

2 **ESHB 1357** - S COMM AMD

3 By Committee on Law & Justice

4 Adopted as Amended 4/18/91 - Voice Vote

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

7 "Sec. 1. RCW 82.32.330 and 1990 c 67 s 1 are each amended to read
8 as follows:

9 (1) For purposes of this section:

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

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

18 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
19 nature, source, or amount of the taxpayer's income, payments, receipts,
20 deductions, exemptions, credits, assets, liabilities, net worth, tax
21 liability deficiencies, overassessments, or tax payments, whether taken
22 from the taxpayer's books and records or any other source, (iii)
23 whether the taxpayer's return was, is being, or will be examined or
24 subject to other investigation or processing, (iv) a part of a written
25 determination that is not designated as a precedent and disclosed
26 pursuant to section 2 of this act, or a background file document
27 relating to a written determination, and (v) other data received by,
28 recorded by, prepared by, furnished to, or collected by the department

1 of revenue with respect to the determination of the existence, or
2 possible existence, of liability, or the amount thereof, of a person
3 under the laws of this state for a tax, penalty, interest, fine,
4 forfeiture, or other imposition, or offense: PROVIDED, That data,
5 material, or documents that do not disclose information related to a
6 specific or identifiable taxpayer do not constitute tax information
7 under this section. Except as provided by section 2(1) of this act,
8 nothing in this chapter shall require any person possessing data,
9 material, or documents made confidential and privileged by this section
10 to delete information from such data, material, or documents so as to
11 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 ((hereinafter provided it shall be unlawful
19 for)) authorized by this section, neither the department of revenue
20 ((or)) nor any ((member, deputy, clerk)) officer, employee, agent,

21 ((employee,)) or representative thereof ((or)) nor any other person
22 ((to make known or reveal)) may disclose any ((facts or information
23 contained in any return filed by any taxpayer or disclosed in any
24 investigation or examination of the taxpayer's books and records made
25 in connection with the administration hereof)) return or tax
26 information.

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

1 ~~((1) Giving))~~ (a) Disclosing such ((facts)) return or tax
2 information ((in evidence in any court action involving)) in a civil or
3 criminal judicial proceeding or an administrative proceeding:

4 (i) In respect of any tax imposed ((hereunder or involving a
5 violation of the provisions hereof or involving)) under the laws of
6 this state if the taxpayer or its officer or other person liable under
7 Title 82 RCW is a party in the proceeding; or

8 (ii) In which the taxpayer about whom such return or tax
9 information is sought and another state ((department and the taxpayer;
10 ~~(2) giving such facts and information to the taxpayer or his duly~~
11 ~~authorized agent; (3))~~ agency are adverse parties in the proceeding;

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

29 (c) Disclosing the name of a taxpayer with a deficiency greater
30 than five thousand dollars and against whom a warrant under RCW

1 82.32.210 has been either issued or failed and remains outstanding for
2 a period of at least ten working days. The department shall not be
3 required to disclose any information under this subsection if a
4 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued
5 a warrant that has not been filed; and (iii) has entered a deferred
6 payment arrangement with the department of revenue and is making
7 payments upon such deficiency that will fully satisfy the indebtedness
8 within twelve months;

9 (d) Disclosing the name of a taxpayer with a deficiency greater
10 than five thousand dollars and against whom a warrant under RCW
11 82.32.210 has been filed with a court of record and remains
12 outstanding;

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

15 ~~((4) giving))~~ (f) Disclosing such ((facts)) return or tax
16 information, for official purposes only, to the governor or attorney
17 general, or to any state ((department,)) agency, ((board, commission,
18 council,)) or to any committee or subcommittee of the legislature
19 dealing with matters of taxation, revenue, trade, commerce, the control
20 of industry or the professions;

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

24 ~~((6) giving))~~ (h) Disclosing any such ((facts)) return or tax
25 information to the proper officer of the internal revenue service of
26 the United States, the Canadian government or provincial governments of
27 Canada, or to the proper officer of the tax department of any state or
28 city or town or county, for official purposes, but only if the statutes
29 of the United States, Canada or its provincial governments, or of such
30 other state or city or town or county, as the case may be, grants

1 substantially similar privileges to the proper officers of this state;
2 or

3 ~~((7) giving))~~ (i) Disclosing any such ((facts)) return or tax
4 information to the Department of Justice, the Bureau of Alcohol,
5 Tobacco and Firearms of the Department of the Treasury, ((or the army
6 or navy departments of the United States)) the Department of Defense,
7 the United States customs service, the coast guard of the United
8 States, and the United States department of transportation, or any
9 authorized representative thereof, for official purposes;

10 (j) Publishing or otherwise disclosing the text of a written
11 determination designated by the director as a precedent pursuant to
12 section 2 of this act; or

13 (i) Disclosing, in a manner that is not associated with other tax
14 information, the taxpayer name, business address, mailing address,
15 revenue tax registration numbers, standard industrial classification
16 code of a taxpayer, and the dates of opening and closing of business.

17 (4) Any person acquiring knowledge of ((such facts)) any return or
18 tax information in the course of his or her employment with the
19 department of revenue and any person acquiring knowledge of ((such
20 facts and)) any return or tax information as provided under ((4), (5),
21 (6) and (7) above)) subsection (3) (f), (g), (h), or (i) of this
22 section, who ((reveals or makes known)) discloses any such ((facts))
23 return or tax information to another person not entitled to knowledge
24 of such ((facts)) return or tax information under the provisions of
25 this section, shall upon conviction be punished by a fine ((of)) not
26 exceeding one thousand dollars and, if the ((offender or)) person
27 guilty of such violation is an officer or employee of the state, ((he))
28 such person shall forfeit such office or employment and shall be
29 incapable of holding any public office or employment in this state for
30 a period of two years thereafter."

1 "NEW SECTION. **Sec. 2.** A new section is added to chapter 82.32 RCW
2 to read as follows:

3 (1) The director may designate certain written determinations as
4 precedents.

5 (a) By rule adopted pursuant to chapter 34.05 RCW, the director
6 shall adopt criteria which he or she shall use to decide whether a
7 determination is precedential. These criteria shall include, but not
8 be limited to, whether the determination clarifies an unsettled
9 interpretation of Title 82 RCW or where the determination modifies or
10 clarifies an earlier interpretation.

11 (b) Written determinations designated as precedents by the director
12 shall be made available for public inspection and shall be published by
13 the department.

14 (c) The department shall disclose any written determination upon
15 which it relies to support any assessment of tax, interest, or penalty
16 against such taxpayer, after making the deletions provided by
17 subsection (2) of this section.

18 (2) Before making a written determination available for public
19 inspection under subsection (1) of this section, the department shall
20 delete:

21 (a) The names, addresses, and other identifying details of the
22 person to whom the written determination pertains and of another person
23 identified in the written determination; and

24 (b) Information the disclosure of which is specifically prohibited
25 by any statute applicable to the department of revenue, and the
26 department may also delete other information exempted from disclosure
27 by chapter 42.17 RCW or any other statute applicable to the department
28 of revenue."

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4 On page 1, line 1 of the title, after "information;" strike the
5 remainder of the title and insert "amending RCW 82.32.330; adding a new
6 section to chapter 82.32 RCW; and prescribing penalties."