

STATE OF NEW YORK

2013

2023-2024 Regular Sessions

IN SENATE

January 18, 2023

Introduced by Sens. KRUEGER, GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1

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

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

LBD01072-01-3

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

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

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

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

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

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

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

53 § 4. This act shall take effect immediately.