

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2516**

56th Legislature  
2000 Regular Session

Passed by the House February 8, 2000  
Yeas 97 Nays 0

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**Speaker of the House of Representatives**

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**Speaker of the House of Representatives**

Passed by the Senate February 29, 2000  
Yeas 47 Nays 0

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**President of the Senate**

Approved

\_\_\_\_\_  
Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2516** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

\_\_\_\_\_  
**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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HOUSE BILL 2516

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Passed Legislature - 2000 Regular Session

State of Washington

56th Legislature

2000 Regular Session

By Representatives Stensen, Cox, Cooper and Thomas; by request of  
Department of Revenue

Read first time 01/14/2000. Referred to Committee on Finance.

1 AN ACT Relating to the disclosure of information to persons against  
2 whom successor tax liability is asserted; amending RCW 82.32.330; and  
3 providing an effective date.

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

5 **Sec. 1.** RCW 82.32.330 and 1998 c 234 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;

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 other person may disclose any return or  
28 tax information.

29 (3) The foregoing, however, shall not prohibit the department of  
30 revenue from:

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

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

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

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

19 (c) 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 either issued or filed and remains outstanding for  
22 a period of at least ten working days. The department shall not be  
23 required to disclose any information under this subsection if a  
24 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued  
25 a warrant that has not been filed; and (iii) has entered a deferred  
26 payment arrangement with the department of revenue and is making  
27 payments upon such deficiency that will fully satisfy the indebtedness  
28 within twelve months;

29 (d) Disclosing the name of a taxpayer with a deficiency greater  
30 than five thousand dollars and against whom a warrant under RCW  
31 82.32.210 has been filed with a court of record and remains  
32 outstanding;

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

35 (f) Disclosing such return or tax information, for official  
36 purposes only, to the governor or attorney general, or to any state  
37 agency, or to any committee or subcommittee of the legislature dealing  
38 with matters of taxation, revenue, trade, commerce, the control of  
39 industry or the professions;

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

4 (h) Disclosing any such return or tax information to a peace  
5 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for  
6 official purposes. The disclosure may be made only in response to a  
7 search warrant, subpoena, or other court order, unless the disclosure  
8 is for the purpose of criminal tax enforcement. A peace officer or  
9 county prosecuting attorney who receives the return or tax information  
10 may disclose that return or tax information only for use in the  
11 investigation and a related court proceeding, or in the court  
12 proceeding for which the return or tax information originally was  
13 sought;

14 (i) Disclosing any such return or tax information to the proper  
15 officer of the internal revenue service of the United States, the  
16 Canadian government or provincial governments of Canada, or to the  
17 proper officer of the tax department of any state or city or town or  
18 county, for official purposes, but only if the statutes of the United  
19 States, Canada or its provincial governments, or of such other state or  
20 city or town or county, as the case may be, grants substantially  
21 similar privileges to the proper officers of this state;

22 (j) Disclosing any such return or tax information to the Department  
23 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the  
24 Department of the Treasury, the Department of Defense, the United  
25 States Customs Service, the Coast Guard of the United States, and the  
26 United States Department of Transportation, or any authorized  
27 representative thereof, for official purposes;

28 (k) Publishing or otherwise disclosing the text of a written  
29 determination designated by the director as a precedent pursuant to RCW  
30 82.32.410;

31 (l) Disclosing, in a manner that is not associated with other tax  
32 information, the taxpayer name, entity type, business address, mailing  
33 address, revenue tax registration numbers, standard industrial  
34 classification code of a taxpayer, and the dates of opening and closing  
35 of business. This subsection shall not be construed as giving  
36 authority to the department to give, sell, or provide access to any  
37 list of taxpayers for any commercial purpose;

38 (m) Disclosing such return or tax information that is also  
39 maintained by another Washington state or local governmental agency as

1 a public record available for inspection and copying under the  
2 provisions of chapter 42.17 RCW or is a document maintained by a court  
3 of record not otherwise prohibited from disclosure; (~~or~~)

4 (n) Disclosing such return or tax information to the United States  
5 department of agriculture for the limited purpose of investigating food  
6 stamp fraud by retailers; or

7 (o) Disclosing to a person against whom the department has asserted  
8 liability as a successor under RCW 82.32.140 return or tax information  
9 pertaining to the specific business of the taxpayer to which the person  
10 has succeeded.

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

27 (b) Before disclosure of any tax return or tax information under  
28 this subsection (4), the department shall, through written  
29 correspondence, inform the person in possession of the data, materials,  
30 or documents to be disclosed. The correspondence shall clearly  
31 identify the data, materials, or documents to be disclosed. The  
32 department may not disclose any tax return or tax information under  
33 this subsection (4) until the time period allowed in (c) of this  
34 subsection has expired or until the court has ruled on any challenge  
35 brought under (c) of this subsection.

36 (c) The person in possession of the data, materials, or documents  
37 to be disclosed by the department has twenty days from the receipt of  
38 the written request required under (b) of this subsection to petition  
39 the superior court of the county in which the petitioner resides for

1 injunctive relief. The court shall limit or deny the request of the  
2 department if the court determines that:

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

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

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

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

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

19 (5) Any person acquiring knowledge of any return or tax information  
20 in the course of his or her employment with the department of revenue  
21 and any person acquiring knowledge of any return or tax information as  
22 provided under subsection (3)(f), (g), (h), (i), (j), or (n) of this  
23 section, who discloses any such return or tax information to another  
24 person not entitled to knowledge of such return or tax information  
25 under the provisions of this section, is guilty of a misdemeanor. If  
26 the person guilty of such violation is an officer or employee of the  
27 state, such person shall forfeit such office or employment and shall be  
28 incapable of holding any public office or employment in this state for  
29 a period of two years thereafter.

30 NEW SECTION. **Sec. 2.** This act takes effect July 1, 2000.

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