

[CORRECTED COPY]
CHAPTER 58

AN ACT providing a State tax clearance process for certain businesses and holders of licenses from State agencies, amending and supplementing P.L.1995, c.158 and amending R.S.54:50-9.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1995, c.158 (C.54:50-24) is amended to read as follows:

C.54:50-24 Definitions relative to State agency information.

1. As used in this act:

"Business entity" means any person, including but not limited to an individual who is a sole proprietor, that uses a license to conduct or operate a trade, business, occupation or profession in the State, other than as an employee, and that may be subject to State taxes on business related income;

"Director" means the Director of the Division of Taxation in the Department of the Treasury;

"License" means the whole or part of any State agency permit, certificate, approval, registration, charter or similar form of permission to engage in a profession, trade, business or occupation and any notification required to be made to any State agency that a profession, trade, business or occupation is being engaged in or is expected to be commenced; provided however, that "license" shall not include any original charter or certificate of incorporation granted by any State agency;

"Person" means an individual, partnership, society, association, firm, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other entity acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any entity that is a combination of the entities set forth herein;

"S corporation" means a corporation included in the definition of an "S corporation" pursuant to section 1361 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.1361;

"State agency" means the Judicial, Legislative or Executive branch of the State of New Jersey, including but not limited to any department, board, bureau, commission, division, office, council, agency, or instrumentality thereof, or independent agency, public authority or public benefit corporation; and

"State tax indebtedness" means the amount of State tax, interest, penalties, and any related fees owed by a person, including any statutory fee for the cost of collection imposed pursuant to section 8 of P.L.1987, c.76 (C.54:49-12.1), to the director.

2. Section 3 of P.L.1995, c.158 (C.54:50-26) is amended to read as follows:

C.54:50-26 Information furnished by State agency.

3. a. Notwithstanding any other provision of law, a State agency shall, upon request of the director, furnish the following information with respect to each person covered by this act:

(1) business name or the name under which the applicant for a license or licenses will be licensed or is licensed;

(2) business address or whatever type of address the State agency requires from the applicant for a license or the licensee to furnish to the agency including an Internet address;

(3) federal social security number or federal taxpayer identification number, or both numbers when the person has both numbers, or the reason or reasons, furnished by the person, why the person does not have either number; and

(4) as to holders of licenses, but not pending applicants for licenses, the information, if any, upon which the State agency has identified that a licensee is a business entity.

b. The reports of information required under subsection a. of this section shall be submitted on a compatible magnetic tape file or in some other form which is mutually acceptable to the State agency and the director. Information as to current licensees shall be submitted to the director within the time prescribed in the director's request, or at such other mutually agreeable time.

C.54:50-26.1 Preliminary notice to business entity.

3. If the director does not already possess the information set forth in paragraph (3) of subsection a. of section 3 of P.L.1995, c.158 (C.54:50-26) as to a licensee, the director shall send a preliminary notice to each person identified as a business entity by a State agency as a result of an initial request by the director, requesting verification, in a manner to be prescribed by the director, of the business name, business address and federal social security number or federal taxpayer identification number. If no federal social security number or federal taxpayer identification number was provided to the director by the State agency, the preliminary notice shall require a person identified as a business entity by a State agency to provide such information to the director, pursuant to the authority under 42 U.S.C. s.405(c)(2)(C)(i). The preliminary notice shall advise that person that the information required under section 3 of P.L.1995, c.158 (C.54:50-26) has been provided to the director for purposes of reviewing the person's compliance with appropriate State tax laws, as a condition to the continued licensing of the person by the State agency, and to update or correct, as necessary, the tax records and files of the director. The director shall forward a preliminary notice only after the initial request has been made to a State agency for the information required by section 3 of P.L.1995, c.158.

C.54:50-26.2 Responsibility of State agency concerning identification of licensees.

4. It shall be the responsibility of a State agency to require federal social security numbers and federal taxpayer identification numbers, as appropriate, from its licensees for the purpose of State tax administration and to provide appropriate notice of the requirements of this section for all requests by the director for such information that occur after the initial request by the director pursuant to section 3 of P.L.2004, c.58 (C.54:50-26.1) for the information required from licensees that the State agency has identified as a business entity.

C.54:50-26.3 Review, verification of tax compliance status.

5. a. (1) Following the preliminary notice required by subsection a. of section 3 of P.L.2004, c.58 (C.54:50-26.1), the director shall review the State tax compliance status of each person identified by a State agency as a business entity pursuant to section 3 of P.L.1995, c.158 (C.54:50-26), and verify compliance with the business registration requirements of any State tax administered by the Division of Taxation. The director shall notify those persons not registered with the division and provide that person with 10 days to comply with that registration requirement.

(2) As to licensees for which the director has received any information set forth in paragraphs (1) through (3) of subsection a. of section 3 of P.L.1985, c.158 (C.54:50-26), from any State agency, including from the Division of Taxation, independent of any information identifying the licensee as a business entity, the director shall review the State tax compliance status of each such licensee and verify compliance with the business registration requirements of any State tax administered by the Division of Taxation. The director shall notify a person not registered with the division and provide that person with 10 days to comply with that registration requirement.

b. (1) If the State tax compliance review of any license holder discloses a State tax indebtedness of that person reduced to judgment by the filing of a certificate of debt by the director or a State tax indebtedness finally determined after the exhaustion of remedies provided pursuant to the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., or following the failure of a person to exercise available remedies, then the director shall notify the person of the intent to demand the suspension of the person's license by the State agency. No additional right to protest or appeal the State tax indebtedness shall be available to any person pursuant to this paragraph.

(2) If the State tax compliance review discloses a State tax indebtedness that (a) is not a certificate of debt, (b) is not a State tax indebtedness that has been finally determined after the exhaustion of remedies provided pursuant to the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq., or (c) is not a State tax indebtedness that has followed the failure of a person to exercise available remedies, the director shall forward a notice of tax delinquency or tax deficiency, or both, and the person may remit the State tax indebtedness to the director or contest the State tax indebtedness in accordance with the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq. The director shall not seek to suspend a license during the time available

to contest the notice of tax delinquency or tax deficiency.

c. By written notice to a State agency, the director shall demand the suspension of a license of a person (1) to whom a notice has been provided pursuant to paragraph (1) of subsection b. of this section, or (2) to whom a notice of tax delinquency or tax deficiency has been provided pursuant to paragraph (2) of subsection b. of this section after the time to contest the notice has expired or after the exhaustion of available remedies. Upon receipt of the director's notice, a State agency shall suspend the license effective as of a date mutually agreed upon by the director and the State agency. Notwithstanding any other law to the contrary, no person shall have the right to a hearing prior to the imposition of the suspension.

6. Section 4 of P.L.1995, c.158 (C.54:50-27) is amended to read as follows:

C.54:50-27 Information, report not government record, confidentiality.

4. Notwithstanding any other provision of law, the information and report to be furnished by the State agency to the director shall not constitute a public record under P.L.1963, c.73 (C.47:1A-1 et seq.) or any court decision, or a government record subject to access pursuant to P.L.2001, c.404, and shall not otherwise be open to the public for inspection. The information and report furnished by any State agency under the provisions of this act shall be a record or file subject to the provisions of R.S.54:50-8 and R.S.54:50-9.

7. R.S.54:50-9 is amended to read as follows:

Certain officers entitled to examine records.

54:50-9. Nothing herein contained shall be construed to prevent:

a. The delivery to a taxpayer or the taxpayer's duly authorized representative of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of this subtitle or of any such State tax law;

b. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

c. The director, in the director's discretion and subject to reasonable conditions imposed by the director, from disclosing the name and address of any licensee under any State tax law, unless expressly prohibited by such State tax law;

d. The inspection by the Attorney General or other legal representative of this State of the reports or files relating to the claim of any taxpayer who shall bring an action to review or set aside any tax imposed under any State tax law or against whom an action or proceeding has been instituted in accordance with the provisions thereof;

e. The examination of said records and files by the Comptroller, State Auditor or State Commissioner of Finance, or by their respective duly authorized agents;

f. The furnishing, at the discretion of the director, of any information contained in tax reports or returns or any audit thereof or the report of any investigation made with respect thereto, filed pursuant to the tax laws, to the taxing officials of any other state, the District of Columbia, the United States and the territories thereof, providing said jurisdictions grant like privileges to this State and providing such information is to be used for tax purposes only;

g. The furnishing, at the discretion of the director, of any material information disclosed by the records or files to any law enforcing authority of this State who shall be charged with the investigation or prosecution of any violation of the criminal provisions of this subtitle or of any State tax law;

h. The furnishing by the director to the State agency responsible for administering the Child Support Enforcement program pursuant to Title IV-D of the federal Social Security Act, Pub. L.93-647 (42 U.S.C. s.51 et seq.), with the names, home addresses, social security numbers and sources of income and assets of all absent parents who are certified by that agency as being required to pay child support, upon request by the State agency and pursuant to procedures and in a form prescribed by the director;

I. The furnishing by the director to the Board of Public Utilities any information contained in tax information statements, reports or returns or any audit thereof or a report of any

investigation made with respect thereto, as may be necessary for the administration of P.L.1991, c.184 (C.54:30A-18.6 et al.) and P.L.1997, c.162 (C.54:10A-3 et al.);

j. The furnishing by the director to the Director of the Division of Alcoholic Beverage Control in the Department of Law and Public Safety any information contained in tax information statements, reports or returns or any audit thereof or a report of any investigation made with respect thereto, as may be relevant, in the discretion of the director, in any proceeding conducted for the issuance, suspension or revocation of any license authorized pursuant to Title 33 of the Revised Statutes;

k. The inspection by the Attorney General or other legal representative of this State of the reports or files of any tobacco product manufacturer, as defined in section 2 of P.L.1999, c.148 (C.52:4D-2), for any period in which that tobacco product manufacturer was not or is not in compliance with subsection a. of section 3 of P.L.1999, c.148 (C.52:4D-3), or of any licensed distributor as defined in section 102 of P.L.1948, c.65 (C.54:40A-2), for the purpose of facilitating the administration of the provisions of P.L.1999, c.148 (C.52:4D-1 et seq.);

l. The furnishing, at the discretion of the director, of information as to whether a contractor or subcontractor holds a valid business registration as defined in section 1 of P.L.2001, c.134 (C.52:32-44);

m. The furnishing by the director to a State agency as defined in section 1 of P.L.1995, c.158 (C.54:50-24) the names of licensees subject to suspension for non-payment of State tax indebtedness pursuant to P.L.2004, c.58 (C.54:50-26.1 et al.).

8. This act shall take effect immediately.

Approved June 29, 2004.