
SENATE BILL 6440

State of Washington 60th Legislature 2008 Regular Session

By Senators Oemig, Kohl-Welles, and Fairley

Read first time 01/16/08. Referred to Committee on Ways & Means.

1 AN ACT Relating to providing tax information to the legislature;
2 amending RCW 82.32.330; and providing an effective date.

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

4 **Sec. 1.** RCW 82.32.330 and 2007 c 6 s 1502 are each amended to read
5 as follows:

6 (1) For purposes of this section:

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

9 (b) "Return" means a tax or information return or claim for refund
10 required by, or provided for or permitted under, the laws of this state
11 which is filed with the department of revenue by, on behalf of, or with
12 respect to a person, and any amendment or supplement thereto, including
13 supporting schedules, attachments, or lists that are supplemental to,
14 or part of, the return so filed;

15 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
16 nature, source, or amount of the taxpayer's income, payments, receipts,
17 deductions, exemptions, credits, assets, liabilities, net worth, tax
18 liability deficiencies, overassessments, or tax payments, whether taken
19 from the taxpayer's books and records or any other source, (iii)

1 whether the taxpayer's return was, is being, or will be examined or
2 subject to other investigation or processing, (iv) a part of a written
3 determination that is not designated as a precedent and disclosed
4 pursuant to RCW 82.32.410, or a background file document relating to a
5 written determination, and (v) other data received by, recorded by,
6 prepared by, furnished to, or collected by the department of revenue
7 with respect to the determination of the existence, or possible
8 existence, of liability, or the amount thereof, of a person under the
9 laws of this state for a tax, penalty, interest, fine, forfeiture, or
10 other imposition, or offense: PROVIDED, That data, material, or
11 documents that do not disclose information related to a specific or
12 identifiable taxpayer do not constitute tax information under this
13 section. Except as provided by RCW 82.32.410, nothing in this chapter
14 shall require any person possessing data, material, or documents made
15 confidential and privileged by this section to delete information from
16 such data, material, or documents so as to permit its disclosure;

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

19 (e) "Taxpayer identity" means the taxpayer's name, address,
20 telephone number, registration number, or any combination thereof, or
21 any other information disclosing the identity of the taxpayer; and

22 (f) "Department" means the department of revenue or its officer,
23 agent, employee, or representative.

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

28 (3) This section does not prohibit the department of revenue from:

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

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

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

37 (b) Disclosing, subject to such requirements and conditions as the
38 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 filed and remains outstanding for
20 a period of at least ten working days. The department shall not be
21 required to disclose any information under this subsection if a
22 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued
23 a warrant that has not been filed; and (iii) has entered a deferred
24 payment arrangement with the department of revenue and is making
25 payments upon such deficiency that will fully satisfy the indebtedness
26 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: (i) The governor or attorney general(~~(, or to)~~);
35 (ii) any state agency(~~(, or to)~~); or (iii) any member or staff,
36 including either committee or caucus staff, or both, assigned to a
37 committee or subcommittee of the legislature dealing with matters of

1 taxation, revenue, trade, commerce, the control of industry or the
2 professions;

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

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

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

24 (j) Disclosing any such return or tax information to the Department
25 of Justice, including the Bureau of Alcohol, Tobacco, Firearms and
26 Explosives within the Department of Justice, the Department of Defense,
27 the Immigration and Customs Enforcement and the Customs and Border
28 Protection agencies of the United States Department of Homeland
29 Security, the Coast Guard of the United States, and the United States
30 Department of Transportation, or any authorized representative thereof,
31 for official purposes;

32 (k) Publishing or otherwise disclosing the text of a written
33 determination designated by the director as a precedent pursuant to RCW
34 82.32.410;

35 (l) Disclosing, in a manner that is not associated with other tax
36 information, the taxpayer name, entity type, business address, mailing
37 address, revenue tax registration numbers, North American industry
38 classification system or standard industrial classification code of a

1 taxpayer, and the dates of opening and closing of business. This
2 subsection shall not be construed as giving authority to the department
3 to give, sell, or provide access to any list of taxpayers for any
4 commercial purpose;

5 (m) Disclosing such return or tax information that is also
6 maintained by another Washington state or local governmental agency as
7 a public record available for inspection and copying under the
8 provisions of chapter 42.56 RCW or is a document maintained by a court
9 of record not otherwise prohibited from disclosure;

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

13 (o) Disclosing to a financial institution, escrow company, or title
14 company, in connection with specific real property that is the subject
15 of a real estate transaction, current amounts due the department for a
16 filed tax warrant, judgment, or lien against the real property;

17 (p) Disclosing to a person against whom the department has asserted
18 liability as a successor under RCW 82.32.140 return or tax information
19 pertaining to the specific business of the taxpayer to which the person
20 has succeeded;

21 (q) Disclosing such return or tax information in the possession of
22 the department relating to the administration or enforcement of the
23 real estate excise tax imposed under chapter 82.45 RCW, including
24 information regarding transactions exempt or otherwise not subject to
25 tax;

26 (r) Disclosing the least amount of return or tax information
27 necessary for the reports required in RCW 82.32.640 (4) and (5) when
28 the number of taxpayers included in the reports or any part of the
29 reports cannot be classified to prevent the identification of taxpayers
30 or particular returns, reports, tax information, or items in the
31 possession of the department; or

32 (s) Disclosing to local taxing jurisdictions the identity of
33 sellers granted relief under RCW 82.32.430(5)(b)(i) and the period for
34 which relief is granted.

35 (4)(a) The department may disclose return or taxpayer information
36 to a person under investigation or during any court or administrative
37 proceeding against a person under investigation as provided in this
38 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), (i), (j), or (n) of this
11 section, who discloses any such return or tax information to another
12 person not entitled to knowledge of such return or tax information
13 under the provisions of this section, is guilty of a misdemeanor. If
14 the person guilty of such violation is an officer or employee of the
15 state, 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 NEW SECTION. **Sec. 2.** Section 1 of this act takes effect July 1,
19 2008.

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