

**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.]