

DEPARTMENT OF FINANCE AND ADMINISTRATION

Regulation 1986-1

DISCLOSURE OF RECORDS UNDER FREEDOM OF INFORMATION ACT

The Department of Finance and Administration (DF&A), through its various sections, maintains different categories of records, some of which are subject to disclosure under the Freedom of Information Act (Ark. Stat. Ann. §12-2801 et seq.). The purpose of this Regulation is to identify those records which are subject to disclosure under the Freedom of Information Act and establish procedures for providing those records.

1. The following definitions shall apply for the purposes of this regulation:
  - A. “Public Records” - Public records are writings, recorded sounds, films, tapes or data compilations in any form (a) required by law to be kept, or (b) otherwise kept and which constitute a record of the performance or lack of performance of official functions which are or should be carried out by the Department of Finance and Administration. All records maintained in public offices or by public employees within the scope of their employment shall be presumed to be public records.
  - B. “Disclosable Records: - Disclosable records includes all public records and information maintained by the Department of Finance and Administration which are subject to disclosure pursuant to the Arkansas Freedom of Information Act. This includes all records regularly maintained by the Department of Finance and Administration except income tax records, other tax records of individual persons and driver’s license information.
  - C. “Confidential Records” - Confidential records includes public records which are not subject to disclosure under the Freedom of Information Act, including income tax records, tax records of individual persons which are specifically protected by the Arkansas Tax Procedure Act and Driver’s License records which are specifically protected under the Driver’s License Laws.
  - D. “Individual Person” - The term “individual person” means a natural person and does not include partnerships, trusts, corporations, organizations or associations.
2.
  - A. Requests for information should be made to the appropriate Administrator of DF&A, or their designee, who is responsible for maintaining the requested information. A list of Administrators, and their designee, and the offices they are responsible for is available from the office of the Commissioner of Revenues. Requests for disclosable records must be in writing and

specifically state the information desired in a manner sufficient to identify the requested records or information.

- B. The Administrator, or his designee, will provide reasonable access to the disclosable records or information and will provide reasonable comforts and facilities to the requesting party for use in inspecting and copying the disclosable records and information. The requested party must provide his own supplies and devices for use in inspecting and copying the disclosable records.
  - C. If the requested records are disclosable but are in active use or in storage, the Administrator will certify this fact, in writing, to the party requesting the records and set a date and hour, within three (3) days, when the records will be available to the requesting party.
  - D. If the request is for regularly maintained, disclosable records, the administrator shall permit the inspection and copying of the records by the party making the request at a time and in a manner that does not interfere with normal office procedure.
  - E. If it is more convenient, economical or expedient on behalf of the operation of the office of the custodian of the records, the custodian may elect to provide photocopies or compilations of disclosable records that are not regularly maintained in lieu of permitting inspecting of records at the office. If the party making the request agrees to photocopies or compilations of records in lieu of an individual inspection of records, the party making the request will be required to pay any extraordinary expenses incurred in compiling those records.
3. Confidential tax records may be released only under circumstances specified in the Tax Procedure Act as follows:
- A. Publication of statistics by the Commissioner classified to prevent the identification of a particular taxpayer.
  - B. Use of the information in records filed under any State tax law by the Commissioner when conducting any audit or investigation of any taxpayer in regard to any State tax.
  - C. Disclosure of information to the Attorney General of this State, any Prosecuting Attorney, or any other individual who is empowered by law to prosecute criminal and civil violations of any State tax law, when the Commissioner initiates the investigation. If the prosecution is initiated by the Attorney General, or a Prosecuting Attorney the Commissioner shall not disclose any information unless required by subpoena issued by a Circuit Court. Information may be introduced as evidence by the Attorney General, a prosecuting attorney or other individual so empowered when they are prosecuting any civil or criminal violation of State tax law.
  - D. Disclosure compelled by any Arkansas Circuit or Chancery Court or the Arkansas Supreme Court or any United States Federal Court

of information involved in any case of controversy before that Court.

- E. Disclosure by the taxpayer or his duly authorized agent or by the Commissioner, at the taxpayer's request, of any information which the Commissioner has concerning that taxpayer.
- F. Disclosure by the Commissioner, at his discretion, of information from the records of any State tax law to comparable officials of any other state or the United States who are charged with the administration of a similar tax.
- G. Disclosure of motor vehicle titling and registration information, and all licenses and permits issued to owners and operators of coin-operated amusement machines pursuant to Act 553 of 1977, as amended, and Act 167 of 1931, as amended.
- H. Disclosure of information, other than income tax information, at an administrative hearing held regarding the issuance, cancellation, revocation, or suspension of licenses or permits issued by the Commissioner or any other State agency or department.
- I. Disclosure to the Arkansas Student Loan Authority and/or the Student Loan Guarantee Foundation of Arkansas, the last known address or whereabouts and/or the last known employer of any person from whom said agencies are charged with collecting a student loan indebtedness. In providing such information the Commissioner shall not allow the Arkansas Student Loan Authority or the Student Loan Guarantee Foundation of Arkansas to examine the tax return.

Any request for confidential records and information under the exceptions provided for in the Tax Procedure Act should be forwarded to the appropriate Administrator, or his designee, for the Department of Finance and Administration. The Administrator, or his designee, after consulting the Office of Revenue Legal Counsel, shall grant or deny the request in accordance with the provisions of the Arkansas Tax Procedure Act. Otherwise, requests for confidential information should be denied.

- 4. The office of Driver Services may furnish an abstract of a driver's record to the following:
  - A. The driver on whom the record has been compiled.
  - B. Any person who has been authorized in writing by such driver to obtain the driver's record.
  - C. Any court having jurisdiction over traffic offenses.
  - D. Any law enforcement officer who shall use such report only in the line of duty in enforcing the traffic laws of this state.
  - E. Employers of drivers, provided the driver has given his written consent for such employer to obtain the driver record.
  - F. Any governmental department or agency upon a showing of reasonable cause as to why the driver record should be issued to such governmental department or agency in order for the

governmental department or agency to effectively carry out its statutory duties. Provided, however, that no driver record shall be reported to any individual, except duly authorized officials of the Office of Driver's Services, unless a copy of such report and the name of the individual or organization which received the report is sent to the driver named in the report.

Mahlon Martin, Director  
Department of Finance and Administration

Charles D. Ragland, Commissioner  
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