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SENATE BILL 5282

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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; creating a new section;  
3 providing an effective 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.

23 (2) Returns and tax information shall be confidential and  
24 privileged, and except as authorized by this section, neither the  
25 department of revenue nor any officer, employee, agent, or  
26 representative thereof nor any other person may disclose any return or  
27 tax information.

28 (3) The foregoing, however, shall not prohibit the department of  
29 revenue or an officer, employee, agent, or representative thereof from:

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

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

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

38 (b) Disclosing, subject to such requirements and conditions as the  
39 director shall prescribe by rules adopted pursuant to chapter 34.05

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

17 (c) Disclosing the name of a taxpayer with a deficiency greater  
18 than five thousand dollars and against whom a warrant under RCW  
19 82.32.210 has been either issued or (~~failed~~{filed}) filed and  
20 remains outstanding for a period of at least ten working days. The  
21 department shall not be required to disclose any information under this  
22 subsection if a taxpayer: (i) Has been issued a tax assessment; (ii)  
23 has been issued a warrant that has not been filed; and (iii) has  
24 entered a deferred payment arrangement with the department of revenue  
25 and is making payments upon such deficiency that will fully satisfy the  
26 indebtedness within twelve months;

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

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

33 (f) Disclosing such return or tax information, for official  
34 purposes only, to the governor or attorney general, or to any state  
35 agency, or to any committee or subcommittee of the legislature dealing  
36 with matters of taxation, revenue, trade, commerce, the control of  
37 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 the proper  
5 officer of the internal revenue service of the United States, the  
6 Canadian government or provincial governments of Canada, or to the  
7 proper officer of the tax department of any state or city or town or  
8 county, for official purposes, but only if the statutes of the United  
9 States, Canada or its provincial governments, or of such other state or  
10 city or town or county, as the case may be, grants substantially  
11 similar privileges to the proper officers of this state; ((or))

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

18 (j) Publishing or otherwise disclosing the text of a written  
19 determination designated by the director as a precedent pursuant to RCW  
20 82.32.410; ((or))

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

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

33 (4) The department of revenue or an officer, employee, agent, or  
34 representative of the department, may, in connection with official  
35 duties relating to an audit, collection activity, or civil or criminal  
36 tax investigation, or any other offense under the tax laws of this  
37 state, disclose return or taxpayer information, to the extent that such  
38 disclosure is necessary in obtaining information that is not otherwise  
39 reasonably available, with respect to the correct determination of tax,

1 liability for tax, or the amount to be collected or with respect to the  
2 enforcement of any other provision of this state's tax laws.

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

15 NEW SECTION. **Sec. 2.** The department of revenue may adopt rules  
16 necessary to implement this act.

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

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