

# STATE OF NEW YORK

---

7695

## IN SENATE

February 7, 2020

---

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to authorizing the independent budget office of the city of New York to obtain certain tax data for purposes of evaluation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 11-538 of the administrative code  
2 of the city of New York, as amended by chapter 808 of the laws of 1992,  
3 is amended to read as follows:

4 1. Except in accordance with proper judicial order or as otherwise  
5 provided by law, it shall be unlawful for the commissioner of finance,  
6 the department of finance of the city, any officer or employee of the  
7 department of finance of the city, any person engaged or retained by  
8 such department on an independent contract basis, any depository to  
9 which any return may be delivered as provided in subdivision four of  
10 this section, any officer or employee of such depository, the tax  
11 appeals tribunal, any commissioner or employee of such tribunal, or any  
12 person who, pursuant to this section, is permitted to inspect any report  
13 or return or to whom a copy, an abstract or a portion of any report or  
14 return is furnished, or to whom any information contained in any report  
15 or return is furnished, to divulge or make known in any manner the  
16 amount of income or any particulars set forth or disclosed in any report  
17 or return required under this chapter. The officers charged with the  
18 custody of such reports and returns shall not be required to produce any  
19 of them or evidence of anything contained in them in any action or  
20 proceeding in any court, except on behalf of the city in an action or  
21 proceeding under the provisions of this chapter or in any other action  
22 or proceeding involving the collection of a tax due under this chapter  
23 to which the city is a party or a claimant, or on behalf of any party to  
24 any action or proceeding under the provisions of this chapter when the  
25 reports, returns or facts shown thereby are directly involved in such  
26 action or proceeding, in any of which events the court may require the  
27 production of, and may admit in evidence, so much of said reports,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

LBD15118-01-0

1 returns or of the facts shown thereby, as are pertinent to the action or  
2 proceeding and no more. Nothing herein shall be construed to prohibit  
3 the delivery to a taxpayer or to the taxpayer's duly authorized repre-  
4 sentative of a certified copy of any return or report filed in  
5 connection with his or her tax or to prohibit the publication of statis-  
6 tics so classified as to prevent the identification of particular  
7 reports or returns and the items thereof, or the inspection by the  
8 corporation counsel or other legal representatives of the city of the  
9 report or return of any taxpayer who shall bring action to set aside or  
10 review the tax based thereon, or against whom an action or proceeding  
11 under this chapter has been recommended by the commissioner of finance  
12 or the corporation counsel or has been instituted, or the inspection of  
13 the reports or returns required under this chapter by the duly desig-  
14 nated officers or employees of the city for purposes of an audit under  
15 this chapter or an audit authorized by the enacting of this chapter, or  
16 the inspection of the reports or returns of any taxpayer by the inde-  
17 pendent budget office of the city of New York, or the entity designated  
18 to be the evaluator pursuant to section 11-2901 of this title, for  
19 purposes of a tax expenditure evaluation authorized by such section.

20 Reports and returns shall be preserved for three years and thereafter  
21 until the commissioner of finance orders them to be destroyed.

22 § 2. Subdivision 1 of section 11-688 of the administrative code of the  
23 city of New York, as amended by chapter 808 of the laws of 1992, is  
24 amended to read as follows:

25 1. Except in accordance with proper judicial order or as otherwise  
26 provided by law, it shall be unlawful for the commissioner of finance,  
27 the department of finance of the city, any officer or employee of the  
28 department of finance of the city, the tax appeals tribunal, any commis-  
29 sioner or employee of such tribunal, any person who, pursuant to this  
30 section, is permitted to inspect any report or return, or to whom any  
31 information contained in any report or return is furnished, any person  
32 engaged or retained by such department on an independent contract basis,  
33 or any person who in any manner may acquire knowledge of the contents of  
34 a report filed pursuant to this chapter, to divulge or make known in any  
35 manner the amount of income or any particulars set forth or disclosed in  
36 any report or return, under this chapter. The officers charged with the  
37 custody of such reports and returns shall not be required to produce any  
38 of them or evidence of anything contained in them in any action or  
39 proceeding in any court, except on behalf of the city in an action or  
40 proceeding involving the collection of a tax due under this chapter to  
41 which the city is a party or a claimant, or on behalf of any party to  
42 any action or proceeding under the provisions of this chapter when the  
43 reports, returns or facts shown thereby are directly involved in such  
44 action or proceeding, in any of which events the court may require the  
45 production of, and may admit in evidence, so much of said reports or  
46 returns or of facts shown thereby as are pertinent to the action or  
47 proceeding, and no more. Nothing herein shall be construed to prohibit  
48 the delivery to a taxpayer or its duly authorized representative of a  
49 copy of any report filed by it, nor to prohibit the publication of  
50 statistics so classified as to prevent the identification of particular  
51 reports or returns and the items thereof, or the inspection by the  
52 corporation counsel or other legal representatives of the city of the  
53 report or return of any taxpayer which shall bring action to set aside  
54 or review the tax based thereon, or against which an action or proceed-  
55 ing under this chapter or under any local law of the city imposed as  
56 authorized by the act authorizing the adoption of this chapter has been

1 recommended by the commissioner of finance or the corporation counsel or  
2 has been instituted, or the inspection of the reports or returns of any  
3 taxpayer by the duly designated officers or employees of the city for  
4 purposes of an audit under this chapter or an audit authorized by the  
5 act authorizing the adoption of this chapter, or the inspection of the  
6 reports or returns of any taxpayer by the independent budget office of  
7 the city of New York, or the entity designated to be the evaluator  
8 pursuant to section 11-2901 of this title, for purposes of a tax expend-  
9 iture evaluation authorized by such section; and nothing in this  
10 subchapter or chapter eleven of this title shall be construed to prohib-  
11 it the publication of the issuer's allocation percentage, as defined in  
12 subparagraph one of paragraph (b) of subdivision three of section 11-604  
13 of this chapter, of any corporation which may be required to be allo-  
14 cated within the city for purposes of the tax imposed by any of the  
15 named subchapters or chapter eleven of this title.

16 § 3. Subdivision a of section 11-1116 of the administrative code of  
17 the city of New York, as amended by chapter 808 of the laws of 1992, is  
18 amended to read as follows:

19 a. Except in accordance with proper judicial order or as otherwise  
20 provided by law, it shall be unlawful for the commissioner of finance,  
21 the tax appeals tribunal, or any officer or employee of the department  
22 of finance or the tax appeals tribunal to divulge or make known in any  
23 manner, the receipts or any other information relating to the business  
24 of a taxpayer contained in any return required under this chapter. The  
25 officers charged with the custody of such returns shall not be required  
26 to produce any of them or evidence of anything contained in them in any  
27 action or proceeding in any court, except on behalf of the city or the  
28 commissioner of finance, or on behalf of any party to any action or  
29 proceeding under the provisions of this chapter when the returns or  
30 facts shown thereby are directly involved in such action or proceeding,  
31 in either of which events, the court may require the production of, and  
32 may admit in evidence, so much of said returns or of the facts shown  
33 thereby, as are pertinent to the action or proceeding and no more. Noth-  
34 ing herein shall be construed to prohibit the delivery to a taxpayer or  
35 his or her duly authorized representative of a certified copy of any  
36 return filed in connection with his or her tax, nor to prohibit the  
37 publication of statistics so classified as to prevent the identification  
38 of particular returns and the items thereof, or the inspection by the  
39 corporation counsel of the city or other legal representatives of such  
40 city of the return of any taxpayer who shall bring action or proceeding  
41 to set aside or review the tax based thereon, or against whom an action  
42 or proceeding has been instituted or is contemplated for the collection  
43 of a tax, penalty or interest, or the inspection of the reports or  
44 returns of any taxpayer by the independent budget office of the city of  
45 New York, or the entity designated to be the evaluator pursuant to  
46 section 11-2901 of this title, for purposes of a tax expenditure evalu-  
47 ation authorized by such section. Returns shall be preserved for three  
48 years and thereafter until the commissioner of finance permits them to  
49 be destroyed.

50 § 4. This act shall take effect immediately.