

Motor Vehicle Division Informational Memo # 21-24

2021 Legislation – Disclosure and access to personal information related to tax-exempt organizations

DATE: June 11, 2021

FROM: Sara Siedsma, Compliance Officer, MVD

TO: All Motor Vehicle Division staff, Iowa County Treasurers and County Treasurer staff

SUBJECT

This informational memo explains legislation enacted during the 2021 legislative session which restricts public agency disclosure of and access to certain personal information related to tax-exempt organizations and is most applicable to staff that process requests to establish new organizational decals for license plates and who respond to requests for information under the Driver's Privacy Protection Act (DPPA) or the Opens Records law.

SUMMARY

House File 309 prohibits a public agency, including the DOT, from seeking the disclosure of personal information from a 501(c) tax-exempt organization that would directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of the organization. The legislation also prohibits a public agency from disclosing personal information that would directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of the organization. A violation of this new law is subject to civil and criminal penalties. While we do not believe this law is targeted towards motor vehicle division business, we need to be aware of its impacts as we do hold and disclose information that may be subject to this new legislation.

The legislation is effective July 1, 2021.

LINK TO LEGISLATION

<https://www.legis.iowa.gov/docs/publications/LGE/89/HF309.pdf>

CURRENT

Under current law, there is no specific prohibition against disclosing information that may directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of a 501(c) tax-exempt organization.

NEW

As mentioned above, the legislation prohibits a public agency from seeking the disclosure of personal information from a 501(c) tax-exempt organization that would directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of the organization. The legislation also prohibits a public agency from disclosing personal information that would directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of the organization.

BUSINESS IMPACT

This legislation may have the following impacts on the DOT:

Plate decals. Under Iowa Code section 321.34(13), we are authorized to create special license plates displaying an organizational decal. Organizations eligible to apply to us to establish a new plate decal include 501(c) tax-exempt organizations. Theoretically under this new law, we cannot compel an organization seeking to establish a new plate decal to disclose any information that would directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of a 501(c)(3) tax-exempt organization. However, as a practical matter, an application to establish a new plate decal will naturally require information from a contact person with the organization. While we cannot compel a member of a tax-exempt organization to provide information identifying themselves as a member of the organization, we also cannot process the application without the required information. So, if a tax-exempt organization chooses to complete and submit an application to establish a new plate decal, we can work with them as long as they are willing to provide us with the information we need to process the request. However, if the organization chooses not to provide us with necessary information, we will not be able to assist them in establishing a new plate decal.

DPPA and open records requests. Because there are times we may have information in our records that that would directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of a 501(c)(3) tax-exempt organization, we need to be aware of this new legislation when responding to a DPPA or open records request.

Driver's license and non-operator's identification card transactions. We do not routinely collect nor do we store any information that would directly or indirectly link someone's record to membership in a 501(c)(3) tax-exempt organization as part of a driver's license or ID card transaction. For that reason, when responding to a DPPA or open records request for information in a person's driving record, the prohibition against disclosing personal information that would directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of a 501(c)(3) tax-exempt organization should not be a factor. However, in the event that a situation would come up where information in a person's driving record could link them to membership in a 501(c)(3) tax-exempt organization, that information will need to be reviewed and redacted prior to release.

Vehicle registration, title, and license plate transactions. We foresee this new legislation impacting us is if a requester is seeking information from us regarding the following:

- 1) A license plate decal we approved for a 501(c)(3) tax-exempt organization.
- 2) A persons with disabilities (PWD) product issued to a 501(c)(3) tax-exempt organization.
- 3) 501(c)(3) tax-exempt organizations who own authorized emergency vehicles registered with the DOT under administrative rule 761-400.5.
- 4) Any title, registration, or transfer of ownership document for a vehicle owned by a 501(c)(3) tax-exempt organization.

As mentioned above, if a member of the organization lists their personal information in connection with any of the above-listed transactions that would link that person to a 501(c)(3) tax-exempt organization, we need to make sure we are redacting any of that personal information prior to releasing the information.

We do not anticipate receiving a large volume of these types of requests and staff that are involved with reviewing and disclosing information as part of a DPPA or open records requests are already very familiar with the careful nature of that work and will just need to be aware of this extra step in the review process if the request involves a 501(c)(3) tax-exempt organization.

QUESTIONS AND ANSWERS

The following questions and answers provide additional information to you and to customers.

WHAT ARE SOME EXAMPLES OF WHEN INFORMATION MAY NEED TO BE REDACTED PRIOR TO RELEASE?

Example 1: A requester asks for a copy of a special plate decal application. We cannot release that application to the requester unless the name and personal information of the person making the request on behalf of the organization is redacted. This is because all special decals can only be requested by 501(c)(3) tax-exempt organizations, so any person making a request on behalf of the organization is one we should assume is either a member of or volunteer to the organization, and is thus covered under this new legislation. Listing the name of the tax-exempt organization itself is not prohibited.

Example 2: A requester asks for a list of approved plate decals alongside a list of contact persons for each tax-exempt organization requesting the decal. In this example we could provide a list of approved plate decals and a list of sponsoring organizations, but we could not provide the contact information for the person requesting the decal on behalf of the organization.

Example 3: A requester asks for a copy of a registration record for a vehicle owned by an organization. In this scenario, we must first determine if the organization is a 501(c)(3) tax-exempt organization. If it is, then we must redact any personal information on the registration record that would identify the person as associated with the 501(c)(3) tax-exempt organization prior to releasing.

WHAT IF A REQUESTER IS AUTHORIZED TO RECEIVE PERSONAL INFORMATION UNDER THE DPPA, DO WE STILL NEED TO REDACT?

Yes. If a requester is asking for any motor vehicle record information and releasing that information would directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of a 501(c)(3) tax-exempt organization, we must redact the personal information even if the requester would otherwise be authorized to receive it under the DPPA. While the DPPA authorizes us to release certain information to authorized requesters for permissible purposes,

it does not override more restrictive state laws, such as this one, that requires additional redaction and privacy protections.

DOES THIS NEW LAW CHANGE WHO IS AUTHORIZED TO REQUEST AND RECEIVE INFORMATION UNDER A DPPA OR OPEN RECORDS REQUEST?

No. This law does not in any way change who is authorized to request and receive information under a DPPA or open records request. The new law also does not significantly change how we evaluate and respond to DPPA and open records, unless the information being requested would directly or indirectly reveal the identity of a member, supporter, volunteer, or donor of a 501(c)(3) tax-exempt organization. In that case, we must redact the personal information prior to release.

HOW WILL I KNOW IF AN ORGANIZATION IS A 501(C)(3) TAX-EXEMPT ORGANIZATION?

One way to check an organization's 501(c)(3) tax-exempt status is to do a search by the organization's name or EIN number on the IRS website: <https://apps.irs.gov/app/eos/allSearch>