

CERTIFICATION OF ENROLLMENT

SENATE BILL 5282

54th Legislature
1995 Regular Session

Passed by the Senate April 17, 1995
YEAS 45 NAYS 0

President of the Senate

Passed by the House April 11, 1995
YEAS 95 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5282** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 5282

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington **54th Legislature** **1995 Regular Session**

By Senators Fraser and Newhouse; by request of Department of Revenue

Read first time 01/18/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to confidentiality of certain information of the
2 department of revenue; amending RCW 82.32.330; providing an effective
3 date; and declaring an emergency.

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

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

7 (1) For purposes of this section:

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

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

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

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

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

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

23 (f) "Department" means the department of revenue or its officer,
24 agent, employee, or representative.

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

30 (3) The foregoing, however, shall not prohibit the department of
31 revenue ~~((or an officer, employee, agent, or representative thereof))~~
32 from:

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

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

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

4 (b) Disclosing, subject to such requirements and conditions as the
5 director shall prescribe by rules adopted pursuant to chapter 34.05
6 RCW, such return or tax information regarding a taxpayer to such
7 taxpayer or to such person or persons as that taxpayer may designate in
8 a request for, or consent to, such disclosure, or to any other person,
9 at the taxpayer's request, to the extent necessary to comply with a
10 request for information or assistance made by the taxpayer to such
11 other person: PROVIDED, That tax information not received from the
12 taxpayer shall not be so disclosed if the director determines that such
13 disclosure would compromise any investigation or litigation by any
14 federal, state, or local government agency in connection with the civil
15 or criminal liability of the taxpayer or another person, or that such
16 disclosure would identify a confidential informant, or that such
17 disclosure is contrary to any agreement entered into by the department
18 that provides for the reciprocal exchange of information with other
19 government agencies which agreement requires confidentiality with
20 respect to such information unless such information is required to be
21 disclosed to the taxpayer by the order of any court;

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

32 (d) Disclosing the name of a taxpayer with a deficiency greater
33 than five thousand dollars and against whom a warrant under RCW
34 82.32.210 has been filed with a court of record and remains
35 outstanding;

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

38 (f) Disclosing such return or tax information, for official
39 purposes only, to the governor or attorney general, or to any state

1 agency, or to any committee or subcommittee of the legislature dealing
2 with matters of taxation, revenue, trade, commerce, the control of
3 industry or the professions;

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

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

15 (i) Disclosing any such return or tax information to the Department
16 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the
17 Department of the Treasury, the Department of Defense, the United
18 States customs service, the coast guard of the United States, and the
19 United States department of transportation, or any authorized
20 representative thereof, for official purposes;

21 (j) Publishing or otherwise disclosing the text of a written
22 determination designated by the director as a precedent pursuant to RCW
23 82.32.410; ((or))

24 (k) Disclosing, in a manner that is not associated with other tax
25 information, the taxpayer name, entity type, business address, mailing
26 address, revenue tax registration numbers, standard industrial
27 classification code of a taxpayer, and the dates of opening and closing
28 of business. This subsection shall not be construed as giving
29 authority to the department to give, sell, or provide access to any
30 list of taxpayers for any commercial purpose; or

31 (1) Disclosing such return or tax information that is also
32 maintained by another Washington state or local governmental agency as
33 a public record available for inspection and copying under the
34 provisions of chapter 42.17 RCW or is a document maintained by a court
35 of record not otherwise prohibited from disclosure.

36 (4) (a) The department may disclose return or taxpayer information
37 to a person under investigation or during any court or administrative
38 proceeding against a person under investigation as provided in this
39 subsection (4). The disclosure must be in connection with the

1 department's official duties relating to an audit, collection activity,
2 or a civil or criminal investigation. The disclosure may occur only
3 when the person under investigation and the person in possession of
4 data, materials, or documents are parties to the return or tax
5 information to be disclosed. The department may disclose return or tax
6 information such as invoices, contracts, bills, statements, resale or
7 exemption certificates, or checks. However, the department may not
8 disclose general ledgers, sales or cash receipt journals, check
9 registers, accounts receivable/payable ledgers, general journals,
10 financial statements, expert's workpapers, income tax returns, state
11 tax returns, tax return workpapers, or other similar data, materials,
12 or documents.

13 (b) Before disclosure of any tax return or tax information under
14 this subsection (4), the department shall, through written
15 correspondence, inform the person in possession of the data, materials,
16 or documents to be disclosed. The correspondence shall clearly
17 identify the data, materials, or documents to be disclosed. The
18 department may not disclose any tax return or tax information under
19 this subsection (4) until the time period allowed in (c) of this
20 subsection has expired or until the court has ruled on any challenge
21 brought under (c) of this subsection.

22 (c) The person in possession of the data, materials, or documents
23 to be disclosed by the department has twenty days from the receipt of
24 the written request required under (b) of this subsection to petition
25 the superior court of the county in which the petitioner resides for
26 injunctive relief. The court shall limit or deny the request of the
27 department if the court determines that:

28 (i) The data, materials, or documents sought for disclosure are
29 cumulative or duplicative, or are obtainable from some other source
30 that is more convenient, less burdensome, or less expensive;

31 (ii) The production of the data, materials, or documents sought
32 would be unduly burdensome or expensive, taking into account the needs
33 of the department, the amount in controversy, limitations on the
34 petitioner's resources, and the importance of the issues at stake; or

35 (iii) The data, materials, or documents sought for disclosure
36 contain trade secret information that, if disclosed, could harm the
37 petitioner.

1 (d) The department shall reimburse reasonable expenses for the
2 production of data, materials, or documents incurred by the person in
3 possession of the data, materials, or documents to be disclosed.

4 (e) Requesting information under (b) of this subsection that may
5 indicate that a taxpayer is under investigation does not constitute a
6 disclosure of tax return or tax information under this section.

7 (5) Any person acquiring knowledge of any return or tax information
8 in the course of his or her employment with the department of revenue
9 and any person acquiring knowledge of any return or tax information as
10 provided under subsection (3) (f), (g), (h), or (i) of this section,
11 who discloses any such return or tax information to another person not
12 entitled to knowledge of such return or tax information under the
13 provisions of this section, shall upon conviction be punished by a fine
14 not exceeding one thousand dollars and, if the person guilty of such
15 violation is an officer or employee of the state, such person shall
16 forfeit such office or employment and shall be incapable of holding any
17 public office or employment in this state for a period of two years
18 thereafter.

19 NEW SECTION. Sec. 2. This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and shall take
22 effect July 1, 1995.

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