

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1357

52nd Legislature
1991 Regular Session

Passed by the House March 19, 1991
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 18, 1991
Yeas 39 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1357** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1357

AS AMENDED BY THE SENATE

Passed Legislature - 1991 Regular Session

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Revenue (originally sponsored by Representatives Fraser, Holland, Wang, Wynne, Winsley, Moyer, Paris and May; by request of Department of Revenue).

Read first time February 28, 1991.

1 AN ACT Relating to the public disclosure of tax information;
2 amending RCW 82.32.330; adding a new section to chapter 82.32 RCW; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 82.32.330 and 1990 c 67 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;

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

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

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

28 (2) Returns and tax information shall be confidential and
29 privileged, and except as ((hereinafter provided it shall be unlawful
30 for)) authorized by this section, neither the department of revenue

1 (~~or~~) nor any (~~member, deputy, clerk~~) officer, employee, agent,
2 (~~employee,~~) or representative thereof (~~or~~) nor any other person
3 (~~to make known or reveal~~) may disclose any (~~facts or information~~
4 ~~contained in any return filed by any taxpayer or disclosed in any~~
5 ~~investigation or examination of the taxpayer's books and records made~~
6 ~~in connection with the administration hereof~~) return or tax
7 information.

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

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

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

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

22 (b) Disclosing, subject to such requirements and conditions as the
23 director shall prescribe by rules adopted pursuant to chapter 34.05
24 RCW, such return or tax information regarding a taxpayer to such
25 taxpayer or to such person or persons as that taxpayer may designate in
26 a request for, or consent to, such disclosure, or to any other person,
27 at the taxpayer's request, to the extent necessary to comply with a
28 request for information or assistance made by the taxpayer to such
29 other person: PROVIDED, That tax information not received from the
30 taxpayer shall not be so disclosed if the director determines that such

1 disclosure would compromise any investigation or litigation by any
2 federal, state, or local government agency in connection with the civil
3 or criminal liability of the taxpayer or another person, or that such
4 disclosure is contrary to any agreement entered into by the department
5 that provides for the reciprocal exchange of information with other
6 government agencies which agreement requires confidentiality with
7 respect to such information unless such information is required to be
8 disclosed to the taxpayer by the order of any court;

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

19 (d) 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 filed with a court of record and remains
22 outstanding;

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

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

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

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

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

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

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

27 (4) Any person acquiring knowledge of ((such facts)) any return or
28 tax information in the course of his or her employment with the
29 department of revenue and any person acquiring knowledge of ((such
30 facts and)) any return or tax information as provided under ((4), (5),

1 ~~(6) and (7) above~~) subsection (3) (f), (g), (h), or (i) of this
2 section, who (~~reveals or makes known~~) discloses any such (~~facts~~)
3 return or tax information to another person not entitled to knowledge
4 of such (~~facts~~) return or tax information under the provisions of
5 this section, shall upon conviction be punished by a fine (~~of~~) not
6 exceeding one thousand dollars and, if the (~~offender or~~) person
7 guilty of such violation is an officer or employee of the state, (~~he~~)
8 such person shall forfeit such office or employment and shall be
9 incapable of holding any public office or employment in this state for
10 a period of two years thereafter.

11 NEW SECTION. Sec. 2. A new section is added to chapter 82.32 RCW
12 to read as follows:

13 (1) The director may designate certain written determinations as
14 precedents.

15 (a) By rule adopted pursuant to chapter 34.05 RCW, the director
16 shall adopt criteria which he or she shall use to decide whether a
17 determination is precedential. These criteria shall include, but not
18 be limited to, whether the determination clarifies an unsettled
19 interpretation of Title 82 RCW or where the determination modifies or
20 clarifies an earlier interpretation.

21 (b) Written determinations designated as precedents by the director
22 shall be made available for public inspection and shall be published by
23 the department.

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

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

4 (a) The names, addresses, and other identifying details of the
5 person to whom the written determination pertains and of another person
6 identified in the written determination; and

7 (b) Information the disclosure of which is specifically prohibited
8 by any statute applicable to the department of revenue, and the
9 department may also delete other information exempted from disclosure
10 by chapter 42.17 RCW or any other statute applicable to the department
11 of revenue.