

Chapter 458-276 WAC

ACCESS TO PUBLIC RECORDS

WAC

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458-276-150 filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW. Adoption of form. [Statutory Authority: RCW 42.17.-250. WSR 78-02-064 (Order GT 78-1), § 458-276-150, filed 1/23/78.] Repealed by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 458-276-040 Operations and procedures. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-040, filed 1/23/78.] Repealed by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW.
- 458-276-050 Public records available. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-050, filed 1/23/78.] Repealed by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW.
- 458-276-060 Public records officer. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-060, filed 1/23/78.] Decodified and amended by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW. Recodified as § 458-276-045.
- 458-276-070 Hours for records inspection and copying. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-070, filed 1/23/78.] Decodified and amended by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW. Recodified as § 458-276-055.
- 458-276-080 Requests for public records. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-080, filed 1/23/78.] Repealed by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW.
- 458-276-090 Copying. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-090, filed 1/23/78.] Repealed by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW.
- 458-276-100 Exemptions. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-100, filed 1/23/78.] Repealed by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW.
- 458-276-110 Review of denials of public records requests. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-110, filed 1/23/78.] Repealed by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW.
- 458-276-120 Limitations on disclosure. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-120, filed 1/23/78.] Repealed by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW.
- 458-276-130 Records index. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-130, filed 1/23/78.] Repealed by WSR 15-01-105, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW.
- 458-276-140 Administrative offices. [Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-140, filed 1/23/78.] Repealed by WSR 15-01-105,

WAC 458-276-010 Authority and purpose of access to public records. (1) The purpose of the Public Records Act, chapter 42.56 RCW, is to provide for the public's access to information concerning the conduct of government. The purpose of these rules in this chapter is to establish the procedures the department of revenue (department) will follow in order to provide this access to nonexempt public records. These rules provide information to persons requesting access to public records of the department and establish processes for both requestors and department staff that are designed to assist members of the public in obtaining access.

(2) In carrying out its responsibilities under the Public Records Act, the department must give due regard to the applicable statutory exemptions or limitations from disclosure described in WAC 458-276-045.

[Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW. WSR 15-01-105, § 458-276-010, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-010, filed 1/23/78.]

WAC 458-276-020 Agency description—Public records officer—Public records. (1) **Department of revenue.** The department of revenue (department) is an agency headed by a director (director) appointed by the governor subject to confirmation by the state senate. The powers and duties of the director are those prescribed by RCW 82.01.-060. The department administers state tax and business licensing laws, acts as advisor on revenue matters to the governor, the legislature, and other state and local agencies, and supervises and assists in the administration of property tax laws at the state and local level. Where appropriate, the term department also refers to the staff and employees of the department of revenue.

(2) **Public records officer.** The department's public records officer oversees compliance with the Public Records Act but other department employees, referred to as public records designees, will generally process the specific requests. These rules, therefore, will refer to the public records officer or designee. The public records officer or designee of the department will:

- Assist requestors in obtaining the requested records;
- Create and maintain for use by the public and department employees an index to the department's public records;
- Protect public records from damage or disorganization;
- Fulfill public records requests without excessive interference with essential functions of the department;

- Give due regard to statutory exemptions or other judicially recognized limitations from disclosure; and
- Prevent unreasonable invasions of privacy or the use of records for purposes of commercial lists when releasing records to the public.

(3) **Public records.** A public record is any writing prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics containing information relating to the conduct of government or the performance of any governmental or proprietary function.

(4) **Writing.** Writing is every means of recording any form of communication or representation whether by handwriting, typewriting, printing, photostating/copying, photographing, or other means of recording. A "writing" includes, but is not limited to, letters, e-mail messages, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

[Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW. WSR 15-01-105, § 458-276-020, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-020, filed 1/23/78.]

WAC 458-276-030 Availability of public records—Centralized administration—Public records requests and processing—Contact information and hours—Index—Costs. (1) **Availability.** All public records of the department of revenue (department) are deemed to be available for public inspection and copying pursuant to these rules in this chapter, except as otherwise provided by WAC 458-276-045 regarding exemptions and other limitations on disclosure of records.

(2) **Centralized administration.** All communications with the department regarding administration or enforcement of chapter 42.56 RCW and these rules in this chapter, and written requests for copies of the department's public records, decisions, and other matters, are handled by the centralized administration of the public records officer or designee, sometimes collectively referred to as the department's public records unit. This rule describes this centralized administration. The public records officer or designee may be contacted at their centralized location described in subsection (6) of this rule.

(3) **Written and dated requests.** Requestors are encouraged to view the documents available on the web site prior to submitting a records request. The department recommends a written and dated request for public records to protect against unauthorized disclosure of confidential taxpayer information, unauthorized disclosure of licensing information, unauthorized disclosure of confidential property tax information, invasion of privacy, and to enhance the accuracy of the department's response to the request. A written request minimizes confusion or misunderstanding as to what is being requested and establishes a contact for clarifications and questions.

(4) **Request for records.** The written request is most effective if it contains the following information:

(a) Name of the person requesting the records or a point of contact;

- (b) Calendar date on which the request is made;
- (c) Specific records requested, if not identified in the public records index located online at dor.wa.gov, then an appropriate description of the records requested; and
- (d) Contact information for questions about the request including, if possible, mailing address, e-mail address, and telephone number.

(5) **Web site public records e-mail request available.** The department has developed an "e-mail request form" to assist requestors in obtaining public records. This e-mail request form is located on the department's web site at www.dor.wa.gov (searching: "public records").

(6) **Department's contact information.** Any person requesting access to public records of the department or seeking assistance in making such a request should contact the public records officer or designee of the department. Written requests for identifiable public records may be submitted to the department's public records officer or designee by mail, e-mail message, secure message, facsimile transmission, or delivered in person to the following addresses and physical location:

Mail delivery:
Department of Revenue
Public Records Unit
P.O. Box 47478
Olympia, WA 98504-7478;

E-mail message: dorpublicrecords@dor.wa.gov;
Internet web site: dor.wa.gov (search: "public records");
Facsimile transmission (fax): 360-705-6655;

Street address:
6500 Linderson Way S.W., Suite 102
Tumwater, WA 98501-6561.

(7) **Response.** Within five business days of the receipt of the initial public records request by the public records officer or designee, the department will:

- Provide the record;
- Acknowledge that the department has received the request and provide a reasonable estimate of the time it will take to fully respond;
- Seek a clarification of the request; or
- Deny the request.

(8) **Electronic format.** When a person requests public records in an electronic format, the public records officer or designee will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the department and is generally commercially available, or in a format that is reasonably translatable from the format in which the department keeps the records.

(9) **Public records index.** The department of revenue (department) maintains and makes available for public inspection and copying an appropriate index or indices in accordance with RCW 42.56.070. Such index or indices are located on the department's web site (searching: "public records index").

(10) **Hours for inspection and copying.** Public records maintained by the department in the central administrative offices of the taxpayer services division at the address and location described in subsection (6) of this rule, will be avail-

able for inspection and copying at the central administrative office during the customary office hours of the department. For the purposes of these rules in this chapter, the customary office hours are 9:00 a.m. to noon and 1:30 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(11) **Copying.** There is no fee for the inspection of public records. The department may charge fifteen cents per page for standard black and white paper photocopying. For other than standard photocopies a reasonable fee for providing copies of public records and for use of the department's copy equipment may be charged. The department will publish copying fees to make them readily available to the public. Any fee will be limited to reimbursing the department for its costs incident to such copying. The present fees for copying can be found on the department's internet web site: dor.wa.gov (search: "public records").

[Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW. WSR 15-01-105, § 458-276-030, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-030, filed 1/23/78.]

WAC 458-276-045 Public records exemptions—Determining limitations on disclosure—Commercial lists—Redactions—Exemption log. (1) **Exemptions.** The Public Records Act provides that certain documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any other statute exempts or prohibits disclosure. The following statutes and judicially recognized limitations prohibit the availability of some documents held by the department of revenue (department) for inspection and copying:

- RCW 19.02.115 concerning certain business licensing information;
- RCW 82.32.330 concerning disclosure of tax returns and confidential taxpayer information;
- RCW 84.08.210 concerning certain property tax information; and
- Limitations from disclosure found in chapter 42.56 RCW and other statute exemptions, including an employee's right to privacy; deliberative process exemption under RCW 42.56.210(1) regarding records containing predecisional opinions or recommendations of subordinates expressed as part of the deliberative process that are not cited by the agency; attorney-client privilege in RCW 5.60.060 (2)(a) and RCW 42.56.210(1) exempting attorney work-product involving a controversy; and the prohibition on providing lists requested for commercial purposes prohibited by RCW 19.02.115, 42.56.070(9), and 82.32.330 (3)(k).

(2) **Nondisclosure for commercial lists.** The department is prohibited by RCW 19.02.115, 42.56.070(9), and 82.32.330 (3)(k) from giving, selling, or providing access to any list of persons for any commercial purpose. The department may require the requestor to sign a declaration that the requestor will not put a list of persons in the record to use for a commercial purpose.

(3) **Determination required.** The department must determine that a public record requested in accordance with the procedures outlined in WAC 458-276-030 is not exempt from disclosure under the provisions of RCW 19.02.115, 42.56.230, 82.32.330, 84.08.210, chapter 42.56 RCW, other

statute limiting disclosure, or judicially recognized limitation from disclosure prior to the record's release.

(4) **Redactions.**

(a) RCW 42.56.210(1) creates an exception for tax information from any redaction requirement. Further, RCW 82.32.330 (1)(c), the department is not required to redact confidential taxpayer information within a document to permit its disclosure. RCW 19.02.115 states licensing information is confidential and privileged and does not list redaction as an authorized exception allowing disclosure. RCW 84.08.210 states tax information is confidential and privileged and does not list redaction as an authorized exception allowing disclosure. The department's policy is to not redact confidential taxpayer information or licensing information for purposes of disclosure.

(b) Pursuant to RCW 42.56.070, the department will redact identifying details when disclosure of such details would be an invasion of privacy protected by chapter 42.56 RCW. The department may redact for the deliberative process exemption found at RCW 42.56.210(1). The department may redact information when protected by the attorney-client privilege found at RCW 5.60.060 (2)(a) and 42.56.210(1). The public records officer or designee will provide a brief explanation justifying such redaction in writing.

(5) **Exemption log.** All denials, partially or fully denied, of requests for public records will be accompanied by a written statement specifying the reason for the denial. This will include an exemption log of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

[Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW. WSR 15-01-105, amended and recodified as § 458-276-045, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-060, filed 1/23/78.]

WAC 458-276-055 Review of denials of public records requests—Department's process—Attorney general and court review. (1) **Requestor's petition.** Any person who objects to the full or partial denial of a public records request may petition the department of revenue (department) in writing (including by e-mail message) to the public records officer or designee for prompt review of such decision. The petition shall include a copy of the full or partial denial received by the requestor.

(2) **Prompt review.** After receiving a written request for review of a decision denying a public record, the public records officer or designee denying the request will refer it to the public records officer's supervisor for review. The petition will be reviewed promptly within two business days following the department's receipt of the petition or within such other time as the department and the requestor may mutually agree. Such approval or disapproval shall constitute final department action for purposes of review under RCW 42.56.530.

(3) **Attorney general office's review.** Pursuant to RCW 42.56.530, if the department denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request that the attorney general's office review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) **Court review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative review under this rule.

[Statutory Authority: RCW 82.01.060(2) and chapter 42.56 RCW. WSR 15-01-105, amended and recodified as § 458-276-055, filed 12/18/14, effective 1/18/15. Statutory Authority: RCW 42.17.250. WSR 78-02-064 (Order GT 78-1), § 458-276-070, filed 1/23/78.]