

The Commonwealth of Massachusetts

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

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WILLIAM F. WELD
GOVERNOR

ARGEO PAUL CELLUCCI
LIEUTENANT GOVERNOR

February 23, 1993

To the Honorable Senate and House of Representatives:

We are filing herewith for your consideration the attached legislative proposal entitled, "An Act Permitting Disclosure Of Tax Returns And Tax Return Information For Use In Criminal Investigations."

Under the current law, law enforcement officials may rely on tax returns and tax return information for the investigation and prosecution of tax related offenses only. This legislation would provide a valuable investigative tool for District Attorneys and the Attorney General by allowing access to tax returns and tax return information which are relevant to criminal investigations. Crimes such as money laundering, bank fraud, real estate and securities fraud would be more thoroughly investigated and therefore more effectively prosecuted if the individual's tax return and tax return information were made available. This information is especially important in combatting the sophisticated criminal schemes which are employed today.

This proposal would provide prosecutors with a valuable tool while still maintaining the privacy of our taxpayers. Tax information would not be disclosed unless a superior court judge determined that there was reasonable cause to believe that a criminal act had been committed and that the tax return information was related to that act.

We urge your prompt consideration of this Act.

Respectfully submitted,

William F. Weld
Governor

Argeo Paul Cellucci
Lieutenant Governor

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Three.

AN ACT PERMITTING DISCLOSURE OF TAX RETURNS AND TAX RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 21 of chapter 62C of the General Laws,
2 as appearing in the 1990 Official Edition, is hereby amended by
3 striking subsection (a) and inserting in its place the following
4 subsection (a).

5 (a) The disclosure by the commissioner, or by any deputy,
6 assistant, clerk or assessor, or other employee of the common-
7 wealth or of any city or town therein, to any person but the
8 taxpayer or his representative, of any information contained in
9 or set forth by any return or document filed with the
10 commissioner, other than the name and address of the person
11 filing it, is prohibited, except:

12 (1) in proceedings or other activities to determine or collect the
13 tax or for the purpose of criminal prosecution under this chapter,
14 chapters sixty A, sixty-two to sixty-five C, inclusive, section ten
15 of chapter one hundred and twenty-one A and section twenty-one
16 of chapter one hundred and thirty-eight, and

17 (2) pursuant to and upon the grant of an ex parte order by an
18 associate justice of the Superior Court of the Commonwealth of
19 Massachusetts under subparagraph (3), and only to the extent
20 necessary as provided in such order, to officers and employees of
21 the department of the attorney general, any district attorney, and
22 any law enforcement agency working with and under the direction
23 of the department of the attorney general or any district attorney,
24 and who are personally and directly engaged in

25 (i) preparation for any judicial or administrative proceeding
26 pertaining to the enforcement of a state criminal statute (not
27 involving tax administration) to which the Commonwealth or a
28 department or agency thereof is or may be a party,

29 (ii) any investigation which may result in such a proceeding,

30 (iii) any state or county grand jury proceeding pertaining to the
31 enforcement of a state criminal statute to which the Common-
32 wealth is or may be a party, solely for the use of such officers
33 and employees in such preparation, investigation, or grand jury
34 proceeding.

35 (3) The attorney general and any district attorney may
36 authorize an application to an associate justice of the Superior
37 Court of the Commonwealth of Massachusetts for the order
38 referred to in subparagraph (2). Upon such application, such
39 associate justice may grant such order if he determines on the basis
40 of the facts submitted by the applicant that

41 (i) there is reasonable cause to believe, based upon information
42 believed to be reliable, that a specific criminal act has been
43 committed,

44 (ii) there is reasonable cause to believe that the return or return
45 information is or may be relevant to a matter relating to the
46 commission of such act, and

47 (iii) the return or return information is sought exclusively for
48 use in a state or county criminal investigation or proceeding
49 concerning such act, and the information sought to be disclosed
50 cannot reasonably be obtained, under the circumstances, from
51 another source.

