

**WAC 458-30-275 Continuing classification upon sale or transfer of ownership of classified land—Actions of landowner and county officials to be taken prior to recording a conveyance of classified land.**

(1) **Introduction.** If land classified under chapter 84.34 RCW is sold or transferred and the new owner wants to retain the classified status of the land, certain procedures must be followed before the conveyance may be recorded or filed. This rule explains the necessary procedures and required forms.

(2) **General requirements - New owner elects to have the land remain classified.** The county recording authority may not accept an instrument conveying ownership of land classified under chapter 84.34 RCW unless certain conditions are satisfied. When land classified under chapter 84.34 RCW is sold or transferred and the new owner elects to have the land retain its classified status, prior to recording or filing the conveyance, the new owner or the new owner's agent must:

(a) Sign the notice of continuance that is part of the real estate excise tax (REET) affidavit or sign a separate notice of continuance and attach it to the REET affidavit. (Subsection (9) of this rule contains an explanation about REET.) Both the REET affidavit and the notice of continuance are forms provided by the department of revenue and supplied to the counties. A copy of the REET affidavit may be obtained from the county treasurer. If the classified land is owned by multiple owners, all owners or their agent(s) must sign the notice of continuance that is part of the REET affidavit or the separate notice of continuance attached to the REET affidavit.

Except, a notice of continuance is not required when the transfer of classified land is to a new owner who is an heir or devisee of a deceased owner or is a transfer by a transfer on death deed; however, the land must continue to meet the requirements of classification to avoid removal. The treasurer determines that a transfer is by inheritance because the claim for the inheritance exemption is filled out on the REET affidavit with supporting documentation. The treasurer should notify the assessor when classified land has been transferred by inheritance or by a transfer on death deed without a notice of continuance; and

(b) Provide the assessor with a signed statement that explains how the new owner intends to use the classified land and any other information the assessor deems necessary to determine whether the land will continue to be eligible for classification under chapter 84.34 RCW. RCW 84.34.121 and WAC 458-30-270.

(3) **Required duties of the assessor before a conveyance of classified land may be filed or recorded.** The new owner must supply the assessor with the information outlined in subsection (2) of this rule if the new owner elects to have the land remain classified under chapter 84.34 RCW.

(a) After receiving all required documentation, the assessor is allowed up to fifteen calendar days to determine whether the land should retain its classified status or whether the land should be removed from classification as of the date of conveyance.

(b) To make this determination, the assessor may, but is not required to, consult with the county legislative authority if the land is classified as either open space or timber land or a combination of the county and city legislative authorities if the classified open space land or timber land is within an incorporated part of the county. Both the assessor and the granting authority may require the new owner to submit additional information about the use of the classified

land after the sale or transfer is complete. This information will be used to determine whether the land should remain classified under chapter 84.34 RCW.

(4) **When may a county recording authority accept an instrument conveying ownership of classified land?** A county recording authority may not accept an instrument of conveyance regarding the sale or transfer of land classified under chapter 84.34 RCW for filing or recording until the new owner complies with subsection (2) of this rule and the assessor determines that the land will or will not continue to qualify for classification.

(a) If the new owner signs the notice of continuance and the assessor agrees that the land should remain classified, the assessor checks the box on the REET affidavit that the land qualifies for continued classified status. The completed affidavit is then presented to the county recording authority so that it may record or file the conveyance. A completed REET affidavit includes a stamp, placed on it by the treasurer, indicating that any REET or additional tax, interest, and penalty owed as a result of the sale or transfer has been paid. (See subsection (9) of this rule for a more detailed explanation of the real estate excise tax.)

(b) If the assessor decides that the land must be removed or the owner submits a written request to remove the land from classification, the assessor will check the appropriate box on the REET affidavit that the land does not qualify for continuance, sign the REET affidavit, and begin the removal procedures set forth in WAC 458-30-295. Unless the removal results solely from one of the circumstances listed in RCW 84.34.108(6), the additional tax, interest, and penalty are due and payable by the seller or transferor at the time of sale.

(5) **Land removed from classification with no back taxes imposed.** If the removal results solely from one of the circumstances or actions listed in RCW 84.34.108(6), no additional tax, interest, or penalty is imposed. The assessor will:

(a) Follow the procedures set forth in WAC 458-30-295 and 458-30-300 for removing land from classification;

(b) Notify the treasurer and the seller or transferor that no additional tax, interest, or penalty will be imposed; and

(c) If the land is acquired for conservation purposes by any of the entities listed in RCW 84.34.108 (6)(f), inform the new owner that a lien equal to the amount of additional tax, interest, and penalty has been placed on the land, even though the additional tax, interest, and penalty will not be collected at this time. This lien becomes due and payable if and when the land ceases to be used for one of the purposes outlined in RCW 64.04.130 or 84.34.210.

(6) **Sales or transfers of timber land.** When a parcel(s) of classified timber land is sold or transferred, the new owner must submit a timber management plan to the assessor and comply with the general requirements listed in subsection (2) of this rule to retain the land's classified status. The assessor sends a copy of the timber management plan to the granting authority of the county in which the classified land is located. WAC 458-30-232 contains a list of the types of additional information an assessor may require the new owner to submit to enable the assessor to determine whether the land will be used to grow and harvest timber for commercial purposes. Generally, the new owner is required to submit a timber management plan when a sale or transfer of timber land occurs and a notice of continuance is signed. However, because a notice of continuance is not required when classified land is transferred by a transfer on death deed or transferred to a new

owner who is the heir or devisee of a deceased owner, a timber management plan would not be required under these circumstances.

The assessor may allow an extension of time for submitting the timber management plan when a notice of continuance is received. The new owner will be notified of this extension in writing. If the timber management plan is not received by the date set by the assessor, the notice of continuance will be automatically denied.

(7) **Sales or transfers of farm and agricultural land.** When a parcel(s) of classified farm and agricultural land is sold or transferred, the new owner must comply with the general requirements listed in subsection (2) of this rule. The size of the classified land determines whether any additional requirements must also be satisfied. After all required information is submitted, the assessor determines whether the land qualifies for continued classification.

(a) If the classified land sold or transferred is twenty acres or more, the new owner must satisfy the general requirements listed in subsection (2) of this rule.

(b) If the sale or transfer involves less than twenty acres, the new owner will be required to comply with the general requirements of subsection (2) of this rule and the seller or buyer may be asked to provide gross income or investment information relating to the productivity of the classified land. This income and investment information is used to determine whether the land meets the requirements listed in RCW 84.34.020 (2)(b), (c), and (d). However, if the income or investment information is unavailable but the new owner is willing to sign the notice of continuance and accept the responsibility for any additional tax, interest, and penalty owed for prior years that will be due if the land is later found to be ineligible for continued classification, the classified status of the land will continue until the assessor determines that the land is no longer eligible.

(i) RCW 84.34.020 (2)(b) and (c) set forth the minimum gross income requirements for classified farm and agricultural land of less than twenty acres. If classified land is transferred to a surviving spouse or state registered domestic partner, the gross income requirements will not be examined at the time of transfer, and the land will be subject to the same gross income requirements that were applicable before the death of the spouse or domestic partner. For example, a sixteen acre parcel of classified farm and agricultural land classified in 1988, is transferred to a surviving spouse in 2005. The classified land is still required to produce a minimum of one hundred dollars per acre per year and the assessor is not required to review the income information at the time of sale or transfer.

(ii) Sale or transfer of land classified prior to January 1, 1993. As of January 1, 1993, the legislature imposed higher gross income requirements on classified farm and agricultural land of less than twenty acres. When land classified prior to January 1, 1993, is sold or transferred to a new owner, excluding a transfer to a surviving spouse or state registered domestic partner, the higher minimum income requirements set forth in RCW 84.34.020 (2)(b)(i)(B) and (c)(ii) will be deferred for a period of three years. The new owner is required to produce either two hundred dollars per acre per year if the parcel is five acres or more but less than twenty acres, or fifteen hundred dollars per year if the parcel is less than five acres, at least once during the three calendar years immediately following the sale or transfer. For example, if classification was granted in 1991 to a fifteen acre parcel that produced a gross income of one hundred dollars per acre per year until it was sold on April 15, 2009,

the higher minimum gross income requirements will be deferred until 2012. By the end of 2012, the new owner must show that the parcel produced at least two hundred dollars per acre for at least one year during the three-year period of 2010 through 2012. If the land produced a gross income of two hundred dollars per acre, the land remains classified as farm and agricultural land. If the land failed to produce this amount at least once during this three-year period, the land will be removed from classification and the owner will be required to pay additional tax, interest, and penalty.

(iii) Sale or transfer of land classified on or after January 1, 1993. The higher minimum gross income requirements of RCW 84.34.020 (2)(b)(i)(B) and (c)(ii) apply to land classified on or after January 1, 1993. When the land is sold or transferred, the assessor may ask the seller or buyer to provide gross income information relating to the farm and agricultural operation for three of the past five years. This information will be used to determine whether the land should retain its status as classified farm and agricultural land. For example, a ten acre parcel that was classified as farm and agricultural land on May 1, 1995, is sold on February 23, 2001. The assessor asks the seller of the classified land to provide information about the gross income the land produced during the five calendar years preceding the sale (i.e., 1996 through 2000). To retain the farm and agricultural classification, the land must have produced a minimum gross income of two hundred dollars per acre per year at least three of the five calendar years preceding the date of sale. However, if the gross income information is unavailable but the new owner is willing to sign the notice of continuance and accept the responsibility for any additional tax, interest, and penalty owed for prior years that will be due if the land is later found to be ineligible for continued classification, the classified status of the land will continue until the assessor determines that the land is no longer eligible.

(iv) RCW 84.34.020 (2)(d) sets forth the minimum investment requirement for classified farm and agricultural land, at least five but less than twenty acres, that has a standing crop. If classified farm and agricultural land meeting this description is sold or transferred, the assessor may ask the buyer or seller to provide information that demonstrates that an investment in the production of the standing crops equivalent to one hundred dollars or more per acre in the current or previous calendar year was made.

(c) Segregation of land. If the sale or transfer of classified land involves a segregation, the owner of the newly created parcel(s) and the owner of the parcel from which the land was segregated must comply with the requirements for classification, including the minimum gross income or investment requirements, to enable the assessor to continue the classified status of the land.

(8) **New owner's acknowledgment.** The new owner, by signing the notice of continuance, acknowledges that future use of the land must conform to the provisions of chapter 84.34 RCW.

(9) **Real estate excise tax (REET).** An excise tax is generally imposed in accordance with chapter 82.45 RCW whenever real property is sold or transferred. The amount of this tax is based upon the selling price of the real property. Real estate excise tax is due at the time of sale. This tax is paid to and collected by the treasurer of the county in which the real property is located. (Refer to RCW 82.45.010 for a listing of transactions that are not considered a sale or transfer upon which REET is imposed.)

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.34.141, 84.34.360. WSR 15-03-017, § 458-30-275, filed 1/8/15, effective 2/8/15. Statutory Authority: 2009 c 521. WSR 10-07-133, § 458-30-275, filed 3/23/10, effective 4/23/10. Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. WSR 02-20-041, § 458-30-275, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.34.141. WSR 01-24-030, § 458-30-275, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. WSR 95-21-002, § 458-30-275, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. WSR 90-24-087, § 458-30-275, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. WSR 88-23-062 (Order PT 88-12), § 458-30-275, filed 11/15/88.]