal taxation;
- (4) income and net wealth tax, municipal tax and the total amount of taxes and charges imposed;
- (5) the total amount of withholding tax;
- (6) the amount to be debited / the amount to be refunded in the final assessment for the tax year.

In annual taxation, the information concerning corporations and tax syndicates that is public consists of their names, municipalities of domicile and corporate codes. In addition, the following are public information:

- (1) taxable income and property;
- (2) the total amount of taxes imposed;
- (3) the total amount of withholding tax;
- (4) the amount to be levied or refunded in the course of tax collection.

The information referred to above in this § may be disclosed at the beginning of the November following the tax year, as valid on completion of the taxation.

§ 6

Public information on taxation of real estate and certain other kinds of public taxation information

The following information is public:

- (1) the computed municipal tax on real property on real estate or buildings and the name of a party obliged to pay this tax;
- (2) documents on tax classification, with updating entries, which have been made available for public inspection in accordance with § 67 of the Assessment Act (482/1958);
- (3) the taxable values of shares, holdings and other securities referred to in §§ 26-29 of the Capital Tax Act (1537/1992);
- (4) by virtue of the Act on Tax Relief for Certain Non-Profit Corporations (680/1976), the name of a corporation which has been granted tax relief, and the tax years concerned;
- (5) by virtue of the Act on Tonnage Tax (476/2002), the name of the corporation registered as a taxpayer for tonnages, the start date of the taxable period, and whether or not the registration is no longer valid.

The information referred to above in paragraph 1 (1) may be disclosed as valid at the conclusion of taxation and on completion of the property taxation. Information on taxable values specified by the National Board of Taxes as referred to in (3) may be disclosed upon the decision, and information on taxable value specified by the regional tax office upon completion of the corporate taxation.

§ 7

Public information on financial statements

The profit/loss account and the balance sheet of a limited liability company, cooperative society, mutual insurance company or insurance association are public. In the case of other taxpayers, the profit/loss account and the balance sheet are public if the taxpayer states that he is obliged under chapter 3, § 9, of the Accounting Act (1336/1997), to submit the final accounts for registration. However, information in the balance sheet is public if it is presented, at the request of the taxpayer, in the abridged form referred to in chapter 1, § 7, of the Accounting Decree (1339/1997). The request must be submitted before the date prescribed in paragraph 2.

The profit and loss account and the balance sheet may be disclosed eight months from the conclusion of the financial period.

§ 8

Public information in the BIS Business Information System

Public information in the BIS, within the meaning of the Business Information Act (244/2001), as maintained by the tax administration i.e. the Business ID, name, municipality of domicile and the address for general use, legal form and the period of validity of the Business ID will be public at the time of registration in this register in the course of register maintenance.

The tax administration is entitled to give an answer to a specific request concerning a specific enterprise as to whether this enterprise is properly registered or not, if this enterprise is going to receive a payment within the meaning of the Tax Prepayment Act (1118/1996), even if the information were not entered in the Business Information System. Similarly, the tax administration is entitled to give an answer to a specific request concerning a specific person, enterprise or corporate body as to whether they are VAT registered or not according to the VAT Act (1501/1993), even if the information were not entered in the Business Information System.

The tax administration is further entitled to inform any payer of remuneration that an enterprise has been prematurely removed from the Tax Prepayment register before the end date of the intended registration period.

§ 9 (This section was repealed as of 1 June 2001.)

Chapter 3

Use and disclosure of information in the tax administration

§ 10

Use and processing of taxation information in the tax administration

Notwithstanding the provisions on the protection of personal data and confidentiality of documents, the tax administration may use and process taxation information which has been received and compiled by the tax administration for a specific taxation matter in order to perform other functions under § 2 of the Tax Administration Act (1557/1995).

§ 11

Authority deciding on provision of information

The National Board of Taxes shall decide on the disclosure of information in electronic form in the registers maintained by the tax administration. Regional Tax Offices may supply individual excerpts and certificates from the registers of the tax administration.

The National Board of Taxes shall decide on the licences and permits referred to in § 28 of the Act on the Openness of Government Activities and related to disclosure of information.

§ 12

Obligations of the recipient of information

Confidential taxation information disclosed under this Act may be used and processed only for the purpose for which they have been disclosed, unless otherwise provided elsewhere in this Act. Under this Act, information may be disclosed by means of an electronic interface only if the recipient of the information has presented acceptable evidence that the information will be properly used and protected.

§ 13

Disclosure of information to safeguard the interests or rights of an individual

Notwithstanding the confidentiality obligation, the tax administration may disclose information contained in a *deed of estate inventory* kept by the tax

administration to a party requiring such information to safeguard his interests or rights or fulfil his obligations.

Notwithstanding the confidentiality obligation, the tax administration shall disclose:

(1) to a widow(er), a spouse, an estate administrator appointed by a district court, an executor of a death estate and parties to a death estate, taxation information which is required for administration and partition or distribution of the estate;

(2) to a trustee of a bankrupt's estate, taxation information which is required for administration of the estate; however, sensitive personal data which are covered by protection of privacy and are referred to in the Personal Data Act may not be disclosed to a trustee.

§ 14

Disclosure of information to a municipality

The tax administration may disclose information on a taxpayer in a municipality and identifiers related to the taxpayer as referred to in § 5 to a municipal board if this is required for the performance of statutory functions of the municipal board in question or required by the municipal board in question as a tax recipient. The municipal board may pass this information on to other authorities in the municipality for performance of the latter's statutory functions.

Upon request, the tax administration may disclose the information referred to in § 6, subparagraph 1 to authorities of the municipality for performance of their statutory functions. Upon request, information on the tax value of a property and taxpayer's identity may also be disclosed for this purpose.

§ 15

Disclosure of information to decide on tax relief matters

Notwithstanding the confidentiality obligation, the tax administration may, upon request, disclose to authorities of Evangelical Lutheran and Greek Orthodox parishes information required for decisions on tax relief.

§ 16**Disclosure of information to the Ministry of Finance**

Notwithstanding the confidentiality obligation, the tax administration may disclose to the Ministry of Finance taxation information which is required for the drafting of tax legislation and for the preparation of the Annual Budget of the State of Finland.

§ 17**Disclosure of information for payment of withholding tax**

Notwithstanding the confidentiality obligation, the tax administration may disclose:

- (1) to an employer or a similar party making a payment, information required for payment of withholding tax related to taxpayers as specified by the payer;
- (2) to a payer of pensions or benefits, information on the withholding tax rate and other information required for payment of withholding tax related to taxpayers as specified by the payer.

Notwithstanding the confidentiality obligation, the National Board of Taxes may disclose to the Social Insurance Institution (KELA), to an unemployment fund, to an insurance company, or to a similar institution, information on the taxable social benefits of Finnish tax residents (physical persons) receiving benefits such as family, social, unemployment benefits and insurance indemnities. This information is required for the purposes of withholding. The necessary information consists of Personal identity number, personal withholding rates and the predefined annual income threshold. An electronic interface can be used for the transmission of this information.

The above information can be disclosed on the condition that the party requesting it has presented an acceptable description of the measures taken to control and safeguard that the information will not be utilized for any other purpose except to withhold the correct amount of tax. The National Board of Taxes is entitled to restrict the use and control of the transmitted information by special additional rules. The recipient must perform a deletion of any unnecessary tax information once a year, and then send a report of this annual deletion procedure to the National Board of Taxes, unless the additional rules issued by this body do not instruct otherwise.

Notwithstanding the confidentiality obligation, the National Board of Taxes is entitled to transmit the tax information necessary for payroll withholding to a specific User of the PTMJ (online tax payment system for small employers). This information can be transmitted through the public information networks. The scope of this information is limited to those taxpayers whom the User has enumerated in his request to the National Board of Taxes.

§ 18

Right of the tax administration to disclose information on its own initiative

Notwithstanding the confidentiality obligation, the tax administration may, on its own initiative, disclose taxation information with identifiers related to the taxpayer to:

- (1) a State or municipal authority, other public body or other corporation performing the public functions referred to in chapter 29, § 9, paragraph 2 of the Criminal Code (39/1889) if there is reason to suspect that a taxpayer has committed a criminal act as referred to in chapter 29, § 5 to § 8, of the Criminal Code, and if disclosure of the information may be necessary for investigation of the criminal act,
- (2) a State or municipal authority or other corporation performing public functions to enable them to fulfil their supervisory duties related to their functions as prescribed by an Act or a Decree if there is reason to suspect that a party has committed a crime for which the most severe punishment prescribed by law is more than six months of imprisonment and if disclosure of the information may be necessary for investigation of the crime,
- (3) an authority responsible for provision of statutory pension security or accident insurance, a pension insurance company or an accident insurance company or a corresponding corporation or foundation to enable them to fulfil supervisory duties related to their functions as prescribed by an act or a decree if there is reason to suspect that the employer or other party obliged to pay on the basis of an act or a decree have neglected their obligation to pay on the basis of an act or a decree.

Notwithstanding the confidentiality obligation, the tax administration may, on its own initiative, disclose to authorities in charge of prosecution or pre-trial investigations taxation information required for pre-trial investigation, bringing

charges and court proceedings related to a tax offence or an accounting offence.

Confidential information obtained on the basis of this section may be passed on in order that criminal investigations can be conducted and criminal charges brought. The information shall be destroyed as soon as it is no longer needed unless it needs to be retained permanently in view of the specific nature of the matter concerned.

§ 19

Disclosure of information to authorities in charge of prosecution and pre-trial investigations

Notwithstanding the confidentiality obligation, the tax administration may, upon request, disclose taxation information with identifiers related to the taxpayer to:

- (1) authorities in charge of prosecution and pre-trial investigations in order to prevent and investigate crimes and to bring criminal charges;
- (2) authorities in charge of prosecution and pre-trial investigations for investigations related to the imposition or extension of a ban on business operations, and to the police for supervision of compliance with a ban on business operations;
- (3) authorities in charge of prosecution and pre-trial investigations and for courts of law in order to decide the number of day-fines (units of a fine based on the income of the perpetrator) prescribed by chapter 2a, § 2 of the Criminal Code; the information may also be disclosed by means of an electronic interface without the consent of the party concerned.

§ 20

Disclosure of information to other authorities

Notwithstanding the confidentiality obligation, the tax administration may, upon request, disclose:

- (1) to enforcement authorities, identifiers related to an employer or other payer of income and taxation information which is required for enforcement, distraint or other execution; the information may also be disclosed by means of an electronic interface without the consent of the party concerned;
- (2) to authorities, public bodies and other corporations granting and supervising subsidies and grants to business, trade, employment and

agriculture, and other public subsidies and grants, information on any outstanding taxes imposed on the applicant for the subsidy or grant which have fallen due, with identifiers related to the taxpayer, necessary for processing a subsidy or grant matter; the information may also be disclosed by means of an electronic interface without the consent of the party concerned;

(3) to the authorities referred to in the Register Administration Act (166/1996), in order to check information in the population data system and identifiers related to the taxpayer, information on a person's address, identifiers related to a building and information on the identity of the owner of a building or an apartment and, in the case of a residential apartment, information on whether the apartment is used by the owner; the information may also be disclosed by means of an electronic interface without the consent of the party concerned;

(4) to the State Treasury, taxation information, with identifiers related to the taxpayer, on the income and assets of a recipient of a loan, interest subsidy or State guarantee or an applicant for exemption from payment if the information is required for payment and collection of loans, interest subsidies and State guarantees and for waivers of payment, and on any outstanding taxes imposed on the party which have fallen due;

(5) to the authorities, information on lotteries and any lottery tax paid on them, in order to process a licence application, with taxpayer's identifiers for arrangement of a lottery under the Act on Tax on Lottery Prizes (491/1965).

Chapter 4

Miscellaneous provisions

§ 21

Publication of information on outstanding taxes

Information on outstanding value-added taxes levied on the basis of the Tax Collection Act (611/1978) which have fallen due and on outstanding withholding tax and employers' social security contributions which have fallen due may be disclosed for announcement of special collection of the taxes.

The information which may be disclosed consists of:

(1) the taxpayer's name:

(2) the taxpayers' business name and Business ID;

(3) the taxpayer's municipality of domicile, unless otherwise provided by § 24, paragraph 1, subparagraph 31, of the Act on the Openness of Government Activities or § 25, paragraph 4, of the Population Information Act;

(4) the type and amount of the taxes in arrears, and any consequences of default.

§ 22

Publication of decisions

The Supreme Administrative Court and an administrative court may publish their decision on a taxation matter and the Central Tax Board may publish an advance ruling issued by itself in the original wording or in an abridged form which does not reveal the taxpayer's name or information on a natural person which might make identification of the taxpayer possible.

§ 23

Confidentiality of negotiations

Everyone is obliged to keep confidential what has been disclosed in the Central Tax Board and assessment adjustment board when processing a matter related to an advance ruling or appeal.

§ 24

Lapse (expiration period) of confidentiality

The period of confidentiality for taxation documents is 50 years. The length of the period of confidentiality shall also apply to information covered by the duty of non-disclosure.

The length of the period of confidentiality shall run from the date on the document or, if the document bears no date, from the beginning of the year immediately following the tax period which is the object of the tax or taxation.

§ 25

More detailed provisions

More detailed provisions on the implementation of this Act will be issued by decree.

§ 26

Entry into force

This Act enters into force on 1 January 2000.

Section 7 of this Act regarding the disclosure of financial statements will apply for the first time to information on financial periods ending January 1, 2006 and afterwards.

This Act repeals:

- (1) the Act on Disclosure of Taxation Information for Purposes of Imposing Fines (558/1999) of 30 April 1999;
- (2) § 93a and § 95, paragraph 3, of the Assessment Act (1558/1999) of 18 December 1995, as they appear in Act 1104/1997;
- (3) § 60 of 20 December 1996, as it appears in Act 1106/1997, of the Prepayment Act (1118/1996);
- (4) § 64, paragraph 4, of the Act on the Tax on Asset Transfers (931/1996) of 29 November 1996, as it appears in Act 1106/1997;
- (5) § 14, paragraph 4, of the Tax Administration Act (1557/1995) of 18 December 1995, as it appears in Act 1105/1997,;
- (6) § 20 and § 21, paragraph 2, as § 21, paragraph 2, of the Act on the Tax on Lottery Prizes (552/1992) of 26 June 1992, as it appears in Act 652/1995;
- (7) § 100c and § 100d, of the Stamp Duties Act (662/1943) of 6 August 1943, as they appear in Act 1007/1981, § 101a, as it appears in Act 812/1989, and § 101b, as it appears in Act 650/1995;
- (8) § 31, paragraph 3, of the Inheritance and Gift Duty Act (378/1940) of 12 July 1940, as it appears in Act 507/1998,; and
- (9) § 9, paragraph 1, of the Act on Withholding Tax for Foreign Employees (1551/1995) of 18 December 1995.

§ 27

Transitional provision

Information on an individual taxpayer contained in tax rolls and public taxation information which has become public by virtue of provisions in effect when this Act entered into force may be disclosed. Such information shall be disclosed in an excerpt which must not bear the taxpayer's identity number or the address or other contact information.

The tax administration may, up to 24 October 2001, disclose identifiers related to all taxpayers in general or other information necessary for payment of withholding tax to those obliged to pay withholding tax who pay benefits to an unspecified number of persons nationwide. This information may be disclosed

provided that the National Board of Taxation has been provided with a report on how the information will be used and protected.

HE 149/1999

VaVM 30/1999

HaVL 10/1999

EV 131/1999 etc.

Helsinki, December 30, 1999

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