

1 1650-S AAS 4/13/93 S2884.1

2 **SHB 1650** - S COMM AMD

3 By Committee on Government Operations

4 ADOPTED 4/13/93 - BILL FAILED FP 4/19/93

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The attorney general shall examine the
8 implementation of RCW 42.17.325 regarding requests for reviews of
9 decisions by state agencies to deny public access to records. The
10 attorney general shall report to the legislature the results of that
11 examination and any recommendations of the attorney general regarding
12 the review process. The report shall be filed with the chief clerk of
13 the house of representatives and the secretary of the senate not later
14 than December 31, 1993.

15 **Sec. 2.** RCW 82.32.330 and 1991 c 330 s 1 are each amended to read
16 as follows:

17 (1) For purposes of this section:

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

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

26 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
27 nature, source, or amount of the taxpayer's income, payments, receipts,
28 deductions, exemptions, credits, assets, liabilities, net worth, tax
29 liability deficiencies, overassessments, or tax payments, whether taken
30 from the taxpayer's books and records or any other source, (iii)
31 whether the taxpayer's return was, is being, or will be examined or
32 subject to other investigation or processing, (iv) a part of a written
33 determination that is not designated as a precedent and disclosed
34 pursuant to RCW 82.32.410, or a background file document relating to a
35 written determination, and (v) other data received by, recorded by,

1 prepared by, furnished to, or collected by the department of revenue
2 with respect to the determination of the existence, or possible
3 existence, of liability, or the amount thereof, of a person under the
4 laws of this state for a tax, penalty, interest, fine, forfeiture, or
5 other imposition, or offense: PROVIDED, That data, material, or
6 documents that do not disclose information related to a specific or
7 identifiable taxpayer do not constitute tax information under this
8 section. Except as provided by RCW 82.32.410, nothing in this chapter
9 shall require any person possessing data, material, or documents made
10 confidential and privileged by this section to delete information from
11 such data, material, or documents so as to permit its disclosure;

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

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

17 (2) Returns and tax information shall be confidential and
18 privileged, and except as authorized by this section, neither the
19 department of revenue nor any officer, employee, agent, or
20 representative thereof nor any other person may disclose any return or
21 tax information.

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

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

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

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

32 (b) Disclosing, subject to such requirements and conditions as the
33 director shall prescribe by rules adopted pursuant to chapter 34.05
34 RCW, such return or tax information regarding a taxpayer to such
35 taxpayer or to such person or persons as that taxpayer may designate in
36 a request for, or consent to, such disclosure, or to any other person,
37 at the taxpayer's request, to the extent necessary to comply with a
38 request for information or assistance made by the taxpayer to such
39 other person: PROVIDED, That tax information not received from the

1 taxpayer shall not be so disclosed if the director determines that such
2 disclosure would compromise any investigation or litigation by any
3 federal, state, or local government agency in connection with the civil
4 or criminal liability of the taxpayer or another person, or that such
5 disclosure is contrary to any agreement entered into by the department
6 that provides for the reciprocal exchange of information with other
7 government agencies which agreement requires confidentiality with
8 respect to such information unless such information is required to be
9 disclosed to the taxpayer by the order of any court;

10 (c) Disclosing the name of a taxpayer with a deficiency greater
11 than five thousand dollars and against whom a warrant under RCW
12 82.32.210 has been either issued or (~~failed~~[~~filed~~]) filed and
13 remains outstanding for a period of at least ten working days. The
14 department shall not be required to disclose any information under this
15 subsection if a taxpayer: (i) Has been issued a tax assessment; (ii)
16 has been issued a warrant that has not been filed; and (iii) has
17 entered a deferred payment arrangement with the department of revenue
18 and is making payments upon such deficiency that will fully satisfy the
19 indebtedness within twelve months;

20 (d) Disclosing the name of a taxpayer with a deficiency greater
21 than five thousand dollars and against whom a warrant under RCW
22 82.32.210 has been filed with a court of record and remains
23 outstanding;

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

26 (f) Disclosing such return or tax information, for official
27 purposes only, to the governor or attorney general, or to any state
28 agency, or to any committee or subcommittee of the legislature dealing
29 with matters of taxation, revenue, trade, commerce, the control of
30 industry or the professions;

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

34 (h) Disclosing any such return or tax information to a peace
35 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for
36 official purposes. The disclosure shall be made only in response to a
37 search warrant, subpoena, or other court order, unless the disclosure
38 is for the purpose of criminal tax enforcement. A peace officer or
39 county prosecuting attorney who receives such return or tax information

1 may disclose that return or tax information only for use in the
2 investigation and any related court proceeding, or in the court
3 proceeding for which the return or tax information originally was
4 sought;

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

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

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

22 (~~(k))~~ (l) Disclosing, in a manner that is not associated with
23 other tax information, the taxpayer name, business address, mailing
24 address, revenue tax registration numbers, standard industrial
25 classification code of a taxpayer, and the dates of opening and closing
26 of business.

27 (4) Any person acquiring knowledge of any return or tax information
28 in the course of his or her employment with the department of revenue
29 and any person acquiring knowledge of any return or tax information as
30 provided under subsection (3) (f), (g), (h), (~~or~~) (i), or (j) of this
31 section, who discloses any such return or tax information to another
32 person not entitled to knowledge of such return or tax information
33 under the provisions of this section, shall (~~upon conviction be~~
34 ~~punished by a fine not exceeding one thousand dollars and,~~) be guilty
35 of a misdemeanor. If the person found guilty of such violation is an
36 officer or employee of the state, such person shall forfeit such office
37 or employment and shall be incapable of holding any public office or
38 employment in this state for a period of two years thereafter."

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ADOPTED 4/13/93

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4 On page 1, line 1 of the title, after "records;" strike the
5 remainder of the title and insert "amending RCW 82.32.330; creating a
6 new section; and prescribing penalties."

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