
ENGROSSED SUBSTITUTE HOUSE BILL 1357

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) Returns and tax information shall be confidential and
8 privileged, and except as ((hereinafter provided it shall be unlawful
9 for)) authorized by this section, neither the department of revenue
10 ((or)) nor any ((member, deputy, clerk)) officer, employee, agent,
11 ((employee,)) or representative thereof ((or)) nor any other person
12 ((to make known or reveal)) may disclose any ((facts or information
13 contained in any return filed by any taxpayer or disclosed in any
14 investigation or examination of the taxpayer's books and records made

1 ~~in connection with the administration hereof))~~ return or tax
2 information.

3 (2) The foregoing, however, shall not ~~((be construed to))~~ prohibit
4 the department of revenue or ~~((a member or))~~ an officer, employee,
5 agent, or representative thereof from: ~~((1) Giving))~~ (a) Disclosing
6 such ~~((facts))~~ return or tax information ~~((in evidence in any court~~
7 action involving)) in a judicial or administrative proceeding (i) in
8 respect of any tax imposed ~~((hereunder or involving a violation of the~~
9 provisions hereof or involving)) under the laws of this state if the
10 taxpayer is a party to the proceeding, or the proceeding arose out of,
11 or in connection with, determining the taxpayer's civil or criminal
12 liability, or the collection of such civil liability, or (ii) in which
13 the taxpayer and another state ~~((department and the taxpayer; (2)~~
14 giving such facts and information to the taxpayer or his duly
15 authorized agent; (3)) agency are parties to the proceeding; (b)
16 disclosing, subject to such requirements and conditions as the director
17 shall prescribe by rules adopted pursuant to chapter 34.05 RCW, the
18 return of any taxpayer, or tax information with respect to such
19 taxpayer, to the taxpayer or to such person or persons as the taxpayer
20 may designate in a written request for or consent to such disclosure,
21 or to any other person at the taxpayer's request to the extent
22 necessary to comply with a request for information or assistance made
23 by the taxpayer to such other person: PROVIDED, That tax information
24 shall not be disclosed to the taxpayer or such person or persons if the
25 director determines that such disclosure would compromise any
26 investigation or litigation by any federal, state, or local government
27 agency in connection with the civil or criminal liability of the
28 taxpayer or another person, or that such disclosure is contrary to any
29 agreement entered into by the department which provides for the
30 reciprocal exchange of information with other government agencies which

1 agreement requires confidentiality with respect to such information,
2 unless such information is required to be disclosed to the taxpayer by
3 the order of any court; (c) publishing statistics so classified as to
4 prevent the identification of particular returns or reports or items
5 thereof; ~~((4) giving))~~ (d) disclosing such ~~((facts))~~ return or tax
6 information, for official purposes only, to the governor or attorney
7 general, or to any state ~~((department,))~~ agency, ~~((board, commission,~~
8 council,)) or to any committee or subcommittee of the legislature
9 dealing with matters of taxation, revenue, trade, commerce, the control
10 of industry or the professions; ~~((5))~~ (e) permitting ~~((its))~~ the
11 department of revenue's records to be audited and examined by the
12 proper state officer, his or her agents and employees; ~~((6) giving))~~
13 (f) disclosing any such ~~((facts))~~ return or tax information to the
14 proper officer of the internal revenue service of the United States,
15 the Canadian government or provincial governments of Canada, or to the
16 proper officer of the tax department of any state or city or town or
17 county, for official purposes, but only if the statutes of the United
18 States, Canada or its provincial governments, or of such other state or
19 city or town or county, as the case may be, grants substantially
20 similar privileges to the proper officers of this state; or ~~((7)~~
21 giving)) (g) disclosing any such ~~((facts))~~ return or tax information to
22 the Department of Justice, the Bureau of Alcohol, Tobacco and Firearms
23 of the Department of the Treasury, ~~((or the army or navy departments of~~
24 the United States)) the Department of Defense, the United States
25 customs service, the coast guard of the United States, and the United
26 States department of transportation, or any authorized representative
27 thereof, for official purposes; (h) publishing or otherwise disclosing
28 the text of a written determination designated by the director as a
29 precedent pursuant to section 2 of this act; or (i) disclosing, in a
30 manner that is not associated with other tax information, the taxpayer

1 name, business address, mailing address, revenue tax registration
2 numbers, standard industrial classification code of a taxpayer, and the
3 dates of opening and closing of business.

4 (3) Any person acquiring knowledge of (~~such facts~~) any return or
5 tax information in the course of his or her employment with the
6 department of revenue and any person acquiring knowledge of (~~such~~
7 facts and) any return or tax information as provided under (~~(4), (5),~~
8 (6) and (7) above) subsections (2) (d), (e), (f), or (g) of this
9 section, who (~~reveals or makes known~~) discloses any such (~~facts~~)
10 return or tax information to another person not entitled to knowledge
11 of such (~~facts~~) return or tax information under the provisions of
12 this section, shall upon conviction be punished by a fine (~~of~~) not
13 exceeding one thousand dollars and, if the (~~offender or~~) person
14 guilty of such violation is an officer or employee of the state, (~~he~~)
15 such person shall forfeit such office or employment and shall be
16 incapable of holding any public office or employment in this state for
17 a period of two years thereafter.

18 (4) For purposes of this section:

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

21 (b) "Return" means a tax or information return or claim for refund
22 required by, or provided for or permitted under, the laws of this state
23 which is filed with the department of revenue by, on behalf of, or with
24 respect to a person, and an amendment or supplement thereto, including
25 supporting schedules, attachments, or lists that are supplemental to,
26 or part of, the return so filed;

27 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
28 nature, source, or amount of the taxpayer's income, payments, receipts,
29 deductions, exemptions, credits, assets, liabilities, net worth, tax
30 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 section 2 of this act, or a background file document
6 relating to a written determination, and (v) other data received by,
7 recorded by, prepared by, furnished to, or collected by the department
8 of revenue with respect to the determination of the existence, or
9 possible existence, of liability, or the amount thereof, of a person
10 under the laws of this state for a tax, penalty, interest, fine,
11 forfeiture, or other imposition, or offense: PROVIDED, That data,
12 material, or documents that do not disclose information related to a
13 specific or identifiable taxpayer do not constitute tax information
14 under this section. Other than as provided by section 2(1) of this
15 act, nothing in this chapter shall require any person possessing data,
16 material, or documents made confidential and privileged by this section
17 to delete information from such data, material, or documents so as to
18 permit its disclosure;

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

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

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

26 (1) The director may designate certain written determinations as
27 precedents. Written determinations designated as precedents by the
28 director shall be made available for public inspection and shall be
29 published by the department. Upon request by a taxpayer, the

1 department shall disclose any written determination upon which it
2 relies to support any assessment of tax, interest, or penalty against
3 such taxpayer, after making the deletions provided by subsection (2) of
4 this section.

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

8 (a) The names, addresses, and other identifying details of the
9 person to whom the written determination pertains and of another person
10 identified in the written determination; and

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