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**SUBSTITUTE SENATE BILL 5348**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senator A. Smith)

Read first time 01/20/94.

1 AN ACT Relating to disclosure of tax information and returns;  
2 amending RCW 82.32.330; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 82.32.330 and 1991 c 330 s 1 are each amended to read  
5 as follows:

6 (1) For purposes of this section:

7 (a) "Disclose" means to make known to any person in any manner  
8 whatever a return or tax information;

9 (b) "Return" means a tax or information return or claim for refund  
10 required by, or provided for or permitted under, the laws of this state  
11 which is filed with the department of revenue by, on behalf of, or with  
12 respect to a person, and any amendment or supplement thereto, including  
13 supporting schedules, attachments, or lists that are supplemental to,  
14 or part of, the return so filed;

15 (c) "Tax information" means (i) a taxpayer's identity, (ii) the  
16 nature, source, or amount of the taxpayer's income, payments, receipts,  
17 deductions, exemptions, credits, assets, liabilities, net worth, tax  
18 liability deficiencies, overassessments, or tax payments, whether taken  
19 from the taxpayer's books and records or any other source, (iii)

1 whether the taxpayer's return was, is being, or will be examined or  
2 subject to other investigation or processing, (iv) a part of a written  
3 determination that is not designated as a precedent and disclosed  
4 pursuant to RCW 82.32.410, or a background file document relating to a  
5 written determination, and (v) other data received by, recorded by,  
6 prepared by, furnished to, or collected by the department of revenue  
7 with respect to the determination of the existence, or possible  
8 existence, of liability, or the amount thereof, of a person under the  
9 laws of this state for a tax, penalty, interest, fine, forfeiture, or  
10 other imposition, or offense: PROVIDED, That data, material, or  
11 documents that do not disclose information related to a specific or  
12 identifiable taxpayer do not constitute tax information under this  
13 section. Except as provided by RCW 82.32.410, nothing in this chapter  
14 shall require any person possessing data, material, or documents made  
15 confidential and privileged by this section to delete information from  
16 such data, material, or documents so as to permit its disclosure;

17 (d) "State agency" means every Washington state office, department,  
18 division, bureau, board, commission, or other state agency; and

19 (e) "Taxpayer identity" means the taxpayer's name, address,  
20 telephone number, registration number, or any combination thereof, or  
21 any other information disclosing the identity of the taxpayer.

22 (2) Returns and tax information shall be confidential and  
23 privileged, and except as authorized by this section, neither the  
24 department of revenue nor any officer, employee, agent, or  
25 representative thereof nor any other person may disclose any return or  
26 tax information.

27 (3) The foregoing, however, shall not prohibit the department of  
28 revenue or an officer, employee, agent, or representative thereof from:

29 (a) Disclosing such return or tax information in a civil or  
30 criminal judicial proceeding or an administrative proceeding:

31 (i) In respect of any tax imposed under the laws of this state if  
32 the taxpayer or its officer or other person liable under Title 82 RCW  
33 is a party in the proceeding; or

34 (ii) In which the taxpayer about whom such return or tax  
35 information is sought and another state agency are adverse parties in  
36 the proceeding;

37 (b) Disclosing, subject to such requirements and conditions as the  
38 director shall prescribe by rules adopted pursuant to chapter 34.05  
39 RCW, such return or tax information regarding a taxpayer to such

1 taxpayer or to such person or persons as that taxpayer may designate in  
2 a request for, or consent to, such disclosure, or to any other person,  
3 at the taxpayer's request, to the extent necessary to comply with a  
4 request for information or assistance made by the taxpayer to such  
5 other person: PROVIDED, That tax information not received from the  
6 taxpayer shall not be so disclosed if the director determines that such  
7 disclosure would compromise any investigation or litigation by any  
8 federal, state, or local government agency in connection with the civil  
9 or criminal liability of the taxpayer or another person, or that such  
10 disclosure is contrary to any agreement entered into by the department  
11 that provides for the reciprocal exchange of information with other  
12 government agencies which agreement requires confidentiality with  
13 respect to such information unless such information is required to be  
14 disclosed to the taxpayer by the order of any court;

15 (c) Disclosing the name of a taxpayer with a deficiency greater  
16 than five thousand dollars and against whom a warrant under RCW  
17 82.32.210 has been either issued or (~~failed~~ ~~[filed]~~) filed and  
18 remains outstanding for a period of at least ten working days. The  
19 department shall not be required to disclose any information under this  
20 subsection if a taxpayer: (i) Has been issued a tax assessment; (ii)  
21 has been issued a warrant that has not been filed; and (iii) has  
22 entered a deferred payment arrangement with the department of revenue  
23 and is making payments upon such deficiency that will fully satisfy the  
24 indebtedness within twelve months;

25 (d) Disclosing the name of a taxpayer with a deficiency greater  
26 than five thousand dollars and against whom a warrant under RCW  
27 82.32.210 has been filed with a court of record and remains  
28 outstanding;

29 (e) Publishing statistics so classified as to prevent the  
30 identification of particular returns or reports or items thereof;

31 (f) Disclosing such return or tax information, for official  
32 purposes only, to the governor or attorney general, or to any state  
33 agency, or to any committee or subcommittee of the legislature dealing  
34 with matters of taxation, revenue, trade, commerce, the control of  
35 industry or the professions;

36 (g) Permitting the department of revenue's records to be audited  
37 and examined by the proper state officer, his or her agents and  
38 employees;

1        (h) Disclosing any such return or tax information to a peace  
2 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for  
3 official purposes. The disclosure shall be made only in response to a  
4 search warrant, subpoena, or other court order, unless the disclosure  
5 is for the purpose of criminal tax enforcement. A peace officer or  
6 county prosecuting attorney who receives such return or tax information  
7 may disclose that return or tax information only for use in the  
8 investigation and any related court proceeding, or in the court  
9 proceeding for which the return or tax information originally was  
10 sought;

11        (i) Disclosing any such return or tax information to the proper  
12 officer of the internal revenue service of the United States, the  
13 Canadian government or provincial governments of Canada, or to the  
14 proper officer of the tax department of any state or city or town or  
15 county, for official purposes, but only if the statutes of the United  
16 States, Canada or its provincial governments, or of such other state or  
17 city or town or county, as the case may be, grants substantially  
18 similar privileges to the proper officers of this state; or

19        ~~((+i))~~ (j) Disclosing any such return or tax information to the  
20 Department of Justice, the Bureau of Alcohol, Tobacco and Firearms of  
21 the Department of the Treasury, the Department of Defense, the United  
22 States customs service, the coast guard of the United States, and the  
23 United States department of transportation, or any authorized  
24 representative thereof, for official purposes;

25        ~~((+j))~~ (k) Publishing or otherwise disclosing the text of a  
26 written determination designated by the director as a precedent  
27 pursuant to RCW 82.32.410; or

28        ~~((+k))~~ (l) Disclosing, in a manner that is not associated with  
29 other tax information, the taxpayer name, business address, mailing  
30 address, revenue tax registration numbers, standard industrial  
31 classification code of a taxpayer, and the dates of opening and closing  
32 of business.

33        (4) Any person acquiring knowledge of any return or tax information  
34 in the course of his or her employment with the department of revenue  
35 and any person acquiring knowledge of any return or tax information as  
36 provided under subsection (3) (f), (g), (h), ~~((or))~~ (i), or (j) of this  
37 section, who discloses any such return or tax information to another  
38 person not entitled to knowledge of such return or tax information  
39 under the provisions of this section, shall ~~((upon conviction be~~

1 ~~punished by a fine not exceeding one thousand dollars and,~~) be guilty  
2 of a misdemeanor. If the person found guilty of such violation is an  
3 officer or employee of the state, such person shall forfeit such office  
4 or employment and shall be incapable of holding any public office or  
5 employment in this state for a period of two years thereafter.

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