

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1034**

**Bill Subtitle: TO AMEND THE EXCEPTIONS TO THE PROHIBITION AGAINST THE DISCLOSURE OF TAXPAYER INFORMATION; AND TO DESIGNATE THE SECRETARY OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION AS THE OFFICIAL CUSTODIAN OF CERTAIN RECORDS.**

---

### **Basic Change :**

HB1034 would amend provisions of the Arkansas Tax Procedure Act (ATPA) that apply to the confidentiality of taxpayer records kept by the Department of Finance and Administration (DFA) to:

- Remove the current limitation that prohibits DFA from disclosing records to the Attorney General or a prosecutor without a subpoena issued by a court;
- Limit disclosure in certain court proceedings to disclosure compelled by a judge;
- Authorize disclosure in administrative hearings held under the ATPA;
- Authorize disclosure in judicial proceedings in which the DFA Secretary is a party;
- Authorize disclosure for tax collection purposes in state and federal insolvency, reorganization, corporate dissolution, and other similar proceedings in which the DFA Secretary is a party; and
- Authorize limited disclosure to the Arkansas Division of Workforce Services (DWS) for pandemic unemployment assistance applications.

HB1034 also amends provisions of the Arkansas Code that apply to motor vehicle records to designate the DFA Secretary as the official custodian of records.

HB1034 also amends provisions of the Arkansas Code that apply to the establishment of the Office of Driver Services to designate the DFA Secretary as the official custodian of records.

### **Revenue Impact :**

None.

### **Taxpayer Impact :**

DFA would be authorized to release confidential taxpayer records consistent with the uses authorized in the bill.

### **Resources Required :**

None.

### **Time Required :**

Adequate time is provided for implementation.

# Department of Finance and Administration

## Legislative Impact Statement

**Bill: HB1034**

**Bill Subtitle: TO AMEND THE EXCEPTIONS TO THE PROHIBITION AGAINST THE DISCLOSURE OF TAXPAYER INFORMATION; AND TO DESIGNATE THE SECRETARY OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION AS THE OFFICIAL CUSTODIAN OF CERTAIN RECORDS.**

---

### **Procedural Changes :**

DFA personnel will be trained on the proper circumstances wherein confidential taxpayer information may be released to third parties.

### **Other Comments :**

None.

### **Legal Analysis :**

§ 26-18-303(b)(3)(B), which prohibits DFA from disclosing records to the Attorney General or a prosecutor in certain circumstances without a subpoena issued by a circuit court, conflicts with § 26-18-303(b)(15), which permits DFA to release taxpayer information to “a state or federal prosecutor or grand jury or other state or federal entity with subpoena power.” This conflict may cause confusion in circumstances where DFA is being compelled to release taxpayer information to a law enforcement organization. The proposed amendment to § 26-18-303(b)(3) would remove this limitation and resolve this conflict.

Although the Arkansas Rules of Civil Procedure authorize attorneys to issue subpoenas, the ATPA is unclear as to whether DFA can release tax records upon receipt of an attorney-issued subpoena. This bill would clarify that DFA cannot disclose taxpayer records in response to a subpoena unless the issuer of the subpoena is directed by a judge in a circuit court, the Supreme Court, the Court of Appeals, or any federal court, and only if the disclosure is in a case or controversy before the judge that issued the subpoena.

Current law is silent as to whether DFA can disclose tax records in all proceedings arising under the ATPA, in court proceedings in which the DFA Secretary is a party, or when necessary for tax collection purposes in certain judicial proceedings. This bill clarifies that disclosure is permissible in these circumstances.

DFA is authorized under current law to release withholding tax information to DWS. This bill would expand DFA’s authority to release taxpayer information to DWS for purposes of determining pandemic unemployment assistance eligibility.