

**PUBLIC RECORDS POLICY
FOR
THE TENNESSEE DEPARTMENT OF REVENUE**

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for the Tennessee Department of Revenue is hereby adopted by the Tennessee Department of Revenue to provide economical and efficient access to public records as provided under the Tennessee Public Records Act (“TPRA”) in Tenn. Code Ann. § 10-7-501 et seq.

The TPRA provides that all state, county, and municipal records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. See Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of the Tennessee Department of Revenue are presumed to be open for inspection unless otherwise provided by law.

Members of the public are advised that a broad exception to the TPRA exists for returns and tax information or tax administration information. Specifically, Tenn. Code Ann. § 67-1-1702(a) prohibits the unauthorized disclosure of returns, tax information, and tax administration information by an officer or employee of the Department. Unauthorized disclosure is punishable as a Class E felony.

Members of the public are further advised that a broad exception to the TPRA exists for personal information obtained in connection with a motor vehicle record. Specifically, Tenn. Code Ann. § 55-25-104 prohibits the unauthorized disclosure of personal information obtained in connection with a motor vehicle record by an officer or employee of the Department.

Personnel of the Tennessee Department of Revenue shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records that are not protected as confidential. No provisions of this Policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as taxpayer confidentiality and the efficient and safe operation of the Tennessee Department of Revenue, shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator for the Tennessee Department of Revenue or to the Tennessee Office of Open Records Counsel (“OORC”).

This Policy is available for inspection and duplication in the office of the Director of Communications. This Policy is posted online at tn.gov/revenue. The Tennessee Department of Revenue shall review this Policy every two years.

This Policy shall be applied consistently throughout the various offices, and divisions of the Tennessee Department of Revenue.

I. Definitions:

- A. Personal information: Information obtained by the Tennessee Department of Revenue in connection with a motor vehicle record that identifies a person, including an individual's photograph, or computerized image, social security number, driver identification

number, name, address excluding the five-digit zip code, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving or equipment-related violations, and driver license or registration status

- B. Public Records: All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency. Tenn. Code Ann. § 10-7-503(a)(1)(A).
- C. Public Records Request Coordinator: The individual, or individuals, designated in Section III, A.3 of this Policy who has, or have, the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the TPR. See Tenn. Code Ann. § 10-7-503(a)(1)(B). The Public Records Request Coordinator may also be a records custodian.
- D. Records Custodian: The office, official, or employee lawfully responsible for the direct custody and care of a public record. See Tenn. Code Ann. § 10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.
- E. Requestor: A person seeking access to a public record, whether it is for inspection or duplication.
- F. Return: Any tax or information return, declaration of estimated tax, claim for refund, or petition for waiver of penalty required by, or provided for, or permitted under, any law, that is filed with or submitted to the commissioner by, on behalf of, or with respect to, any person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, any return so filed or submitted.
- G. Tax administration information: Criteria or standards used or to be used for the selection of returns or persons for audit or examination, or data used or to be used for determining such criteria or standards; audit procedures; and any other information relating to tax administration.
- H. Tax information: Records containing a taxpayer's identity, the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected, deficiencies, overassessments, or tax payments, whether the taxpayer's return was, is being, or will be, examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by, the commissioner with respect to a return or with respect to the determination of the existence, or possible existence, of liability, or the amount of the liability, of any person for any tax, penalty, interest, fine, forfeiture, or other penalty, imposition or offense, administered by or collected by the commissioner, either directly or indirectly. "Tax information" does not include data in a form that

cannot, either directly or indirectly, be associated with, or otherwise be used to identify, directly or indirectly, a particular taxpayer.

- I. *Taxpayer identity*: The name of a person subject to a tax collected or administered by the commissioner, the person's mailing address, the person's taxpayer identifying number or account number, or a combination thereof.

II. Requesting Access to Public Records

- A. Public record requests shall be made to the Public Records Request Coordinator ("PRRC") or the PRRC's designee or via online submission in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- B. Requests for inspection are not required to be made in writing. The PRRC should request a mailing or email address from the requestor for providing any written communication required under the TPRA.
- C. Requests for copies shall be made in writing, and may be made using the attached *Public Records Request Form*. Requests may be submitted by email at TNRevenue.PublicRecords@tn.gov or by mail to:

Attn: Public Records Request Coordinator
Tennessee Department of Revenue
Andrew Jackson Building, 11th Floor
500 Deaderick Street
Nashville Tennessee 37242.

- D. A taxpayer's tax returns and tax information are confidential and are not available to the general public through a public records request. Requests for returns or copies of tax information or tax administration information will be denied unless an exception to Tennessee's confidentiality laws applies, such as cases in which the taxpayer provides written authorization for the Department to release the records. See Tenn. Code Ann. § 67-1-1701 et seq.

A taxpayer does not need to submit a public records request to obtain copies of his or her own returns or tax information. The taxpayer may obtain these records by submitting a written request to:

Attn: Records Custodian
Tennessee Department of Revenue
Andrew Jackson Building
500 Deaderick Street
Nashville, Tennessee 37242

A taxpayer may also view his or her own tax information by logging in to his or her TNTAP tax account, available at <https://tntap.tn.gov/eservices/>, or by submitting a

request at the Tennessee Department of Revenue's Help Desk, available at <https://revenue.support.tn.gov/hc/en-us>.

If the taxpayer is a legal entity or an estate, the requestor must provide proof that he or she is authorized to access the taxpayer's records. See Tenn. Code Ann. § 67-1-1703.

- E. A person's personal information associated with motor vehicle records is confidential and is not available to the general public through a public records request. Requests for motor vehicle records containing personal information will be denied unless an exception to Tennessee's confidentiality laws applies, such as cases in which the motor vehicle records are requested in connection with a civil, criminal, administrative, or arbitral proceeding. See Tenn. Code Ann. § 55-25-107.

A requestor does not need to submit a public records request to obtain copies of motor vehicle records. If an exception to Tennessee's confidentiality laws applies, the requestor may obtain these records by submitting a completed Vehicle Information Request form to:

Tennessee Department of Revenue
Vehicle Services Division
44 Vantage Way, Suite 160
Nashville, Tennessee 37243-8050

The Vehicle Information Request form is available online at <https://www.tn.gov/assets/entities/revenue/attachments/f1313801Fill-in.pdf>.

- F. Proof of Tennessee citizenship by presentation of a valid Tennessee driver's license (or alternative acceptable form of ID) may be required as a condition to inspect or receive copies of public records.
- G. Members of the public generally do not need to submit a public records request for statistics and tax collections data, which are available on the Tennessee Department of Revenue's website at <https://www.tn.gov/revenue/topic/statistics-and-collections>.

III. Responding to Public Records Requests

A. Public Record Request Coordinator

1. The PRRC shall review public record requests and make an initial determination of the following:
 - a. If the requestor requested returns, tax information, or motor vehicle records, and if so, if the requestor is or represents the taxpayer, or is otherwise authorized to access such returns, tax information, or motor vehicle records;

- b. If the records requested are described with sufficient specificity to identify them; and
 - c. If the Tennessee Department of Revenue is the custodian of the records.
- 2. The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):
 - a. Advise the requestor of this Policy and the elections made regarding:
 - i. Proof of Tennessee citizenship;
 - ii. Proof that the requestor is authorized to access any returns, tax information, or motor vehicle records requested (if applicable);
 - iii. Form(s) required for copies;
 - iv. Fees (and labor threshold and waivers, if applicable); and
 - v. Aggregation of multiple or frequent requests.
 - b. If appropriate, deny the request in writing, providing the appropriate ground such as one of the following:
 - i. The requestor is not, or has not presented evidence of being, a Tennessee citizen.
 - ii. With respect to requests for returns, tax information, or motor vehicle records, the requestor has not presented evidence that the requestor is or represents the taxpayer, or is otherwise authorized to access such tax information.
 - iii. The request lacks specificity.
 - iv. An exemption makes the record not subject to disclosure under the TPRA.
 - v. The Tennessee Department of Revenue is not the custodian of the requested records.
 - vi. The records do not exist.
 - c. If appropriate, contact the requestor to see if the request can be narrowed.
 - d. Forward the records request to the appropriate records custodian in the Tennessee Department of Revenue.

- e. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity if known.

3. The designated PRRC is:

- a. Name: Kelly Cortesi
- b. Title: Director of Communications
- c. Address: Tennessee Department of Revenue
Andrew Jackson Building, 11th Floor
500 Deaderick St.
Nashville, TN 37242
- d. Phone: (615) 770-6942

- 4. With the assistance of General Counsel, the PRRC shall report to the Tennessee Department of Revenue, Internal Audit Division, on an annual basis, about the Tennessee Department of Revenue's compliance with the TPRA pursuant to this Policy and shall make recommendations, if any, for improvement or changes to this Policy.

B. Records Custodian

- 1. Upon receiving a public records request, a records custodian shall promptly make requested public records available in accordance with Tenn. Code Ann. § 10-7-503. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, legal counsel, or the OORC.
- 2. If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then a records custodian shall, within seven (7) business days from the records custodian's receipt of the request, send the requestor a completed Public Records Request Response Form, which is attached to this Policy, based on the form developed by the OORC.
- 3. If a records custodian denies a public record request, the records custodian shall deny the request in writing as provided in Section III.A.2.b using the Public Records Request Response Form.
- 4. If a records custodian reasonably determines production of records should be segmented because the records request is for a large volume of records, or

additional time is necessary to prepare the records for access, the records custodian shall use the Public Records Request Response Form to notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the records custodian should contact the requestor to see if the request can be narrowed.

5. If a records custodian discovers records responsive to a records request were omitted, the records custodian should contact the requestor concerning the omission and produce the records as quickly as practicable.

C. Redaction

1. If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access. However, if a record is a return, tax information, or tax administration information, the records custodian shall prepare a redacted copy only if legal counsel for the Tennessee Department of Revenue determines that providing a redacted record would not be in violation of Tenn. Code Ann. § 67-1-1702. If questions arise concerning redaction, the records custodian should coordinate with legal counsel or other appropriate parties regarding review and redaction of records. The records custodian and the PRRC may also consult with the OORC or with the Office of Attorney General and Reporter.
2. Whenever a redacted record is provided, a records custodian should provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

IV. Inspection of Records

- A. There shall be no charge for inspection of open public records.
- B. The location for inspection of records within the offices of the Tennessee Department of Revenue should be determined by either the PRRC or the records custodian.
- C. Under reasonable circumstances, the PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location.

V. Copies of Records

- A. The records custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.
- B. Copies will be available for pickup at a location specified by the records custodian.
- C. Upon payment for postage, copies will be delivered to the requestor's primary address by the United States Postal Service.

- D. Scanned copies (e.g., PDFs) of the requested records are available upon request and will be delivered to the requestor's email address, as specified in the written request.
- E. A requestor will not be allowed to make copies of records with personal equipment.

VI. Fees and Charges and Procedures for Billing and Payment

- A. Fees and charges for copies of public records shall not be used to hinder access to public records.
- B. Records custodians shall provide requestors with an itemized estimate of any charges prior to producing copies of records and may require pre-payment of such charges before producing requested records.
- C. When fees for copies and labor do not exceed \$25.00, the fees may be waived. Requests for waivers for fees above \$25.00 must be presented to the Commissioner of Revenue or his delegate, who is authorized to determine if such waiver is in the best interest of the Tennessee Department of Revenue and for the public good.
- D. Fees and charges for copies are as follows:
 - 1. \$2.00 per tax return
 - 2. \$1.00 per motor vehicle record
 - 3. \$1.50 per certified motor vehicle record
 - 4. \$0.15 per page for letter- and legal-size black and white copies.
 - 5. \$0.50 per page for letter- and legal-size color copies.
 - 6. Labor when time exceeds 25 hours.
 - 7. If an outside vendor is used, the actual costs assessed by the vendor.
- E. Payment may be made in cash, by personal check, cashier's check or by credit card. Checks must be payable to the Tennessee Department of Revenue.
- F. Payment in advance may be required in all situations.
- G. Aggregation of Frequent and Multiple Requests
 - 1. The Tennessee Department of Revenue may aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than four requests are received within a calendar month

(either from a single individual or a group of individuals deemed working in concert).

2. If aggregating:

- a. The level at which records requests will be aggregated is by agency.
- b. The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the records custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.