

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2516

Chapter 173, Laws of 2000

56th Legislature
2000 Regular Session

SUCCESSOR TAX LIABILITY--DISCLOSURE

EFFECTIVE DATE: 7/1/00

Passed by the House February 8, 2000
Yeas 97 Nays 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate February 29, 2000
Yeas 47 Nays 0

BRAD OWEN
President of the Senate

Approved March 27, 2000

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2516** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

CYNTHIA ZEHNDER
Chief Clerk

FILED

March 27, 2000 - 4:51 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 2516

Passed Legislature - 2000 Regular Session

State of Washington

56th Legislature

2000 Regular Session

By Representatives Stensen, Cox, Cooper and Thomas; by request of
Department of Revenue

Read first time 01/14/2000. Referred to Committee on Finance.

1 AN ACT Relating to the disclosure of information to persons against
2 whom successor tax liability is asserted; amending RCW 82.32.330; and
3 providing an effective date.

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

5 **Sec. 1.** RCW 82.32.330 and 1998 c 234 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;

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 other person may disclose any return or
28 tax information.

29 (3) The foregoing, however, shall not prohibit the department of
30 revenue from:

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

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

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

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

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

29 (d) Disclosing the name of a taxpayer with a deficiency greater
30 than five thousand dollars and against whom a warrant under RCW
31 82.32.210 has been filed with a court of record and remains
32 outstanding;

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

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

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

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

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

22 (j) Disclosing any such return or tax information to the Department
23 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the
24 Department of the Treasury, the Department of Defense, the United
25 States Customs Service, the Coast Guard of the United States, and the
26 United States Department of Transportation, or any authorized
27 representative thereof, for official purposes;

28 (k) Publishing or otherwise disclosing the text of a written
29 determination designated by the director as a precedent pursuant to RCW
30 82.32.410;

31 (l) Disclosing, in a manner that is not associated with other tax
32 information, the taxpayer name, entity type, business address, mailing
33 address, revenue tax registration numbers, standard industrial
34 classification code of a taxpayer, and the dates of opening and closing
35 of business. This subsection shall not be construed as giving
36 authority to the department to give, sell, or provide access to any
37 list of taxpayers for any commercial purpose;

38 (m) Disclosing such return or tax information that is also
39 maintained by another Washington state or local governmental agency as

1 a public record available for inspection and copying under the
2 provisions of chapter 42.17 RCW or is a document maintained by a court
3 of record not otherwise prohibited from disclosure; (~~or~~)

4 (n) Disclosing such return or tax information to the United States
5 department of agriculture for the limited purpose of investigating food
6 stamp fraud by retailers; or

7 (o) Disclosing to a person against whom the department has asserted
8 liability as a successor under RCW 82.32.140 return or tax information
9 pertaining to the specific business of the taxpayer to which the person
10 has succeeded.

11 (4)(a) The department may disclose return or taxpayer information
12 to a person under investigation or during any court or administrative
13 proceeding against a person under investigation as provided in this
14 subsection (4). The disclosure must be in connection with the
15 department's official duties relating to an audit, collection activity,
16 or a civil or criminal investigation. The disclosure may occur only
17 when the person under investigation and the person in possession of
18 data, materials, or documents are parties to the return or tax
19 information to be disclosed. The department may disclose return or tax
20 information such as invoices, contracts, bills, statements, resale or
21 exemption certificates, or checks. However, the department may not
22 disclose general ledgers, sales or cash receipt journals, check
23 registers, accounts receivable/payable ledgers, general journals,
24 financial statements, expert's workpapers, income tax returns, state
25 tax returns, tax return workpapers, or other similar data, materials,
26 or documents.

27 (b) Before disclosure of any tax return or tax information under
28 this subsection (4), the department shall, through written
29 correspondence, inform the person in possession of the data, materials,
30 or documents to be disclosed. The correspondence shall clearly
31 identify the data, materials, or documents to be disclosed. The
32 department may not disclose any tax return or tax information under
33 this subsection (4) until the time period allowed in (c) of this
34 subsection has expired or until the court has ruled on any challenge
35 brought under (c) of this subsection.

36 (c) The person in possession of the data, materials, or documents
37 to be disclosed by the department has twenty days from the receipt of
38 the written request required under (b) of this subsection to petition
39 the superior court of the county in which the petitioner resides for

1 injunctive relief. The court shall limit or deny the request of the
2 department if the court determines that:

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

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

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

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

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

19 (5) Any person acquiring knowledge of any return or tax information
20 in the course of his or her employment with the department of revenue
21 and any person acquiring knowledge of any return or tax information as
22 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this
23 section, who discloses any such return or tax information to another
24 person not entitled to knowledge of such return or tax information
25 under the provisions of this section, is guilty of a misdemeanor. If
26 the person guilty of such violation is an officer or employee of the
27 state, such person shall forfeit such office or employment and shall be
28 incapable of holding any public office or employment in this state for
29 a period of two years thereafter.

30 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2000.

Passed the House February 8, 2000.

Passed the Senate February 29, 2000.

Approved by the Governor March 27, 2000.

Filed in Office of Secretary of State March 27, 2000.