

Q&A on Confidentiality and Disclosure Issues

Historically, taxpayer information is confidential under state law. However, statute allows the publishing of aggregate statistics when they do not allow identification of individual taxpayers. The Department of Revenue interprets this as requiring at least three taxpayers before publishing the size of a tax preference.

There are important exceptions to this disclosure prohibition:

1. Taxpayer savings for preferences that are new, expanded, or extended after accountability reform legislation passed in 2013 are disclosable by law.
2. Specific preferences may have statutory accountability reporting (“survey”) from taxpayers that allows disclosure of the preference amount.

Q: How many preferences have a prohibition on publishing the aggregated amount?

	Number of preferences	Biennial Beneficiary Savings Estimate
Total preferences	632	
Requirement to file annual survey provides access to beneficiary savings where there are less than three tax payers	5	\$42M
Preferences where there are fewer than three beneficiaries and the amount of tax savings is not reported on an annual survey		
Greater than \$3m	3	\$27M
Between \$1m and \$3m	3	\$6M
Less than \$1m	9	\$3M
No estimate readily available	<u>6</u>	<u>Unknown</u>
Total	21	\$35M

Q: May other information (besides the tax preference amount) be disclosed in aggregate?

A: It depends on the type of information and the source. Generally anything on the taxpayer’s tax return cannot be provided even in aggregate if there are less than three taxpayers. Information that JLARC obtained through other methods (such as taxpayer accountability reports, information provided voluntarily by taxpayers, data published by other researchers or trade groups) may be disclosable.

Q: What about the disclosure of employment or wages at firms receiving preferences?

A: Employment levels from unemployment insurance records are also confidential. Aggregate employment numbers for a group of firms can generally be published if there **are five or more firms and no one firm comprises over 80% of the employment**. Employment levels can be disclosed if they are included in accountability “reports” submitted to DOR.

Q: If aggregate information cannot be disclosed right now, but the statute for the preference is modified or an expiration date is repealed/extended, can the information then be disclosed?

A: Generally, yes. If a preference is expanded or extended, the amount of the preference is disclosable 24 months after the reporting period due to accountability reform legislation passed in 2013. There are exceptions to this:

- property tax exemptions
- preferences required by constitutional law
- preferences worth less than \$10,000
- taxpayers who only file annually
- information on sellers (indirect beneficiaries) for goods that are exempt from sales tax