

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5282**

Chapter 197, Laws of 1995

54th Legislature  
1995 Regular Session

CONFIDENTIALITY OF DEPARTMENT OF REVENUE INFORMATION

EFFECTIVE DATE: 7/1/95

Passed by the Senate April 17, 1995  
YEAS 45 NAYS 0

JOEL PRITCHARD

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**President of the Senate**

Passed by the House April 11, 1995  
YEAS 95 NAYS 0

CLYDE BALLARD

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**Speaker of the  
House of Representatives**

Approved May 1, 1995

MIKE LOWRY

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**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5282** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

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**Secretary**

FILED

May 1, 1995 - 11:39 a.m.

**Secretary of State  
State of Washington**

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**SENATE BILL 5282**

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AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

**State of Washington                      54th Legislature                      1995 Regular Session**

**By** Senators Fraser and Newhouse; by request of Department of Revenue

Read first time 01/18/95. Referred to Committee on Law & Justice.

1            AN ACT Relating to confidentiality of certain information of the  
2 department of revenue; amending RCW 82.32.330; providing an effective  
3 date; and declaring an emergency.

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

5            **Sec. 1.** RCW 82.32.330 and 1991 c 330 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; ~~((and))~~

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 officer, employee, agent, or~~  
28 ~~representative thereof))~~ nor any other person may disclose any return  
29 or tax information.

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

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

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

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

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

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

32 (d) Disclosing the name of a taxpayer with a deficiency greater  
33 than five thousand dollars and against whom a warrant under RCW  
34 82.32.210 has been filed with a court of record and remains  
35 outstanding;

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

38 (f) Disclosing such return or tax information, for official  
39 purposes only, to the governor or attorney general, or to any state

1 agency, or to any committee or subcommittee of the legislature dealing  
2 with matters of taxation, revenue, trade, commerce, the control of  
3 industry or the professions;

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

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

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

21 (j) Publishing or otherwise disclosing the text of a written  
22 determination designated by the director as a precedent pursuant to RCW  
23 82.32.410; ((or))

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

31 (1) Disclosing such return or tax information that is also  
32 maintained by another Washington state or local governmental agency as  
33 a public record available for inspection and copying under the  
34 provisions of chapter 42.17 RCW or is a document maintained by a court  
35 of record not otherwise prohibited from disclosure.

36 (4) (a) The department may disclose return or taxpayer information  
37 to a person under investigation or during any court or administrative  
38 proceeding against a person under investigation as provided in this  
39 subsection (4). The disclosure must be in connection with the

1 department's official duties relating to an audit, collection activity,  
2 or a civil or criminal investigation. The disclosure may occur only  
3 when the person under investigation and the person in possession of  
4 data, materials, or documents are parties to the return or tax  
5 information to be disclosed. The department may disclose return or tax  
6 information such as invoices, contracts, bills, statements, resale or  
7 exemption certificates, or checks. However, the department may not  
8 disclose general ledgers, sales or cash receipt journals, check  
9 registers, accounts receivable/payable ledgers, general journals,  
10 financial statements, expert's workpapers, income tax returns, state  
11 tax returns, tax return workpapers, or other similar data, materials,  
12 or documents.

13 (b) Before disclosure of any tax return or tax information under  
14 this subsection (4), the department shall, through written  
15 correspondence, inform the person in possession of the data, materials,  
16 or documents to be disclosed. The correspondence shall clearly  
17 identify the data, materials, or documents to be disclosed. The  
18 department may not disclose any tax return or tax information under  
19 this subsection (4) until the time period allowed in (c) of this  
20 subsection has expired or until the court has ruled on any challenge  
21 brought under (c) of this subsection.

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

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

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

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

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

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

7       (5) Any person acquiring knowledge of any return or tax information  
8 in the course of his or her employment with the department of revenue  
9 and any person acquiring knowledge of any return or tax information as  
10 provided under subsection (3) (f), (g), (h), or (i) of this section,  
11 who discloses any such return or tax information to another person not  
12 entitled to knowledge of such return or tax information under the  
13 provisions of this section, shall upon conviction be punished by a fine  
14 not exceeding one thousand dollars and, if the person guilty of such  
15 violation is an officer or employee of the state, such person shall  
16 forfeit such office or employment and shall be incapable of holding any  
17 public office or employment in this state for a period of two years  
18 thereafter.

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

Passed the Senate April 17, 1995.

Passed the House April 11, 1995.

Approved by the Governor May 1, 1995.

Filed in Office of Secretary of State May 1, 1995.