

WAC 458-61A-301 Payment of tax, collection responsibility, audit responsibility, and tax rulings. (1) Tax imposed.

(a) The taxes imposed are due at the time the sale occurs and are collected by the county when the documents of sale are presented for recording or, in the case of a transfer of a controlling interest (see WAC 458-61A-101), by the department.

(b) The tax is imposed upon the seller. Effective May 1, 2010, the parent corporation of a wholly owned subsidiary is the seller, if the subsidiary sells to a third party and the subsidiary is dissolved before paying the tax.

(2) **Payment of tax. Scope of rule.** This rule applies to sales of real property that are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of title to real property. See WAC 458-61A-101 for procedures pertaining to transfers or acquisitions of a controlling interest in an entity owning real property in Washington.

(3) **County as agent for state.** Real estate excise tax is paid to and collected by the agent of the county where the property is located (unless the transaction involves the transfer of a controlling interest, in which case the tax is paid to the department).

(4) **Computation of tax.** The tax is computed by multiplying the combined state and local tax rates in effect at the time of sale by the selling price. A current list of the current state and local real estate excise tax rates is available on the department's website at dor.wa.gov. This information is also available by contacting the county where the property is located.

(5) **Evidence of payment.** The county agent stamps the instrument of conveyance or sale prior to its recording as evidence that the tax has been paid or that an exemption from the tax was claimed. In the case of a used mobile home, the real estate excise tax affidavit is stamped as evidence of payment or a claimed exemption. The stamp references the affidavit number, date, and payment of or exemption from tax, and identifies the person stamping the instrument or affidavit.

(6) **Compliance with property tax statutes.** The county agent will not stamp the instrument of conveyance or sale or affidavit if:

(a) A continuance of use has been applied for but not approved by the county assessor under chapter 84.33 or 84.34 RCW; or

(b) Compensating or additional tax is due but has not been paid as required by RCW 84.33.086, 84.33.140 (5)(c), 84.34.108 (1)(c), 84.36.812, or 84.26.080.

(7) **Prerequisites to recording.** The county auditor will not file or record the instrument of conveyance or sale until all taxes due under this rule have been paid or the transfer is determined to be exempt from tax as indicated by a stamped document.

(8) **Evidence of lien satisfaction.** A receipt issued by the county agent for payment of the tax may be used as evidence of satisfaction of a lien imposed under RCW 82.45.070.

(9) **Audit authority.** All transactions are subject to audit by the department. The department will audit transactions to confirm the proper amount of tax was paid and that any claim for exemption is valid. Failure to provide documentation to the department as requested may result in denial of any exemptions claimed and the assessment of additional tax.

(10) **Tax assessments.**

(a) If the department discovers an underpayment of tax due, it will notify the taxpayer and assess the additional tax due, together with all applicable interest and penalties. The assessment notice will

identify the additional tax due and explain the reason for the assessment.

(b) Persons receiving an assessment must respond within thirty days from the date the assessment was mailed. Failure to respond may result in the assessment of additional penalties and interest and enforcement for collection of the deficient tax under the administrative provisions of chapters 82.32 and 82.45 RCW.

(11) **Tax rulings.** Any person may request a written opinion from the department regarding their real estate excise tax liability pertaining to a proposed transfer of real property or a proposed transfer or acquisition of the controlling interest in an entity with an interest in real property. The request should include sufficient facts about the transaction to enable the department to ascertain the proper tax liability. The department will advise the taxpayer in writing of its opinion. The opinion is binding upon both the taxpayer and the department under the facts presented in accordance with WAC 458-20-100 (Informal administrative reviews). To request a ruling, use the form available at the department's website at dor.wa.gov.

(12) **Refunds.**

(a) **Introduction.** Under certain circumstances, taxpayers (or their authorized representatives) may request a refund of real estate excise tax paid. The request must be filed within four years of the date of sale, and must be accompanied by supporting documents.

(b) **Claims for refunds.** Any person having paid the real estate excise tax in error may apply for a refund of the amount overpaid by submitting a completed refund request form.

(c) **Forms and documentation.** Refund request forms are available from the department or the county. The completed form along with supporting documentation is submitted to the county office where the tax was originally paid. If the tax was originally paid directly to the department, you may apply for a refund using the forms and procedures provided at the department's website at dor.wa.gov.

(d) **Circumstances under which refunds are authorized.** The authority to issue a refund under this chapter is limited to the following circumstances:

(i) Real estate excise tax was paid on the transfer back to the seller in a transaction that is completely rescinded (as defined in WAC 458-61A-209);

(ii) Real estate excise tax was paid on the transfer back to the seller on a sale rescinded by court order. The county treasurer must attach a copy of the court decision to the department's affidavit copy (see also WAC 458-61A-208, Deeds in lieu of foreclosure);

(iii) Real estate excise tax was paid on the initial transfer recorded in error by an escrow agent before the closing date, provided that the property is conveyed back to the seller;

(iv) Real estate excise tax was paid on the transfer back to the seller in accordance with (d)(iii) of this subsection;

(v) Real estate excise tax was paid on the initial transfer recorded before a purchaser assumes an outstanding loan that represents the only consideration paid for the property, provided:

(A) The purchaser is unable to assume the loan; and

(B) The property is conveyed back to the seller. The refund is allowed because there is a failure of the consideration;

(vi) The transfer back to the seller in (d)(v) of this subsection;

(vii) Double payment of the tax;

(viii) Overpayment of the tax through error of computation; or

(ix) Real estate excise tax paid when the taxpayer was entitled to claim a valid exemption from the tax but failed to do so at the time of transfer.

(e) **Responsibilities of county.**

(i) **Request for refund made prior to disposition of proceeds.** If the taxpayer submits a valid refund request to the county before the county treasurer has remitted the tax to the state treasurer, the county may void the receipted affidavit copies and issue the refund directly. The county will then submit a copy of the initial affidavit, together with a copy of the refund request, to the department. If, after reviewing the request for refund and supporting documentation, the county is unable to determine the validity of the request, the county will send the request, a copy of the affidavit, and all supporting documentation to the department for determination. If the county denies the request for refund, in whole or in part, the taxpayer may seek review in writing to the department's miscellaneous tax section within thirty days of the county's denial.

(ii) **Request for refund made after disposition of proceeds.** If the taxpayer submits the refund request after the county treasurer has remitted the tax to the state treasurer, the county will verify the information in the request and forward it to the department with a copy of the affidavit and any other supporting documents provided by the taxpayer. The county or the department may request additional documentation to determine whether the taxpayer qualifies for a refund.

[Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 16-12-074, § 458-61A-301, filed 5/27/16, effective 6/27/16. Statutory Authority: RCW 82.45.150, 82.32.300, and 82.01.060. WSR 14-06-060, § 458-61A-301, filed 2/28/14, effective 3/31/14; WSR 11-16-106, § 458-61A-301, filed 8/3/11, effective 9/3/11. Statutory Authority: RCW 82.32.300, 82.01.060(2), and 82.45.150. WSR 05-23-093, § 458-61A-301, filed 11/16/05, effective 12/17/05.]