

2 **SB 5282** - H COMM AMD **ADOPTED 4/11/95**

3 By Committee on Finance

4

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

7 **"Sec. 1.** RCW 82.32.330 and 1991 c 330 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 RCW 82.32.410, or a background file document relating to a
27 written determination, and (v) other data received by, recorded by,
28 prepared by, furnished to, or collected by the department of revenue
29 with respect to the determination of the existence, or possible
30 existence, of liability, or the amount thereof, of a person under the
31 laws of this state for a tax, penalty, interest, fine, forfeiture, or
32 other imposition, or offense: PROVIDED, That data, material, or
33 documents that do not disclose information related to a specific or
34 identifiable taxpayer do not constitute tax information under this
35 section. Except as provided by RCW 82.32.410, nothing in this chapter
36 shall require any person possessing data, material, or documents made

1 confidential and privileged by this section to delete information from
2 such data, material, or documents so as to permit its disclosure;

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

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

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

10 (2) Returns and tax information shall be confidential and
11 privileged, and except as authorized by this section, neither the
12 department of revenue ~~((nor any officer, employee, agent, or~~
13 ~~representative thereof))~~ nor any other person may disclose any return
14 or tax information.

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

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

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

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

26 (b) Disclosing, subject to such requirements and conditions as the
27 director shall prescribe by rules adopted pursuant to chapter 34.05
28 RCW, such return or tax information regarding a taxpayer to such
29 taxpayer or to such person or persons as that taxpayer may designate in
30 a request for, or consent to, such disclosure, or to any other person,
31 at the taxpayer's request, to the extent necessary to comply with a
32 request for information or assistance made by the taxpayer to such
33 other person: PROVIDED, That tax information not received from the
34 taxpayer shall not be so disclosed if the director determines that such
35 disclosure would compromise any investigation or litigation by any
36 federal, state, or local government agency in connection with the civil
37 or criminal liability of the taxpayer or another person, or that such
38 disclosure would identify a confidential informant, or that such
39 disclosure is contrary to any agreement entered into by the department

1 that provides for the reciprocal exchange of information with other
2 government agencies which agreement requires confidentiality with
3 respect to such information unless such information is required to be
4 disclosed to the taxpayer by the order of any court;

5 (c) Disclosing the name of a taxpayer with a deficiency greater
6 than five thousand dollars and against whom a warrant under RCW
7 82.32.210 has been either issued or (~~failed~~~~—~~~~filed~~) filed and
8 remains outstanding for a period of at least ten working days. The
9 department shall not be required to disclose any information under this
10 subsection if a taxpayer: (i) Has been issued a tax assessment; (ii)
11 has been issued a warrant that has not been filed; and (iii) has
12 entered a deferred payment arrangement with the department of revenue
13 and is making payments upon such deficiency that will fully satisfy the
14 indebtedness within twelve months;

15 (d) Disclosing the name of a taxpayer with a deficiency greater
16 than five thousand dollars and against whom a warrant under RCW
17 82.32.210 has been filed with a court of record and remains
18 outstanding;

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

21 (f) Disclosing such return or tax information, for official
22 purposes only, to the governor or attorney general, or to any state
23 agency, or to any committee or subcommittee of the legislature dealing
24 with matters of taxation, revenue, trade, commerce, the control of
25 industry or the professions;

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

29 (h) Disclosing any such return or tax information to the proper
30 officer of the internal revenue service of the United States, the
31 Canadian government or provincial governments of Canada, or to the
32 proper officer of the tax department of any state or city or town or
33 county, for official purposes, but only if the statutes of the United
34 States, Canada or its provincial governments, or of such other state or
35 city or town or county, as the case may be, grants substantially
36 similar privileges to the proper officers of this state; (~~or~~)

37 (i) Disclosing any such return or tax information to the Department
38 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the
39 Department of the Treasury, the Department of Defense, the United

1 States customs service, the coast guard of the United States, and the
2 United States department of transportation, or any authorized
3 representative thereof, for official purposes;

4 (j) Publishing or otherwise disclosing the text of a written
5 determination designated by the director as a precedent pursuant to RCW
6 82.32.410; (~~or~~)

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

14 (l) Disclosing such return or tax information that is also
15 maintained by another Washington state or local governmental agency as
16 a public record available for inspection and copying under the
17 provisions of chapter 42.17 RCW or is a document maintained by a court
18 of record not otherwise prohibited from disclosure.

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

35 (b) Before disclosure of any tax return or tax information under
36 this subsection (4), the department shall, through written
37 correspondence, inform the person in possession of the data, materials,
38 or documents to be disclosed. The correspondence shall clearly
39 identify the data, materials, or documents to be disclosed. The

1 department may not disclose any tax return or tax information under
2 this subsection (4) until the time period allowed in (c) of this
3 subsection has expired or until the court has ruled on any challenge
4 brought under (c) of this subsection.

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

11 (i) The data, materials, or documents sought for disclosure are
12 obtainable from some other source that is more convenient, less
13 burdensome, or less expensive;

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

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

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

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

27 (5) 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) of this section,
31 who discloses any such return or tax information to another person not
32 entitled to knowledge of such return or tax information under the
33 provisions of this section, shall upon conviction be punished by a fine
34 not exceeding one thousand dollars and, if the person guilty of such
35 violation is an officer or employee of the state, such person shall
36 forfeit such office or employment and shall be incapable of holding any
37 public office or employment in this state for a period of two years
38 thereafter.

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

5 Correct the title accordingly.

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