

Treasury Documentation**Subject:** Confidential Information, Disclosure and Conflict of Interest, Citations**For:** EMPLOYEE HANDBOOK**Also See:** 1874 Confidentiality Agreement; Civil Service Rules; BT-03016; ET-03074, 03120, 21; PT-03022

Identification	ET-03016 Policy
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No employee will divulge any facts or information obtained in connection with the administration of a tax nor willfully inspect any return or information contained in a return unless the inspection is appropriate for the administration of a tax.

Such information includes that obtained from:

1. Standards used for selection of returns for audit, assessment, or collection and the data used to determine such standards.
2. A taxpayer's return and/or file folder, including name, address, identification number; nature, source and amount of income; tax payments, receipts, deductions, exemptions, credits, assets, liabilities, etc.
3. Departmental documentation which describes confidential tax administration issues (i.e., policies, procedures, job outlines, bulletins, charts, pool letters, interpretive memos, etc.).
4. Examination of a taxpayer's return conducted by Michigan Department of Treasury (Treasury) or by any other department or agency.
5. Any other source used in tax administration.

Obtaining confidential information or willful inspection of return information which is not in accordance with an employee's job responsibility will be considered conduct unbecoming a state employee and the employee may be subject to dismissal.

Further, a person may not aid, abet or assist another in an attempt to evade the payment of a tax, or a part of a tax, or to file a false claim for credit as provided in statutes administered under the Revenue Act.

All employees having access to state and federal income tax returns are cautioned as to criminal penalties and civil liabilities imposed by the Revenue Act of Michigan and the Internal Revenue Code of the United States and restrictions imposed by Civil Service (CS) Rules.

Both the Revenue Act (Act 122 of the Public Acts (PA) of 1941, as amended) under which tax statutes are administered by Treasury and the Internal Revenue Code, Title 26 of the United States Code, include provisions which prohibit the disclosure of confidential tax information to unauthorized persons and prohibit willful inspection of tax return if not appropriate for tax administration. The Civil Service Commission Rule concerning conflict of interest also imposes restrictions on employees as to divulging or releasing confidential information for personal gain.

The pertinent provisions of Act 122 and of the Internal Revenue Code concerning the unauthorized disclosure of confidential tax information and unauthorized inspection of the CS Rule concerning conflict of interest and related penalties are quoted below.

ACT 122 (REVENUE ACT)

Section 205.28 Conditions applicable to administration of taxes; violations; penalties; records required; "adjusted gross receipts" and "wagering tax" defined.

Sec.28. (1) The following conditions apply to all taxes administered under this act unless otherwise provided for in the specific tax statute:

(f) Except as otherwise provided in this subdivision, an employee, authorized representative, or former employee or authorized representative of the department or anyone connected with the department shall not divulge any facts or information obtained in connection with the administration of a tax or information or parameters that would enable a person to ascertain the audit selection or processing criteria of the department for a tax administered by the department. An employee or authorized representative shall not willfully inspect any return or information contained in a return unless it is appropriate for the proper administration of a tax law administered under this act. A person may disclose information described in this subdivision if the disclosure is required for the proper administration of a tax law administered under this act. The general Property Tax Act, 1893 PA 206, MCL 211.155 pursuant to a judicial order sought by an agency charged with the duty of enforcing or investigating support obligations pursuant to an order of a court in a domestic relations matter as that term is defined in section 2 of the Friend of the Court Act, 1982 PA 294, 552.502, or pursuant to a judicial order sought by an agency of the federal, state, or local government charged with the responsibility for the administration or enforcement of criminal law for purposes of investigating or prosecuting criminal matters or for federal or state grand jury proceedings or a judicial order if the taxpayer's liability for a tax administered under this act is to be adjudicated by the court that issued the judicial order. A person required to disclose information under Section 10(1)(j) of the Michigan Economic Growth Authority Act, 1995 PA 24, MCL 207.810, may disclose the information only to the individuals described in that section. A person may disclose the adjusted gross receipts and the wagering tax paid by a casino licensee licensed under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, pursuant to section 18, sections 341, 342, and 386 of the management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and 18.1386, or authorization by the executive director of the gaming control board.

However, the person designated may divulge information set forth or disclosed in a return or report or by an investigation or audit to any department, institution, or agency of state government upon receipt of a written request from a head of the department, institution, or agency of state government if it is required for the effective administration or enforcement of the laws of this state, to a proper officer of the United States department of treasury, and to a proper officer of another state reciprocating in this privilege.

They may enter into reciprocal agreements with other departments of state government, the United States department of treasury, local governmental units within this state, or taxing officials of other states for the enforcement, collection, and exchange of data after ascertaining that any information provided will be subject to confidentiality restrictions substantially the same as the provisions of this act.

(2) A person who violates subsection (1)(e), (1)(f), or (4) is guilty of a felony, punishable by a fine of not more than \$5,000.00, or imprisonment for not more than 5 years, or both, together with the costs of prosecution. In addition, if the offense is committed by an employee of this state, the person shall be dismissed from office or discharged from employment upon conviction.

TITLE 26 - UNITED STATES CODE
INTERNAL REVENUE CODE

SUBTITLE F -- PROCEDURE AND ADMINISTRATION

CHAPTER 75. CRIMES, OTHER OFFENSES AND FORFEITURES

Subchapter A -- Crimes

Part I -- General Provisions

Section 7213. UNAUTHORIZED DISCLOSURE OF INFORMATION

Section 7213(a)(2) STATE AND OTHER EMPLOYEES.--It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i), or (7)(A)(ii), (1)(6), (7), (8), (9), (10), (12), (15), or (16), or (m)(2), (4), (5), (6) or (7) of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding \$5,000, or imprisonment of not more than 5 years, or both together with the costs of prosecution.

Section 7213A. UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION

Section 7213A(a)(2) STATE AND OTHER EMPLOYEES.--It shall be unlawful for any person (not described in paragraph (1)) willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

CHAPTER 76. JUDICIAL PROCEEDINGS

Subchapter B -- Proceedings by Taxpayers and Third Parties

Section 7431. CIVIL DAMAGES FOR UNAUTHORIZED INSPECTION OR DISCLOSURE OF RETURNS AND RETURN INFORMATION

Section 7431(a)(2) INSPECTION OR DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.--If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

Section 7431(c) DAMAGES.--In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of--

- (1) the greater of--
 - (A) \$1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or
 - (B) the sum of--
 - (i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus
 - (ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus
- (2) the costs of the action.

MICHIGAN CIVIL SERVICE COMMISSION RULES

Chapter 2-5 DISMISSAL, DEMOTION OR SUSPENSION

2-5.3 Causes - An employee in the classified service may be dismissed, demoted or suspended for any of the following reasons:

- (a) Failure to carry out the duties and obligations imposed by these rules and by agency management.
- (b) Conduct unbecoming a state employee.
- (c) Unsatisfactory service.

CHAPTER 2-7 CONFLICT OF INTEREST

2-7.1 Prohibitions. A classified employee shall not do any of the following:

- (a) Divulge or release, for the purpose of fostering personal financial gain or financial gain for a member of the employee's immediate family, any confidential information which is not by law, rule, regulation or court order available to members of the general public. However, this provision does not prevent an employee from divulging or releasing confidential information regarding violations of rules, regulations, or applicable law except where otherwise prohibited by statute, court order or professional ethics.
- (b) Engage in any business transaction or private arrangement for personal financial gain or financial gain for a member of the employee's immediate family, that accrues from or is based on the employee's official position or on confidential information gained by reason of the employee's position.
- (c) Solicit, accept, or agree to accept anything of value under any circumstances that could reasonably be expected to influence the manner in which the employee performs work or makes decisions.
- (d) Grant or make available to any person any consideration, treatment, advantage, or favor beyond that which is generally granted or made available to others under similar circumstances.
- (e) Represent or act as agent for any private interests, whether for compensation or otherwise, in any transaction in which the state has a direct and substantial interest and which could reasonably be expected to result in a conflict between the employee's private interest and official state responsibilities.

- (f) Have any substantial interest in, nor can a member of the employee's immediate family have such interest in, any business or industry concerning which the employee directly, in a significant decision-making capacity, participates on behalf of the state in the regulation, enforcement, auditing, licensing, or purchasing of any goods or services.

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