

Chapter 458-28 WAC

TAXATION OF FINANCIAL BUSINESSES BY CITIES OR TOWNS

WAC

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WAC 458-28-010 Scope of rule. Chapter 134, Laws of 1972 ex. sess., authorizes cities and towns to impose a license fee or tax on financial institutions. Financial institutions having business locations in cities and towns which levy a tax upon gross income or gross receipts for the privilege of engaging in business shall divide their gross income for purposes of computing income earned in the cities, towns or unincorporated areas in which such places of business are located in accordance with these rules.

[Order ET 72-1, § 458-28-010, filed 9/29/72.]

WAC 458-28-020 Gross income defined. "Gross income of the business" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds, or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends, and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses.

Other examples of gross income are receipts from carrying charges, service charges, credit cards, safety deposit box rentals, bookkeeping or data processing, overdraft fees, flooring fees, and penalty fees.

[Order ET 72-1, § 458-28-020, filed 9/29/72.]

WAC 458-28-030 Deductions. In arriving at income taxable to a city or town from activities of a place of business located therein, financial institutions may deduct from gross income:

(1) Dividends received by a parent from a subsidiary corporation.

(2) Interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties.

(3) Interest received on obligations of the State of Washington, its political subdivisions, and municipal corporations. A deduction may also be taken for interest received on direct obligations of the Federal government, but not for interest attributable to loans or other financial obligations on which the Federal government is merely a guarantor or insurer.

(4) Gross proceeds from the sale or rental of real estate.

[Order ET 72-1, § 458-28-030, filed 9/29/72.]

WAC 458-28-040 Branch locations, division of income. Financial institutions having more than one place of business shall divide total taxable gross income so as to attribute taxable income to each location in the ratio of total interest earned (whether taxable or not) on loans originated at

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each location during the period covered by the tax return. The location at which a loan is originated is the place of business of the financial institution at which the customer deals with the financial institution to obtain the loan. Financial institutions having time or demand deposits may compute the ratio of total deposits at each location as a basis for approximating gross income of each location, provided the financial institution can demonstrate that the taxable income so computed will not differ by more than \$10,000 in any one calendar year as to any one business location from the amount computed using the ratio of interest earned on loans originated at each location.

[Order ET 72-1, § 458-28-040, filed 9/29/72.]

Chapter 458-29A WAC

LEASEHOLD EXCISE TAX

WAC

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WAC 458-29A-100 Leasehold excise tax—Overview and definitions. (1) **Introduction.** Chapter 82.29A RCW establishes an excise tax on the act or privilege of occupying or using publicly owned real or personal property through a leasehold interest. The intent of the law is to ensure that lessees of property owned by public entities bear their fair share of the cost of governmental services when the property is rented to someone who would be subject to property taxes if the lessee were the owner of the property. The tax is an excise tax triggered by the private use and possession of the public property. RCW 82.29A.030.

(2) **Definitions.** For the purposes of chapter 458-29A WAC, the following definitions apply unless the context requires otherwise.

(a) "Department" means the department of revenue.

(b) "Concession" means the right to operate a business in an area of public property.

(c) "Contract rent" means that portion of the payment made by a lessee (including a sublessee) to a public lessor (or to a third party for the benefit of that lessor) for a leasehold interest in land and improvements or tangible personal property.

(d) "Franchise" means a right granted by a public entity to a person to do certain things that the person could not otherwise do. A franchise is distinguishable from a leasehold interest even when its exercise and value is inherently dependent upon the use and possession of publicly owned property.

(e) "Improvement" means a modification to real property, resulting in an actual change in the nature of the property or an increase in the value of the property. It is distinguishable from routine repair and maintenance, which are activities resulting from normal wear and tear associated with the use of property, and which do not result in a change in the nature or value of the property itself. For example, replacing worn boards in a stairway is repair and maintenance; removing the stairway and replacing it with an elevator or a ramp is an improvement.

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(f) "Leasehold interest" means an interest granting the right to possession and use of publicly owned real or personal property as a result of any form of agreement, written or oral, without regard to whether the agreement is labeled a lease, license, or permit.

(i) Regardless of what term is used to label an agreement providing for the use and possession of public property by a private party, it is necessary to look to the actual substantive arrangement between the parties in order to determine whether a leasehold interest has been created.

(ii) Both possession and use are required to create a leasehold interest, and the lessee must have some identifiable dominion and control over a defined area to satisfy the possession element. The defined area does not have to be specified in the agreement but can be determined by the practice of the parties. This requirement distinguishes a taxable leasehold interest from a mere franchise, license, or permit.

For example, Sam sells hot dogs from his own trailer at varying sites within a county fairgrounds during events. Sam is not assigned a particular place to set up his trailer nor does he store his trailer on the fairground between events. Sam's right to sell and his use of the property is considered a franchise and not a leasehold interest. The necessary element of possession, involving a greater degree of dominion and control over a more defined area, is lacking.

(iii) The use or occupancy of public property where the purpose of such use or occupancy is to render services to the public owner does not create a leasehold interest. The lessee's possession and use of the property is in furtherance of the public owner's purposes, and it is the public owner who benefits from the governmental services rendered in respect to the property.

For example, Contractor A operates a snack bar at a publicly owned facility where food and beverages are sold to members of the public, and derives a profit from the proceeds of the snack bar sales. Contractor B operates a cafeteria where food is provided at no charge to persons with appropriate I.D., and is reimbursed on a cost-plus basis. Contractor A is engaged in a business enterprise the same as any other restaurateur. Contractor A is using the public property for a private purpose, and has a taxable leasehold interest on the premises. Contractor B is merely providing a service to government personnel that the government agency would otherwise provide. Contractor B is using public property for a public purpose, and does not have a taxable leasehold interest.

(iv) "Leasehold interest" includes the use and occupancy by a private party of property that is owned in fee simple, held in trust, or controlled by a public corporation, commission, or authority created under RCW 35.21.730 or 35.21.660 if:

(A) The property is within a special review district established by ordinance after January 1, 1976; or

(B) The property is listed on, or is within a district listed on, any federal or state register of historical sites in existence after January 1, 1987.

(v) "Leasehold interest" does not include:

(A) Road or utility easements;

(B) Rights of access, occupancy, or use granted solely for the purpose of removing materials or products purchased from a public owner or the lessee of a public owner, including

permits to graze livestock, cut brush, pick wild mushrooms, or mine ore; and

(C) Any right to use personal property (excluding land or buildings) owned by the United States (as a trustee or otherwise), or by a foreign government, when the right to use the property is granted by a contract solely to manufacture or produce articles for sale to the United States or the foreign government.

(g) "Lessee" means a private person or entity with a leasehold interest in public property who would be subject to property tax if the person or entity owned the property in fee.

(h) "Lessor" or "public lessor" means an entity exempted from property tax obligations pursuant to Article 7, section 1 of the state Constitution that grants a leasehold interest in public property to a private person or entity.

(i) "License" means permission to enter on land for some purpose, without conferring any rights to the land upon the person granted the permission. For example, a permit to enter federal lands to launch rafts into the water for the purpose of conducting whitewater river rafting tours is a license, not a leasehold interest.

(j) "Management agreement" means a written agency agreement between a public property owner and a private person or entity for the use and possession of public property under the following circumstances:

(i) The public property owner retains all liability for payment of business operating costs and business related damages (other than costs and damages attributable to the activities of the private party);

(ii) The public property owner has title and ownership of all receipts from sales of services or products relating to the management agreement (whether such amounts are collected by the private party on behalf of the public owner or whether the public owner permits the private party to retain a portion of the receipts as payment for services rendered by the private party), and the full discretion of whether to eliminate, reduce or expand the business activity conducted on the property; and

(iii) The public property owner has full control of the prices to be charged for the goods or services provided in the course of use of the property.

If each of these criteria is met, the arrangement between the parties is considered a "true" management agreement which does not, by itself, create a taxable leasehold interest in the property.

(k) "Permit" means a written document creating a license to enter land for a specific purpose.

(l) "Product lease" means a lease of public property which will be used to produce agricultural or marine products (aquaculture) wherein the lease or agreement requires that:

(i) The leasehold payment be made by delivering a stated percentage of the agricultural or marine products to the credit of the lessor; or

(ii) The lessor be paid a stated percentage of the proceeds from the sale of the agricultural or marine products.

(m) "Public property" means all property owned by an entity exempted from property tax obligations pursuant to Article 7, section 1 of the state Constitution (and, in some instances, property held in trust by the United States).

(n) "Renegotiated" means a change in the leasehold agreement, other than one specifically required by the terms of the agreement itself, which alters:

- (i) The agreed time of possession and use of the property;
- (ii) The restrictions on the manner in which the property may be used; or
- (iii) The rate of cash rental or other consideration paid by the lessee to or for the benefit of the lessor.

The term also includes the continued possession of the property by the lessee beyond the original date when, according to the terms of the agreement, the lessee had the right to vacate the premises without incurring further liability to the lessor.

(o) "Taxable rent" means the amount of rent upon which the measure of leasehold excise tax is based. It is either the contract rent or an amount established by the department in accordance with the procedures set forth in RCW 82.29A.020(2). (See also WAC 458-29A-200.)

(p) "Utility easement" means the right to use publicly owned land for the purpose of providing access or installation of publicly regulated utilities.

[Statutory Authority: RCW 82.29A.140, 99-20-053, § 458-29A-100, filed 10/1/99, effective 11/1/99.]

WAC 458-29A-200 Leasehold excise tax—Taxable rent and contract rent. (1) **Introduction.** Ordinarily, the amount of taxable rent is the amount of contract rent paid by a lessee for a taxable leasehold interest. The law does authorize the department to establish a taxable rent different from the contract rent in certain cases. This rule explains the exclusions of certain moneys and other property received by or on behalf of a lessor from the measure of contract rent. It also explains the conditions under which the department is authorized to establish a taxable rent different from the contract rent.

(2) **Contract rent exclusions.** Even when a leasehold interest is present, not all payments made to a lessor constitute taxable contract rent. For example, payments made to or on behalf of the lessor for actual utility charges, janitorial services, security services, repairs and maintenance, and for special assessments such as storm water impact fees attributable to the lessee's space or prorated among multiple lessees, are not included in the measure of contract rent, if the actual charges are separately stated and billed to the lessee(s). "Utility charges" means charges for services provided by a public service business subject to the public utility tax under chapter 82.16 RCW, and, for the purpose of this section only, also includes water, sewer, and garbage services and cable television services.

In some circumstances a private lessee that is occupying or using public property may collect fees from third parties and remit them to the public lessor. In those situations where:

- (a) The fee structure, rate, or amount collected by the private party is established by or subject to the review and approval of the public lessor or other public entity; and
- (b) The amounts received by the private entity from third parties are remitted entirely to the public lessor or credited to the account of the public lessor, those amounts are not considered part of the contract rent under this chapter, provided that nothing in this section shall preclude or prevent the

imposition of tax, as appropriate, under any other chapter of Title 82 RCW on any amounts retained by or paid to the private entity as consideration for services provided to the public property owner.

Notwithstanding the provisions of this subsection, if such deductions are determined by the department to reduce the amount of contract rent to a level below market value, the department may establish a taxable rent in accordance with section (6) below.

For example, Dan leases retail space in a building owned by the Port of Whistler. He pays \$800 per month for the space, which includes building security services. Additionally, he is assessed monthly for his pro rata share of actual janitorial and utility services provided by the Port. The Port determines Dan's share of these charges in the following manner: The average annual amount actually paid by the Port for utilities in the prior year is divided by 12. Dan's space within the building is approximately ten percent of the total space in the building, so the averaged monthly charge is multiplied by .10 (Dan's pro rata share based upon the amount of space he leases), and that amount is added to Dan's monthly statement as a line item charge for utilities, separate from the lease payment. The charges for janitorial services are treated in the same manner. In this case, Dan's payment for utilities and janitorial services are not included in the measure of contract rent. His payments for security services are included in the measure of contract rent, and subject to the leasehold excise tax, because they are not calculated and charged separately from the lease payments.

Contract rent also does not include:

- (a) Expenditures made by the lessee for which the lease agreement requires the lessor to reimburse the lessee;
- (b) Expenditures made by the lessee for improvements and protection if the lease or agreement requires the improved property to be open to the general public (e.g., a public boat launch) and prohibits the lessee from enjoying any profit directly from the lease;
- (c) Expenditures made by the lessee to replace or repair the facilities due to fire or other catastrophic event including, but not necessarily limited to, payments:
 - (i) For insurance to reimburse losses;
 - (ii) To a public or private entity to protect the property from damage or loss; or
 - (iii) To a public or private entity for alterations or additions made necessary by an action of government which occurred after the date the lease agreement was executed.
- (d) Improvements added to public property if the improvements are taxed as any person's personal property.

(3) **Combined payments.** When the payment for a leasehold interest is made in combination with payment for concession, franchise or other rights granted by the public lessor, only that part of the payment which represents consideration for the leasehold interest is considered part of the contract rent. For example, if the payment made by the lessee to the public lessor exceeds the fair market rental value for comparable property with similar use, the excess is generally attributable to payment for a concession or other right.

(4) **Lease payments based on a percentage of sales.** The measure of contract rent subject to the leasehold excise tax may be based upon a lease which provides that the rent shall be a percentage of business proceeds. The manner in

which the rent is calculated does not, in itself, determine the character of the underlying right or interest for which the payment is made.

(5) **Expenditures for improvements.** Expenditures by the lessee for nonexcludable improvements (see WAC 458-29A-200(2)) with a useful life of more than one year will be treated as prepaid contract rent if the expenditures were intended by the parties to be included as part of the contract rent. Such intention may be demonstrated by a contract provision granting ownership or possession and use to the public owner of the underlying property and/or by the conduct of the parties. These expenditures should be prorated over the useful life of the improvement, or over the remaining term of the lease or agreement if the useful life of the improvement exceeds that term. If the lessee vacates prior to the end of the lease without the agreement of the lessor, thereby defaulting on the lease, no additional LET is due for the term remaining pursuant to the contract between the lessor and that lessee.

(6) **Department's authority to establish taxable rent.** RCW 82.29A.020(2) authorizes the department to establish a "taxable rent" that is different from contract rent in some situations.

(a) If the department determines that a lessee has a leasehold interest in publicly owned property and that such leasehold interest has not been established through competitive bidding, or negotiated in accordance with statutory requirements regarding the rent payable, or negotiated under circumstances, established by public record, clearly showing that the contract rent was the maximum attainable by the lessor, the department may establish a taxable rent computation for use in determining the tax payable under authority granted under chapter 82.29A RCW. The department shall base its computation on the following criteria:

(i) Consideration shall be given to rent being paid to other lessors by lessees of similar property for similar purposes over similar periods of time; or

(ii) Consideration shall be given to what would be considered a fair rate of return on the market value of the property leased less reasonable deductions for any restrictions on use, special operating requirements or provisions for concurrent use by the lessor, another person or the general public.

(b) If the department establishes taxable rent pursuant to RCW 82.29A.020(2), and the contract rent was established in accordance with the procedures set forth in that section, but the lease is ten or more years old and has not been renegotiated, the taxable rent for leasehold excise tax purposes shall be prospective only. However, if upon examination the department determines that the contract rent was not set in accordance with the statutory provisions of RCW 82.29A.020(2) and the rent is below fair market rate, the department may (and in most instances, will) apply the taxable rental rate retroactively for purposes of determining the leasehold excise tax, subject to the provisions of RCW 82.32.050(3).

(c) The department will not establish taxable rent if one of the following four situations apply:

(i) The leasehold interest has been established or renegotiated through competitive bidding;

(ii) The rent was set or renegotiated according to statutory requirements;

(iii) Public records demonstrate that the rent was the maximum attainable; or

(iv) A lease properly established or renegotiated in compliance with (6)(c)(i), (ii), or (iii) has been in effect for ten years or less without renegotiation.

(d) Where the contract rent has been established in accordance with one of the first three criteria set forth above, and the lease agreement has not been in effect for ten years or more, or has been properly renegotiated within the past ten years, the taxable rent is deemed to be the stated contract rent.

(e) If land on the Hanford reservation is subleased to a private or public entity by the state of Washington, "taxable rent" means only the annual cash rental payment made by the sublessee to the state and specifically referred to as rent in the sublease agreement.

[Statutory Authority: RCW 82.29A.140, 99-20-053, § 458-29A-200, filed 10/1/99, effective 11/1/99.]

WAC 458-29A-400 Leasehold excise tax—Exemptions. (1) **Introduction.** This rule explains the exemptions from leasehold excise tax provided by RCW 82.29A.130, 82.29A.132, 82.29A.134, and 82.29A.136. To be exempt from the leasehold excise tax, the property subject to the leasehold interest must be used exclusively for the purposes for which the exemption is granted.

(2) **Operating properties of a public utility.** All leasehold interests that are part of the operating properties of a public utility are exempt from leasehold excise tax if the leasehold interest is assessed and taxed as part of the operating property of a public utility under chapter 84.12 RCW.

For example, tracks leased to a railroad company at the Port of Seaside are exempt from leasehold excise tax because the railroad is a public utility assessed and taxed under chapter 84.12 RCW and the tracks are part of the railroad's operating properties.

(3) **Student housing at public and nonprofit schools and colleges.** All leasehold interests in facilities owned or used by a school, college, or university which leasehold provides housing to students are exempt from leasehold excise tax if the student housing is exempt from property tax under RCW 84.36.010 and 84.36.050.

For example, the leasehold interest associated with a building used as a dormitory for Public University students is exempt from the leasehold excise tax.

(4) **Subsidized housing.** All leasehold interests of subsidized housing are exempt from leasehold excise tax if the property is owned in fee simple by the United States, the state of Washington or any of its political subdivisions, and residents of the housing are subject to specific income qualification requirements.

For example, a leasehold interest in an apartment house that is subsidized by the United States Department of Housing and Urban Development is exempt from leasehold excise tax if the property is owned by the state of Washington and residents are subject to income qualification requirements.

(5) **Nonprofit fair associations.** All leasehold interests used for fair purposes of a nonprofit fair association are exempt from leasehold excise tax if the fair association sponsors or conducts a fair or fairs supported by revenues collected under RCW 67.16.100 and allocated by the director of the department of agriculture. The property must be owned in

fee simple by the United States, the state of Washington or any of its political subdivisions. However, if a nonprofit association subleases exempt property to a third party, the sublease is a taxable leasehold interest.

For example, a leasehold interest held by the Local Non-profit Fair Association is considered exempt from leasehold excise tax. However, if buildings on the fairgrounds are rented to private parties for storage during the winter, these rentals may be subject to the leasehold excise tax.

(6) Public employee housing. All leasehold interests in public property used as a residence by an employee of the public owner are exempt from leasehold excise tax if the employee is required to live on the public property as a condition of his or her employment. The "condition of employment" requirement is met only when the employee is required to accept the lodging in order to enable the employee to properly perform the duties of his or her employment. However, the "condition of employment" requirement can be met even if the employer does not compel an employee to reside in a publicly owned residence.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) A park ranger employed by the National Park Service, an agency of the United States government, resides in a house furnished by the agency at a national park. The ranger is required to be on call twenty-four hours a day to respond to requests for assistance from park visitors staying at an adjacent overnight campground. The use of the house is exempt from leasehold excise tax because the lodging enables the ranger to properly perform her duties.

(b) An employee of the Washington department of fish and wildlife resides in a house furnished by the agency at a fish hatchery although, under the terms of a collective bargaining agreement, the agency may not compel the employee to live in the residence as a condition of employment. In exchange for receiving use of the housing provided by the agency, the employee is required to perform additional duties, including regularly monitoring certain equipment at the hatchery during nights and on weekends and escorting public visitors on tours of the hatchery on weekends. The use of the house is exempt from leasehold excise tax because the lodging enables the employee to properly perform the duties of his employment. The use is exempt even though the employee would continue to be employed by the agency if the additional duties were not performed and even though state employees of an equal job classification are not required to perform the additional duties.

(c) A professor employed by State University is given the choice of residing in university-owned campus housing free of charge or of residing elsewhere and receiving a cash allowance in addition to her regular salary. If she elects to reside in the campus housing free of charge, the value of the lodging furnished to the professor would be subject to leasehold excise tax because her residence on campus is not required for her to perform properly the duties of her employment.

(7) Interests held by enrolled Indians. Leasehold interests held by enrolled Indians are exempt from leasehold excise tax if the lands are owned or held by any Indian or

Indian tribe, and the fee ownership of the land is vested in or held in trust by the United States, unless the leasehold interests are subleased to a lessee which would not qualify under chapter 82.29A RCW, RCW 84.36.451 and 84.40.175 and the tax on the lessee is not preempted due to the balancing test (see WAC 458-20-192).

Any leasehold interest held by an enrolled Indian or a tribe, where the leasehold is located within the boundaries of an Indian reservation, on trust land, on Indian country, or is associated with the treaty fishery or some other treaty right, is not subject to leasehold excise tax. For example, if an enrolled member of the Puyallup Tribe leases port land at which the member keeps his or her boat, and the boat is used in a treaty fishery, the leasehold interest is exempt from the leasehold tax. For more information on excise tax issues related to enrolled Indians, see WAC 458-20-192 (Indians—Indian country).

(8) Leases on Indian lands to non-Indians. Leasehold interests held by non-Indians (not otherwise exempt from tax due to the application of the balancing test described in WAC 458-20-192) in any real property of any Indian or Indian tribe, band, or community that is held in trust by the United States or subject to a restriction against alienation imposed by the United States are exempt from leasehold excise tax if the amount of contract rent paid is greater than or equal to ninety percent of fair market rental value. In determining whether the contract rent of such lands meets the required level of ninety percent of market value, the department will use the same criteria used to establish taxable rent under RCW 82.29A.020 (2)(b) and WAC 458-29A-200.

For example, Harry leases land held in trust by the United States for the Yakama Nation for the sum of \$900 per month. The fair market value for similar lands used for similar purposes is \$975 per month. The lease is exempt from the leasehold excise tax because Harry pays at least ninety percent of the fair market value for the qualified lands. For more information on the preemption analysis and other tax issues related to Indians, see WAC 458-20-192.

(9) Annual taxable rent is less than two hundred fifty dollars. Leasehold interests for which the taxable rent is less than \$250 per year are exempt from leasehold excise tax. For the purposes of this exemption, if the same lessee has a leasehold interest in two or more contiguous parcels of property owned by the same public lessor, the taxable rent for each contiguous parcel will be combined and the combined taxable rent will determine whether the threshold established by this exemption has been met. To be considered contiguous, the parcels must be in closer proximity than merely within the boundaries of one piece of property. When determining the annual leasehold rent, the department will rely upon the actual substantive agreement between the parties. Rent payable pursuant to successive leases between the same parties for the same property within a twelve-month period will be combined to determine annual rent; however, a single lease for a period of less than one year will not be projected on an annual basis.

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) The yacht club rents property from the Port of Bay City for its clubhouse and moorage. It also rents a parking stall for its commodore. The parking stall is separated from the clubhouse only by a common walkway. The parking stall lease is a part of the clubhouse lease because it is contiguous to the clubhouse, separated only by a necessary walkway.

(b) Ace Flying Club rents hangars, tie downs, and ramps from the Port of Desert City. It has separate leases for several parcels. The hangars are separated from the tie down space by a row of other hangars, each of which is leased to a different party. Common ramps and roadways also separate the club's hangars from its tie-downs. The hangars, because they are adjacent to one another, create a single leasehold interest. The tie downs are a separate taxable leasehold interest because they are not contiguous with the hangars used by Ace Flying Club.

(c) Grace leases a lot from the City of Flora, from which she sells crafts at different times throughout the year. She pays \$50 per month for the lot, and has a separate lease for each season during which she sells. She has one lease from May through September, and a separate lease for the time between Thanksgiving and Christmas, which might run thirty to forty days, depending on the year. The leases will be combined for the purposes of determining the leasehold excise tax. They relate to the same piece of property, for the same activity by the same lessee, and occur within the same year.

(d) Elizabeth owns a Christmas tree farm. Every year she rents a small lot from the Port of Capital City, adjacent to its airport, to sell Christmas trees. She pays \$125 to the port to rent the lot for 6 weeks. It is the only time during the year that she rents the lot. Her lease is exempt from the leasehold excise tax, because it does not exceed \$250 per year in taxable rent.

(10) Leases for a continuous period of less than thirty days. Leasehold interests that provide use and possession of public property for a continuous period of less than thirty days are exempt from leasehold excise tax. In determining the duration of the lease, the department will rely upon the actual agreement and/or practice between the parties. If a single lessee is given successive leases or lease renewals of the same property, the arrangement is considered a continuous use and possession of the property by the same lessee. A leasehold interest does not give use and possession for a period of less than thirty days based solely on the fact that the public lessor has reserved the right to use the property or to allow third parties to use the property on an occasional, temporary basis.

(11) Month-to-month leases in residential units to be demolished or removed. Leasehold interests in properties rented for residential purposes on a month-to-month basis pending destruction or removal for construction of a public highway or public building are exempt from the leasehold excise tax. Thus, if the state or other public entity has acquired private property for purposes of building or expanding a highway, or for the construction of public buildings at an airport, the capitol campus, or some other public facility, and the public entity rents the property for residential purposes on a month-to-month basis pending destruction or removal for construction, these leases do not create taxable leasehold interests. This exemption does not require evidence of imminent removal of the residential units; the term "pend-

ing" merely means "while awaiting." The exemption is based upon the purpose for which the public entity holds the units.

For example, State University has obtained capital development funding for the construction of new campus buildings, and has purchased a block of residential property adjacent to campus for the sole purpose of expansion. Jim leases these houses from State University pursuant to a month-to-month rental agreement and rents them to students. Construction of the new buildings is not scheduled to begin for two years. Jim is not subject to the leasehold excise tax, because State University is holding the residential properties for the sole purpose of expanding its facilities, and Jim is leasing them pending their certain, if not imminent, destruction.

(12) Public works contracts. Leasehold interests in publicly owned real or personal property held by a contractor solely for the purpose of a public improvements contract or work to be executed under the public works statutes of Washington state or the United States are exempt from leasehold excise tax. To receive this exemption, the contracting parties must be the public owner of the property and the contractor that performs the work under the public works statutes.

For example, during construction of a second deck on the Nisqually Bridge pursuant to a public works contract between the state of Washington and Tinker Construction, any leasehold interest in real or personal property created for Tinker solely for the purpose of performing the work necessary under the terms of the contract is exempt from leasehold excise tax.

(13) Correctional industries in state adult correctional facilities. Leasehold interests for the use and possession of state adult correctional facilities for the operation of correctional industries under RCW 72.09.100 are exempt from leasehold excise tax.

For example, a profit or nonprofit organization operating and managing a business within a state prison under an agreement between it and the department of corrections is exempt from leasehold excise tax for its use and possession of state property.

(14) Camp facilities for disabled persons. Leasehold interests in a camp facility are exempt from leasehold excise tax if the property is used to provide organized and supervised recreational activities for disabled persons of all ages, and for public recreational purposes, by a nonprofit organization, association, or corporation which would be exempt from property tax under RCW 84.36.030(1) if it owned the property.

For example, a county park with camping facilities leased to a nonprofit charitable organization is exempt from leasehold excise tax if the nonprofit allows the property to be used by the general public for recreational activities throughout the year, and to be used as a camp for disabled persons for two weeks during the summer.

(15) Public or entertainment areas of certain baseball stadiums. Leasehold interests in public or entertainment areas of a baseball stadium with natural turf and a retractable roof or canopy, located in a county with a population of over one million people, with a seating capacity of over forty thousand, and constructed on or after January 1, 1995, are exempt from leasehold excise tax.

"Public or entertainment areas" for the purposes of this exemption include ticket sales areas, ramps and stairs, lobbies and concourses, parking areas, concession areas, restaurants, hospitality and stadium club areas, kitchens or other work areas primarily servicing other public areas, public rest rooms, press and media areas, control booths, broadcast and production areas, retail sales areas, museum and exhibit areas, scoreboards or other public displays, storage areas, loading, staging, and servicing areas, seating areas and suites, the playing field, and any other areas to which the public has access or that are used for the production of the entertainment event or other public usage, and any other personal property used for such purposes. "Public or entertainment areas" does not include locker rooms or private offices used exclusively by the lessee.

(16) **Public or entertainment areas of certain football stadiums and exhibition centers.** Leasehold interests in the public or entertainment areas of an open-air stadium suitable for national football league football and for Olympic and world cup soccer, with adjacent exhibition facilities, parking facilities, and other ancillary facilities constructed on or after January 1, 1998, are exempt from leasehold excise tax. For the purpose of this exemption, the term "public and entertainment areas" has the same meaning as set forth in subsection (15) above.

(17) **Public facilities districts.** All leasehold interests in public facilities districts, as provided in chapter 36.100 or 35.57 RCW are exempt from leasehold excise tax.

(18) **State route 16 corridor transportation systems.** All leasehold interests in the state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW are exempt from leasehold excise tax. RCW 82.29A.132.

(19) **Sales/leasebacks by regional transit authorities.** All leasehold interests in property of a regional transit authority or public corporation created under RCW 81.112.320 under an agreement under RCW 81.112.300 are exempt from leasehold excise tax. This exemption is effective July 28, 2000. RCW 82.29A.134.

(20) **Interests consisting of three thousand or more residential and recreational lots.** All leasehold interests consisting of three thousand or more residential and recreational lots that are or may be subleased for residential and recreational purposes are exempt from leasehold excise tax. Any combination of residential and recreational lots totaling at least three thousand satisfies the requirement of this exemption. This exemption is effective January 1, 2002. RCW 82.29A.136.

[Statutory Authority: RCW 82.29A.140. 02-18-036, § 458-29A-400, filed 8/26/02, effective 9/26/02; 99-20-053, § 458-29A-400, filed 10/1/99, effective 11/1/99.]

WAC 458-29A-500 Leasehold excise tax—Liability.

(1) **Introduction.** The event triggering a leasehold excise tax liability is the use by a private person or entity of publicly owned, tax-exempt property.

Where a lessee is also a tax-exempt government entity, the tax will apply against a private sublessee, even though no contractual arrangement exists between the sublessee and the public lessor.

(2005 Ed.)

(2) Lessor's responsibility to collect and remit tax.

The public lessor is responsible for collecting and remitting the leasehold excise tax from its private lessees. If the public lessor collects the leasehold excise tax but fails to remit it to the department, the public lessor is liable for the tax.

(a) Where the public lessor has attempted to collect the tax, but has received neither contract rent nor leasehold excise tax from the lessee, the department will proceed directly against the lessee for payment of the tax and the lessee shall be solely liable for the tax, provided, the lessor notifies the department in writing when the lessor is unable to collect rent and/or taxes, and the amount of the leasehold excise tax arrearage is \$1000 or greater. If the lessor fails to notify the department, the department may, in its discretion, look to the public lessor for payment of the tax.

(b) If, upon examining all of the facts and circumstances, the department determines that the public lessor in good faith believed the lessee to be exempt from all or part of the leasehold excise tax, the department will look to the public lessor for assistance in collection of the tax due, but will not hold the public lessor personally liable for payment of such tax. To satisfy the requirement of "good faith" the public lessor must have acted with reasonable diligence and prudence to determine whether the leasehold excise tax was due from the lessee.

(3) The following examples, while not exhaustive, illustrate some of the circumstances in which a public lessor may or may not be held liable for the leasehold excise tax. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(a) Doug has been newly hired in the accounting department at City Port and is assigned the responsibility for its rental accounts. He is unaware of the leasehold excise tax laws and fails to bill new tenants for the leasehold excise tax. In this situation, City Port does not avoid possible liability for the tax. Accounting errors and lack of knowledge regarding City Port's responsibility to collect and remit the leasehold excise tax do not qualify as reasonable diligence and prudence.

(b) Sybil rents an apartment in a building owned by State University but she is not a student of the University and the building is not used for student housing. She pays \$900 per month in rent. The terms of the lease require her to give at least thirty days' notice of intent to vacate. In the month of March, she fails to pay her rent, and State University serves her with a notice to pay or quit the premises. On April 1, she sends a check to State University for \$2016 (two months' rent, plus leasehold excise tax). The bank does not honor the check, and Sybil abandons the premises in mid-April without notice. When State University discovers that she has left, it timely notifies the department of the unpaid rent and leasehold excise tax. State University has acted with reasonable prudence and diligence and will not be held liable for the unpaid leasehold excise tax. In serving Sybil with a notice to pay or quit when she first defaulted, State University attempted to mitigate the amount of rent and taxes which were unpaid, and it complied with all other requirements regarding its duty to report the arrearages to the department.

(c) Sonata City owns several houses on property which may be used in the future for office buildings, a fire station,

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or perhaps a park, depending on its future needs. The city leases the houses on six-month terms, mainly to students who attend the local college. Over the past four years that the city has rented the properties, it has not collected leasehold excise tax from the tenants, because city officials believed the property to be exempt since they planned someday to use the property for a public purpose. Following an audit, it is determined that there is no definite plan for destruction of the houses nor any funds allocated for construction of public buildings on the site. Further, the houses were not rented on a month-to-month basis. Therefore, leasehold excise tax is due. Most of the prior tenants have left the area, and there is no convenient way for the city to collect the unpaid leasehold tax. Sonata City is liable for the tax because although its managers did not believe the tax was due, the lack of knowledge regarding the city's responsibility to collect and remit the leasehold excise tax does not qualify as reasonable diligence and prudence. Sonata City had a duty to make a good faith effort to determine its obligations under the applicable leasehold excise tax statutes and rules.

[Statutory Authority: RCW 82.29A.140, 99-20-053, § 458-29A-500, filed 10/1/99, effective 11/1/99.]

WAC 458-29A-600 Leasehold excise tax—Collection and administration. (1) **Introduction.** Leasehold excise tax is levied by the state under RCW 82.29A.030 and by counties and/or cities under RCW 82.29A.040. The administrative procedures contained in chapters 82.02 and 82.32 RCW apply to the administration and collection of the leasehold excise tax.

(2) **Tax imposed.** The rates at which leasehold excise tax is levied are contained in RCW 82.29A.030 and 82.29A.040. The department publishes documents containing the applicable rates, credits, and formulas. These documents are updated as necessary and are available upon request.

(3) **Separate listing requirement.** The amount of leasehold excise tax due must be listed separately from the amount of contract rent on any statement or other document provided to the lessee by the lessor. If the leasehold excise tax is not stated separately from the contract rent, it is assumed that the leasehold excise tax is not included in the amount stated as due.

(4) **Credits allowed against leasehold excise tax.** Because the leasehold excise tax is intended only to equalize treatment between private property owners and lessees of public entities, the amount of leasehold excise tax should not exceed the amount of property tax that would be due if the leased property was privately owned. Therefore, in calculating the taxes imposed under RCW 82.29A.030 and 82.29A.040, RCW 82.29A.120 authorizes the following credits:

(a) **Leasehold interests created after April 1, 1986, or situations where the department has established taxable rent.** Where a leasehold interest other than a product lease was created after April 1, 1986, or where the department has established taxable rent in accordance with RCW 82.29A.020 (2)(b), and the amount of leasehold excise tax due is greater than the amount of property tax that would be due if the property was privately owned by the lessee, without regard to any property tax exemption under RCW 84.36.381, a credit equal

to the difference between the leasehold excise tax and the comparable property tax will be allowed.

If the property is subleased, the credit must be passed on to the sublessee. Lessees and sublessees of residential property who would qualify for either a partial or total exemption from property tax under RCW 84.36.381 if they owned the property in fee are eligible for a corresponding reduction in the amount of leasehold excise tax due. The leasehold excise tax for the qualifying lessees or sublessees is reduced by the same percentage as the percentage reduction in property that would result from the property tax exemption under RCW 84.36.381.

(b) **Product leases.** A credit of thirty-three percent of the total leasehold excise tax due is allowed for product leases.

(5) **When payment is due.** The leasehold excise taxes are due on the same date that the contract rent is due to the lessor. If the contract rent is paid to someone other than the lessor, the leasehold tax is due at the time the payment is made to that other person or entity. Any prepaid contract rent will be deemed to have been paid in the year due and not in the year in which it was actually paid if the prepayment is for more than one year's rent. If contract rent is prepaid, the leasehold tax payment may be prorated over the number of years for which the contract rent is prepaid. The prorated portion of the tax will be due in two installments per year, with no less than one-half due on or before May 31 and the second half due no later than November 30 of each year.

(6) **Collection and distribution of tax by the department.** The department collects and distributes the leasehold excise taxes authorized by RCW 82.29A.030 and 82.29A.040.

(a) **Taxes levied by the state.** All money received by the department from leasehold taxes levied under RCW 82.29A.030 is transmitted to the state treasurer for deposit in the general fund.

(b) **Taxes levied by counties and cities.** Prior to the effective date of the ordinance imposing a leasehold excise tax, the county or city imposing the tax must contract with the department for administration and collection services. The department may deduct a percentage, not to exceed two percent, of the taxes collected as reimbursement for administration and collection expenses. The department deposits the balance of the taxes collected in the local leasehold excise tax account with the state treasury, and the state treasurer bimonthly distributes those moneys to the counties and cities.

County treasurers must proportionately distribute the moneys they receive in the same manner they distribute moneys collected from property tax levies in accordance with RCW 84.56.230, provided that no moneys are to be distributed to the state or any city, and the pro rata calculation for proportionate distribution cannot include any levy rates by the state or any city.

(7) **Leasehold interests in federally owned land or federal trust land.** Lessees with a leasehold interest in federally owned lands or federal trust lands must report and remit the leasehold tax due directly to the department on an annual reporting basis.

[Statutory Authority: RCW 82.29A.140, 99-20-053, § 458-29A-600, filed 10/1/99, effective 11/1/99.]

Chapter 458-30 WAC

OPEN SPACE TAXATION ACT RULES

WAC

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- 458-30-205 Department of revenue—Duties.
- 458-30-210 Classification of land under chapter 84.34 RCW.
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- 458-30-225 Application for farm and agricultural classification.
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- 458-30-560 Partial special benefit assessment—Computation.
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- 458-30-700 Designated forest land—Removal—Change in status—Compensating tax.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

Reviser’s note: The former codification of Order 71-2, filed 3/26/71 and amended by Order 71-3, filed 4/29/71, showing related histories, was published in the Washington Administrative Code in Supp. #8 (4/1/71) and Supp. #9 (9/1/71). The sections showing captions and histories thereto are as follows:

- Sections 458-30-005 Definitions. [Order 71-3, § 458-30-005, filed 4/29/71; Order 71-2, § 458-30-005, filed 3/26/71.]
- 458-30-010 Classified lands. [Order 71-2, § 458-30-010, filed 3/26/71.]
- 458-30-015 Agreement. [Order 71-2, § 458-30-015, filed 3/26/71.]

- 458-30-020 Application. [Order 71-2, § 458-30-020, filed 3/26/71.]
- 458-30-025 Application fee. [Order 71-2, § 458-30-025, filed 3/26/71.]
- 458-30-030 Withdrawal—Breach. [Order 71-2, § 458-30-030, filed 3/26/71.]
- 458-30-035 Assessor. [Order 71-2, § 458-30-035, filed 3/26/71.]
- 458-30-040 Granting authority. [Order 71-2, § 458-30-040, filed 3/26/71.]
- 458-30-045 Owner applicant. [Order 71-2, § 458-30-045, filed 3/26/71.]
- 458-30-050 Treasurer. [Order 71-2, § 458-30-050, filed 3/26/71.]
- 458-30-055 Basis for assessment. [Order 71-3, § 458-30-055, filed 4/29/71; Order 71-2, § 458-30-055, filed 3/26/71.]
- 458-30-060 Valuation procedures. [Order 71-3, § 458-30-060, filed 4/29/71.]
- 458-30-065 Training. [Order 71-3, § 458-30-065, filed 4/29/71.]
- Order PT 73-9, filed 10/30/73 adopts amended sections which are, in some respects, unrelated to former codification and adopts as new sections formerly codified rules which have been published in the Washington Administrative Code under another section number. Prior histories have been codified as part of a history where a similar subject has been amended. Please consult the above list, as filed by Order PT 73-9, for clarification.
- 458-30-005 Definitions. [Order PT 73-9, § 458-30-005, filed 10/30/73; Order 71-3, § 458-30-005, filed 4/29/71; Order 71-2, § 458-30-005, filed 3/26/71. [See reviser’s note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-010 Classified lands. [Order PT 73-9, § 458-30-010, filed 10/30/73; Order 71-2, § 458-30-010, filed 3/26/71. [See reviser’s note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-015 Agreement. [Order PT 73-9, § 458-30-015, filed 10/30/73; Order 71-2, § 458-30-015, filed 3/26/71. [See reviser’s note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-020 Application. [Order PT 73-9, § 458-30-020, filed 10/30/73; Order 71-2, § 458-30-020, filed 3/26/71. [See reviser’s note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-025 Application fee. [Order PT 73-9, § 458-30-025, filed 10/30/73; Order 71-2, § 458-30-025, filed 3/26/71. [See reviser’s note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-030 Withdrawal—Change of use. [Order PT 73-9, § 458-30-030, filed 10/30/73; Order 71-2, § 458-30-030, filed 3/26/71. [See reviser’s note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-035 Additional tax. [Order PT 73-9, § 458-30-035, filed 10/30/73.] Repealed by 78-07-027 (Order PT 78-3), filed 6/16/78. Statutory Authority: RCW 84.34.141.
- 458-30-040 Breach—Change of use. [Order PT 73-9, § 458-30-040, filed 10/30/73.] Repealed by 78-07-027 (Order PT 78-3), filed 6/16/78. Statutory Authority: RCW 84.34.141.
- 458-30-045 Removal of a portion. [Order PT 73-9, § 458-30-045, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 chapter 84.34 RCW.
- 458-30-050 Removal of classification. [Order PT 73-9, § 458-30-050, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-055 Notification upon removal. [Order PT 73-9, § 458-30-055, filed 10/30/73.] Repealed by 88-23-062 (Order PT

- 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-056 Additional tax. [Statutory Authority: RCW 84.34.141. 78-07-027 (Order PT 78-3), § 458-30-056, filed 6/16/78.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-057 Penalty. [Statutory Authority: RCW 84.34.141. 78-07-027 (Order PT 78-3), § 458-30-057, filed 6/16/78.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-060 Additional tax—Date due. [Order PT 73-9, § 458-30-060, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-065 Conditions where additional tax not imposed. [Order PT 73-9, § 458-30-065, filed 10/30/73.] Repealed by 78-07-027 (Order PT 78-3), filed 6/16/78. Statutory Authority: RCW 84.34.141.
- 458-30-070 Agreement may be abrogated by legislature. [Order PT 73-9, § 458-30-070, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-075 Assessor. [Order PT 73-9, § 458-30-075, filed 10/30/73; Order 71-2, § 458-30-075, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-080 Assessor to act on agricultural classification. [Order PT 73-9, § 458-30-080, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-085 Assessor to determine value. [Order PT 73-9, § 458-30-085, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-090 Assessor may require reports—Failure to comply. [Order PT 73-9, § 458-30-090, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-095 Assessor to note classification on assessment and tax roll. [Order PT 73-9, § 458-30-095, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-100 Assessor to record agreement and other notices. [Order PT 73-9, § 458-30-100, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-105 Notice of withdrawal to be filed with assessor—Assessor to withdraw. [Order PT 73-9, § 458-30-105, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-110 Assessor to notify owner of value change. [Order PT 73-9, § 458-30-110, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-115 Granting authority. [Order PT 73-9, § 458-30-115, filed 10/30/73; Order 71-2, § 458-30-040, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-120 Granting authority's action on application. [Statutory Authority: RCW 84.34.141. 78-07-027 (Order PT 78-3), § 458-30-120, filed 6/16/78; Order PT 73-9, § 458-30-120, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-125 Owner applicant. [Order PT 73-9, § 458-30-125, filed 10/30/73; Order 71-2, § 458-30-045, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-130 Treasurer. [Order PT 73-9, § 458-30-130, filed 10/30/73; Order 71-2, § 458-30-050, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-135 Advisory committee. [Order PT 73-9, § 458-30-135, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-140 Basis for assessment. [Order PT 73-9, § 458-30-140, filed 10/30/73; Order 71-3, § 458-30-055, filed 4/29/71; Order 71-2, § 458-30-055, filed 3/26/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-145 Valuation procedures. [Statutory Authority: RCW 84.34.141. 86-09-088 (Order PT 86-1), § 458-30-145, filed 4/23/86; 78-07-027 (Order PT 78-3), § 458-30-145, filed 6/16/78; Order PT 73-9, § 458-30-145, filed 10/30/73. Prior: Order 71-3, § 458-30-060, filed 4/29/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-146 Valuation cycle. [Statutory Authority: RCW 84.34.141. 78-07-027 (Order PT 78-3), § 458-30-146, filed 6/16/78.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-150 Change of timber land classification to chapter 84.33 RCW. [Order PT 73-9, § 458-30-150, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-155 Reclassification of farm and agricultural land under 1973 amendatory act. [Order PT 73-9, § 458-30-155, filed 10/30/73.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-160 Training. [Order PT 73-9, § 458-30-160, filed 10/30/73; Order 71-3, § 458-30-065, filed 4/29/71. [See reviser's note following chapter digest.] Repealed by 88-23-062 (Order PT 88-12), filed 11/15/88. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW.
- 458-30-235 Granting authority response. [Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-235, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-235, filed 11/15/88.] Repealed by 95-21-002, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360.
- 458-30-255 Determination of value—Assessor's duties. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-255, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-255, filed 11/15/88.] Repealed by 01-15-015, filed 7/9/01, effective 8/9/01. Statutory Authority: RCW 84.34.141.
- 458-30-261 Five year average grain prices. [Statutory Authority: Chapter 84.34 RCW and RCW 84.08.010(2). 89-05-008 (Order PT 89-1), § 458-30-261, filed 2/8/89.] Repealed by 90-02-080 (Order PT 90-1), filed 1/2/90, effective 2/2/90. Statutory Authority: RCW 84.08.010(2) and 84.34.141.
- 458-30-290 Additional tax—Withdrawal. [Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-290, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-290, filed 11/15/88.] Repealed by 95-21-002, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360.
- 458-30-315 County financial authority—Duties. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-315, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-315, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-315, filed 11/15/88.] Repealed by 01-24-030, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.34.141.

- 458-30-350 Reclassification of lands classified under chapter 84.34 RCW prior to 1973. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-350, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-350, filed 11/15/88.] Repealed by 01-24-030, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.34.141.
- 458-30-360 Correction of erroneous classification or reclassification. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-360, filed 10/4/95, effective 11/4/95.] Repealed by 99-17-042, filed 8/12/99, effective 9/12/99. Statutory Authority: RCW 84.34.141.
- 458-30-580 Rate of inflation—When published—Calculation. [Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-580, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-580, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-580, filed 3/10/87.] Repealed by 00-24-107, filed 12/6/00, effective 1/1/01. Statutory Authority: RCW 84.34.360 and 84.34.310.

WAC 458-30-200 Definitions. (1) **Introduction.** This rule provides definitions for the terms used in conjunction with land classified under the Open Space Taxation Act, codified as chapter 84.34 RCW. The terms listed in this rule are intended to act in concert with each other as appropriate.

(2) **Definitions.** For purposes of land classified under chapter 84.34 RCW, the following definitions apply:

(a) "Additional tax" means the additional property taxes that will be collected when classification is withdrawn or removed from land classified under chapter 84.34 RCW.

(b) "Affidavit" means the real estate excise tax affidavit required by chapter 82.45 RCW and chapter 458-61 WAC. The affidavit will be prescribed by the department and furnished to county treasurers. This form is used by landowners to report sales or transfers of classified land. The owner or transferor and the purchaser or transferee, or agents of each, must sign the affidavit under penalty of perjury.

(c) "Agreement" means an agreement executed between an owner and the granting authority regarding the classification of land as either open space or timber land under chapter 84.34 RCW.

(d) "Applicant" means the owner who submits an application for classification of land under chapter 84.34 RCW.

(e) "Application" means an application for classification of land under chapter 84.34 RCW.

(f) "Approval" means a determination by the granting authority that land qualifies for classification under chapter 84.34 RCW.

(g) "Appurtenance" refers to something used with, and related to or dependent upon another thing; that is, something that belongs to something else, an adjunct. The thing appurtenant is strictly necessary and essential to the proper use and enjoyment of the land, as well as useful or necessary for carrying out the purposes for which the land was classified under chapter 84.34 RCW.

(i) In terms of farm and agricultural land, an appurtenance is something used for a particular sort of farm and is widely and routinely used in the operation of the commercial agricultural enterprise.

(ii) For example, an appurtenance may be an outhouse, barn, or tool shed attached to or adjoining a dwelling or it

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may be equipment used for a particular purpose or task, such as tools, instruments, or machinery.

(h) "Aquaculture" means the growing and harvesting of marine or fresh water flora or fauna in a soil or water medium for commercial agricultural activities.

(i) "Assessor" means the county assessor or any agency or person who is authorized to act on behalf of the assessor.

(j) "Assessment year" means the year in which the property is listed and valued by the assessor and precedes the year in which the taxes on the property are due and payable.

(k) "Change in use" means a direct action taken by an owner that actually changes the use of, or has started changing the use of, classified land to a use that is not in compliance with the conditions of the agreement executed between the owner and the granting authority or to a use that is otherwise not in compliance with the provisions of chapter 84.34 RCW (see WAC 458-30-295).

(l) "Classified land" means a parcel(s) of land that has been approved by the appropriate granting authority for taxation under chapter 84.34 RCW.

(m) "Commercial agricultural purposes" means the use of land on a continuous and regular basis, prior to and subsequent to application for classification, that demonstrates that the owner or lessee is engaged in and intends to obtain through lawful means, a monetary profit from cash income received by engaging in the following commercial agricultural activities:

(i) Raising, harvesting, and selling lawful crops;

(ii) Feeding, breeding, managing, and selling of livestock, poultry, fur-bearing animals, or honey bees, or any products thereof;

(iii) Dairying or selling of dairy products;

(iv) Animal husbandry;

(v) Aquaculture;

(vi) Horticulture;

(vii) Participating in a government-funded crop reduction or acreage set-aside program; or

(viii) Cultivating Christmas trees or short-rotation hardwoods on land that has been prepared by intensive cultivation and tilling, such as by plowing or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of growing such trees.

An owner must engage in commercial agricultural activities on the land to demonstrate a commercial agricultural purpose.

(n) "Contiguous" means land that adjoins other land owned by the same owner or held under the same ownership. Land that is an integral part of a farming operation is considered contiguous even though the land may be separated by a public road, railroad, right of way, or waterway.

(o) "County financial authority" and "financial authority" mean the treasurer or any agency or person charged with the responsibility of billing and collecting property taxes.

(p) "County legislative authority" means the county commission, council, or other legislative body.

(q) "County recording authority" means the auditor or any agency or person charged with the recording of documents.

(r) "Current" and "currently" means as of the date on which property is to be listed and valued by the assessor.

(s) "Current use value" means the taxable value of a parcel of land placed on the assessment rolls following its classification under chapter 84.34 RCW.

(t) "Department" means the department of revenue.

(u) "Farm woodlot" means an area of land within a parcel(s) of classified farm and agricultural land that is used in a manner compatible with commercial agricultural activities including, but not limited to, the growing and cutting of trees for the use of the owner or the sheltering of livestock.

(v) "Granting authority" means the appropriate agency or official that acts on an application for classification under chapter 84.34 RCW. The granting authority for:

(i) Open space classification under RCW 84.34.020(1) and 84.34.037 is the county legislative authority. However, for applications within an incorporated area of a county, the granting authority is made up of three members of the county legislative body and three members of the city legislative body in the county in which the land is located;

(ii) Farm and agricultural classification under RCW 84.34.020(2) and 84.34.035 is the assessor or the assessor's designee; and

(iii) Timber land classification under RCW 84.34.020(3) and 84.34.041 is the county legislative authority. However, for applications within an incorporated area of a county, the granting authority is made up of three members of the county legislative body and three members of the city legislative body in the county in which the land is located.

(w) "Gross income" means cash income derived from commercial agricultural activities, including payments received from the United States Department of Agriculture for participating in a crop reduction or acreage set-aside program when such payments are based on the productive capacity of the land. The term shall not include the following:

(i) The value of any products produced on the land and consumed by the owner or lessee;

(ii) Cash income derived from leases for the use of the land for noncommercial agricultural activities; or

(iii) Payments for soil conservation programs.

(x) "Incidental use" means a use of land classified as farm and agricultural land that is compatible with commercial agricultural activities if it does not exceed twenty percent of the classified land. An incidental use may include, but is not limited to, wetland preservation, a gravel pit, a farm woodlot, or a produce stand.

(y) "Integral" means that which is central to or inherent in the use or operation of classified farm and agricultural land for commercial agricultural activities.

(z) "Interest" means the amount of applicable interest upon additional tax.

(aa) "Net cash rental" means the earning or productive capacity of farm and agricultural land less the production costs customarily or typically paid by an owner or landlord. See WAC 458-30-260 for a more detailed explanation.

(bb) "Notice of continuance" means the notice signed when land classified under chapter 84.34 RCW is sold or transferred if the new owner of the land intends to continue the classified use of the land and elects to have the land remain classified under chapter 84.34 RCW. This notice is part of the real estate excise tax affidavit or may be a separate document prepared by the department and attached to this affidavit.

(cc) "Owner" means:

(i) Any person(s) having a fee interest in a parcel of land; or

(ii) The contract vendee when the land is subject to a real estate contract.

(dd) "Parcel of land" means a property identified as such on the assessment roll. For purposes of chapter 84.34 RCW and this WAC chapter, a parcel shall not include any land area not owned by the applicant including, but not limited to, a public road, right of way, railroad, or waterway.

(ee) "Penalty" means the amount due when land is removed from classification under chapter 84.34 RCW. The amount of the penalty is equal to twenty percent of the additional tax and interest calculated in accordance with RCW 84.34.080 or 84.34.108.

(ff) "Planning authority" means the local government agency empowered by the appropriate legislative authority to develop policies and proposals relating to land use.

(gg) "Primary use" means the existing use of a parcel or parcels of land so prevalent that when the characteristic use of the land is evaluated a conflicting or nonrelated use appears to be very limited or excluded.

(hh) "Qualification of land" means the approval of an application for classification of land by a granting authority in accordance with chapter 84.34 RCW.

(ii) "Rating system" means a public benefit rating system adopted for classified open space land according to RCW 84.34.055.

(jj) "Reclassification" means the process by which land classified under chapter 84.34 or 84.33 RCW is changed from one classification to a different classification established by chapter 84.34 RCW or into forest land as described in chapter 84.33 RCW. For example, land classified as farm and agricultural land under RCW 84.34.020(2) may be reclassified as open space land under RCW 84.34.020(1).

(kk) "Removal" or "removed" means land classified under chapter 84.34 RCW is removed from classification by the assessor either because the owner requests removal, the new owner fails to sign the notice of classification continuance, or the land is no longer being used for the purpose for which classification was granted.

(ll) "Sale of ownership" means the conveyance of the ownership of a parcel of land in exchange for valuable consideration.

(mm) "Tax year" means the year when property tax is due and payable.

(nn) "Timber management plan" means the plan filed with the county legislative authority or the assessor when classified timber land is sold or transferred. It is synonymous with a "forest management plan" and details an owner's plan regarding the management of classified timber land including, but not limited to, the planting, growing and/or harvesting of timber. The elements of such a plan are set forth in WAC 458-30-232.

(oo) "Transfer" means the conveyance of the ownership of a parcel of land without an exchange of valuable consideration and may include situations where classified land is donated to an owner, corporation, partnership, or limited liability corporation.

(pp) "True and fair value" is the value of a parcel of land placed on the assessment rolls at its highest and best use with-

out regard to its current use. The term also refers to market value, that is, the amount of money a buyer of property willing, but not obligated to buy would pay a seller of property willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might reasonably be applied.

(qq) "Withdrawal" or "withdrawn" means action taken by the owner of land classified under chapter 84.34 RCW by filing a notice of request to withdraw the land from classification under the current use program in compliance with RCW 84.34.070. Once land has been classified under chapter 84.34 RCW, it must remain so classified for at least ten years from the date of classification. At any time after eight years of the initial ten-year classification period have elapsed, the owner may file a notice of request to withdraw all or a portion of the land from classification with the assessor of the county in which the land is located. Land is withdrawn from classification as a result of a voluntary act by the owner.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-200, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.34.141. 01-24-030, § 458-30-200, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-200, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-200, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-200, filed 11/15/88.]

WAC 458-30-205 Department of revenue—Duties.

(1) **Introduction.** This section explains the duties assigned to the department of revenue in order to implement and administer chapter 84.34 RCW.

(2) **General authority.** The department shall maintain general administrative authority to assure that chapter 84.34 RCW is effectively and equitably applied throughout the state. Accordingly, the department, upon request, shall provide all reasonable assistance to the granting authorities relating to the administration of chapter 84.34 RCW.

(3) **Forms.** The department shall design all application and other administrative forms necessary under chapter 84.34 RCW, except those forms necessary for the rating system. Forms relating to the rating system shall be designed by the granting authority. Granting authorities shall provide all forms to applicants who seek classification under chapter 84.34 RCW.

(4) **Training.** The department shall provide the guidelines and necessary training to assessors and county boards of equalization so that they may administer chapter 84.34 RCW. Members of the advisory committee and members of any granting authority may attend the training sessions provided by the department.

(5) **Wheat and barley prices.** The department shall annually issue by December 31, by whatever means it deems suitable, a five-year average of wheat and barley prices for use by the assessor in the following assessment year.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-205, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-205, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-205, filed 11/15/88.]

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WAC 458-30-210 Classification of land under chapter 84.34 RCW. (1) **Introduction.** Under chapter 84.34 RCW, land may be placed into one of three classifications on the basis of its current use. This rule explains and describes each classification of land as defined in RCW 84.34.020.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) "Farm employee or farm and agricultural employee" means an individual who is employed on farm and agricultural land on a full time basis or a seasonal or migratory worker who works on farm and agricultural land only during the planting, growing, and/or harvesting seasons. The term also includes an individual who is employed at least twenty-five hours per week on farm and agricultural land. It does not include a person who is employed full time by a business activity that is not conducted on classified farm and agricultural land and who only works occasional weekends or during the harvest season on classified farm and agricultural land.

(b) "Integral" means that which is central to or inherent in the use or operation of classified farm and agricultural land for commercial agricultural activities. For purposes of this rule, the residence of the farm operator or owner and/or housing for farm employees must be the place(s) from which the farmer conducts his/her commercial agricultural business.

(3) **Open space land.** Land classified as "open space land" means one of the following:

(a) Any parcel(s) of land so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly.

(b) Any parcel(s) of land, whereby preservation in its present use would either:

(i) Conserve and enhance natural or scenic resources;

(ii) Protect streams or water supply;

(iii) Promote conservation of soils, wetlands, beaches, or tidal marshes;

(iv) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, natural reservations or sanctuaries, or other open spaces;

(v) Enhance public recreation opportunities;

(vi) Preserve historic sites;

(vii) Preserve visual quality along a highway, road, or street corridor, or scenic vistas;

(viii) Retain in its natural state, tracts of land of not less than one acre in size situated in an urban area and open to public use on such conditions as may be reasonably required by the granting authority; or

(ix) Any parcel(s) of farm and agricultural conservation land. Farm and agricultural conservation land means either:

(A) Land previously classified as farm and agricultural land that no longer meets the criteria of farm and agricultural land and is reclassified as "open space land"; or

(B) Traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture.

(4) **Farm and agricultural land.** Land classified as "farm and agricultural land" means one of the following:

(a) Any parcel of land twenty or more acres in size or multiple parcels of land that are contiguous and total twenty or more acres in size when the land is:

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(i) Primarily used to produce livestock or agricultural products for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States Department of Agriculture; or

(iii) Primarily used in similar commercial agricultural activities as may be established by rule.

(b) Any parcel of land or contiguous parcels of land at least five acres, but less than twenty acres, in size that is primarily used for commercial agricultural purposes, and produces a gross income each year equal to:

(i) One hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; or

(ii) Two hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.

(c) Any parcel of land or contiguous parcels of land less than five acres in size that is primarily used for commercial agricultural purposes, and produces a gross income each year equal to:

(i) One thousand dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; and

(ii) One thousand five hundred dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.

(d) Any parcel of land that is twenty or more acres in size or multiple parcels of land that are contiguous and total twenty or more acres in size on which housing for farm and agricultural employees and the principal residence of the farm operator or the owner of land classified under RCW 84.34.020 (2)(a) is situated if:

(i) The housing or residence is on or contiguous to the classified parcel; and

(ii) The use of the housing or the residence is integral to the use of the classified parcel for agricultural purposes. (See WAC 458-30-317.)

(e) Farm and agricultural land also includes:

(i) Land on which appurtenances necessary for the production, preparation, or sale of commercial agricultural products are situated when the appurtenances are used in conjunction with the land(s) producing agricultural products, such as a machinery maintenance shed or a shipping facility located on farm and agricultural land that produces the products to be shipped;

(ii) Land incidentally used for an activity or enterprise that is compatible with commercial agricultural purposes as long as the incidental use does not exceed twenty percent of the classified land. An incidental use of classified farm and agricultural land may include, but is not limited to, wetland preservation, a gravel pit, a farm woodlot, or a produce stand; and

(iii) Any noncontiguous parcel of land from one to five acres in size that constitutes an integral part of the commercial agricultural operations of a parcel classified as farm and agricultural land under RCW 84.34.020(2).

(5) **Timber land.** Land classified as "timber land" means any parcel of land five or more acres in size or multiple parcels of land that are contiguous and total five or more acres in size that is primarily used for the commercial growth and harvesting of forest crops.

(a) Timber land refers only to the land.

(b) Timber land does not include:

(i) Land listed on the assessment roll as designated forest land according to chapter 84.33 RCW; or

(ii) Land on which nonforest crops or any improvements to the land are located.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-210, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-210, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-210, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-210, filed 11/15/88.]

WAC 458-30-215 Application process. (1) Introduction. This section explains the general application procedures of classification of land under chapter 84.34 RCW including where to obtain an application and the information that must accompany an application for classification or reclassification.

(2) **Availability of forms.** The assessor and the county legislative authority shall make available application forms for classification or reclassification and shall supply them upon request.

(a) The assessor and the county legislative authority shall provide the appropriate forms, informational materials (including, but not limited to, copies of chapter 84.34 RCW and chapter 458-30 WAC), and reasonable assistance to an owner who submits an application for classification or reclassification of land under chapter 84.34 RCW.

(b) If the county legislative authority adopts a public benefit rating system for the open space classification, it shall prepare the appropriate forms, provide informational materials, and provide assistance to applicants.

(3) **The applicant.** The applicant shall be the owner of the land described on the application.

(4) **If land is purchased or transferred while application is pending.** In the event a parcel is conveyed while approval of a timely filed application is pending, the purchaser or transferee shall, upon written request to the granting authority, be given the same consideration as the original applicant; in all aspects of the application process the purchaser or transferee shall assume the original applicant's rights and responsibilities in the application process. However, except for the application fee, the granting authority shall require the purchaser or transferee to satisfy all requirements that otherwise would have been required in accordance with the original application.

(5) **Application due date.** Application for classification of land according to chapter 84.34 RCW shall be made from January 1 through December 31 for classification or reclassification and the assessment of the land in its classified status will begin on January 1 in the year following application.

(a) In other words, application must be made during the calendar year preceding the assessment year in which the classification or reclassification is to begin and the taxes on

the land based on its classified use and status are payable the year following the assessment year.

(b) Example. An owner submits an application for classification on April 1, 1993. If it qualifies for classification, the land will be assessed based on its current use status for assessment year 1994 and the owner will pay taxes based on this assessment in 1995.

(6) **Information to accompany application.** The application for classification or reclassification shall require only such information as is reasonably necessary to properly classify an area of land under the provisions of chapter 84.34 RCW, including a signed statement as to the truth of the information. It shall also include a statement that the applicant is aware of the potential tax liability involved when the land ceases to qualify as open space, farm and agricultural, or timber land. Additionally, the applicant shall provide a legal description of the parcel of land that is acceptable to the assessor and the granting authority, who shall determine the appropriate classification according to the provisions of chapter 84.34 RCW.

(7) **Land in multiple counties.** If the land described in the application for classification or reclassification is in more than one county, the owner shall file a separate application with the granting authority of each county.

(8) **Waiting period imposed after application is denied.** If an application for classification or reclassification is denied, a reapplication covering the same parcel of land, or a portion thereof, may not be submitted to the granting authority until three hundred sixty-five days have elapsed from the date the initial application was received.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-215, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-215, filed 11/15/88.]

WAC 458-30-220 Application fee. (1) Introduction.

This section explains the processing fee that may be established by the city or county legislative authority and that may be required when an application for classification or reclassification is submitted. It also explains the manner in which the amount of this fee is determined and the distribution of this fee upon receipt.

(2) **Processing fee.** The city or county legislative authority may, at their discretion, require a processing fee to accompany each application. This fee shall be in an amount that reasonably covers the processing costs of the application.

(a) If any agreement is to be recorded, the cost of such recording shall come from the fee.

(b) The fee shall be made payable to the county financial authority, who shall forward a portion of the fee to any city in which the parcel of land is located in proportion to the land area included in the city to the total land area of the parcel.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-220, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-220, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-220, filed 11/15/88.]

WAC 458-30-225 Application for farm and agricultural classification. (1) Introduction. This section explains the application process for an applicant who seeks to have

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land classified or reclassified as farm and agricultural land under RCW 84.34.020(2).

(2) **Where to submit - granting authority.** An application for classification or reclassification as farm and agricultural land shall be made to the assessor of the county in which the land is located. The assessor shall be the granting authority.

(3) **Duties of assessor.**

(a) The assessor shall act on each application with due regard to all relevant evidence and may approve or deny the application in whole or in part. If any part of the application is denied, the applicant may withdraw the entire application.

(b) Except as provided by chapter 84.34 RCW and chapter 458-30 WAC, the assessor cannot impose conditions or restrictions regarding the approval of an application for classification or reclassification as farm and agricultural land.

(c) The assessor shall consider the relevant zoning ordinances and regulations. If a zoning ordinance prohibits the farm and agricultural activity for which classification or reclassification is being sought, the assessor shall deny the application.

(d) Upon receipt of an application for classification or reclassification, the assessor may require the applicant(s) to provide data regarding the current use of the land, including the productivity of typical crops, sales receipts, federal income tax returns including schedules documenting farm income, other related income and expense data, and any other information relevant to the application. Failure to provide the requested information shall be cause to deny an application. Generally, prospective use of the land may not be relevant evidence in acting upon an application.

(e) After an application has been approved and the classification or reclassification has been granted, the assessor may review the classification at any time.

(f) The assessor shall retain a copy of all applications submitted.

(g) The assessor may consider the land area used as a homesite in determining the eligibility of a parcel of land for farm and agricultural classification. If the homesite does not qualify for classification as farm and agricultural land in accordance with RCW 84.34.020 (2)(d) and WAC 458-30-210 (4)(d), the land shall be taxed at its true and fair value.

(4) **Approval.** If no written determination is provided to the applicant prior to May 1 of the year following receipt of the application, the application shall be considered approved.

(5) **Denial.** The assessor may approve or deny an application for classification in whole or in part.

(a) The assessor shall notify the applicant in writing of the extent to which the application is approved or denied.

(b) An applicant who receives a notice that his or her application has been denied may appeal this decision to the board of equalization in the county where the land is located. The appeal shall be filed within thirty calendar days of the date the notice of denial was mailed and shall be in the form specified in RCW 84.40.038.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-225, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-225, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-225, filed 11/15/88.]

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WAC 458-30-230 Application for open space classification. (1) **Introduction.** This section explains the application process for an applicant who seeks to have land classified or reclassified as open space land under RCW 84.34.020 (1).

(2) **Where to submit.** An application for classification or reclassification of land as open space shall be made to the county legislative authority of the county in which the land is located.

(3) **Granting authority.** The identity of the entity that will act as the granting authority shall be determined by the location of the land the applicant seeks to classify or reclassify as open space land. The granting authority shall be determined as follows:

(a) If the parcel(s) of land is located in an unincorporated area of the county, the county legislative authority shall be the granting authority.

(b) If the parcel(s) of land is located in an incorporated area of the county, a copy of the application for classification or reclassification shall be forwarded to the city legislative authority in which the land is located. The granting authority shall be composed of three members of the county legislative authority and three members of the city legislative authority.

(4) **Application process.** An application for classification or reclassification of a parcel(s) of land as open space land shall be processed as follows:

(a) **Comprehensive land use plan.** The granting authority shall determine whether or not the land is located in an area designated as "open space" by an official comprehensive land use plan adopted by a city or county and zoned accordingly.

(i) If the land is in an area subject to a comprehensive plan, the application for classification or reclassification shall be treated in the same manner as a proposed amendment to that plan.

(ii) If the land is in an area not subject to a comprehensive plan, a public hearing on the application shall be conducted. A notice of this hearing shall be announced once by publication in a newspaper of general circulation in the region, city, or county at least ten days before the hearing. The owner who submitted the application for classification or reclassification that is the subject of the public hearing shall be notified in writing of the date, time, and location of this hearing.

(b) **Factors to consider.** In determining whether an application for classification or reclassification as open space land should be approved, the granting authority:

(i) May take particular notice of the benefits to the general welfare of preserving the current use of the parcel(s) of land described in the application; and

(ii) Shall consider the following:

(A) The revenue loss or tax shift that will result from granting the application;

(B) Whether granting the application for classification or reclassification of land under RCW 84.34.020 (1)(b) will:

(I) Conserve or enhance natural, cultural, or scenic resources;

(II) Protect streams, stream corridors, wetlands, natural shorelines, and aquifers;

(III) Protect soil resources, unique or critical wildlife, and native plant habitat;

(IV) Promote conservation principles by example or by offering educational opportunities;

(V) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries, or other open spaces;

(VI) Enhance recreation opportunities;

(VII) Preserve historic and archaeological sites;

(VIII) Preserve visual quality along highway, road, and street corridors or scenic vistas; or

(IX) Affect any other factors relevant in weighing benefits to the general welfare of preserving the current use of the land; and

(C) Whether granting the application for classification or reclassification of land as farm and agricultural conservation land (RCW 84.34.020 (1)(c)) will:

(I) Either preserve land previously classified as farm and agricultural land under RCW 84.34.020(2) or preserve traditional farmland not classified under chapter 84.33 or 84.34 RCW;

(II) Preserve land with a potential for returning to commercial agriculture; and

(III) Affect any other factors relevant in weighing general benefits of preserving the current use of the property.

(iii) In addition to the foregoing concerns, the granting authority shall consider:

(A) The existence of any mining claim or mining lease on the land, and if such a claim or lease will seriously interfere with the considerations stated in (b)(i) and (ii) of this subsection. If the granting authority determines serious interference will occur, it may deny the application in whole or in part. If a mining claim or mining lease is obtained after the land is classified or reclassified, the same determination must be made in deciding whether serious interference will occur; and

(B) The zoning of the parcel(s) of land at the time the application for classification or reclassification is filed.

(5) **Approval or denial of application.** The granting authority shall either approve or disapprove the application within six months of the date the completed application was received by the county legislative authority.

(a) The granting authority may approve the application for classification or reclassification in whole or in part. If any part of the application is denied, the applicant may withdraw the entire application.

(b) In approving the application in whole or in part, the granting authority may also require that certain conditions be met including, but not limited to, the granting of easements. As a condition of granting an application for open space classification, the granting authority may not require public access on land classified under RCW 84.34.020 (1)(b)(iii) to promote the conservation of wetlands.

(c) If approved, valuation of the land at its current use value shall begin on January 1 of the year following the year the application was filed. However, any application approved on or after July 1 of any year shall cause the land to be listed on the assessment roll at its current use value on January 1 of the following assessment year.

(d) When the application for classification or reclassification as open space has been approved, the granting authority shall prepare an agreement. See WAC 458-30-240 for a detailed description of this agreement.

(e) The granting or denial of an application for classification or reclassification as open space land is a legislative determination and shall be reviewable only for arbitrary and capricious actions.

(6) **Public benefit rating system.** When an application for classification or reclassification under RCW 84.34.020 (1)(b) and (c) is submitted regarding land that is subject to a public benefit rating system adopted under RCW 84.34.055, the county legislative authority shall rate the parcel(s) of land in accordance with the public benefit rating system to determine whether the application should be approved or denied.

Land that was classified under RCW 84.34.020 (1)(b) or (c) prior to the adoption of a public benefit rating system does not have to requalify for classification under the criteria of the public benefit rating system. The land shall not be removed from classification by an assessor. This land may be rated according to the public benefit rating system as appropriate. (See WAC 458-30-330, 458-30-335, and 458-30-340 for more information about the public benefit rating system.)

(7) **Record retention.** The granting authority shall keep a record of each application, agreement, and records relating to each agreement.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-230, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-230, filed 11/15/88.]

WAC 458-30-232 Application for timber land classification. Introduction. This rule explains the application process used by an applicant who seeks to have land classified or reclassified as timber land under RCW 84.34.020(3).

Definition. For purposes of this rule, the following definitions apply:

(1) **"Stand of timber"** means a stand of trees that will yield log and/or fiber:

(a) Suitable in size and quality for the production of lumber, plywood, pulp, or other forest products; and

(b) Of sufficient value to cover at least all the costs of harvest and transportation to available markets.

(2) **"Timber management plan"** means a plan prepared by a professional forester, or by another person who has adequate knowledge of timber management practices, concerning the use of the land to grow and harvest timber. Such a plan includes the following elements:

(a) A legal description of the land;

(b) A statement that the timber land is held in contiguous ownership of at least five acres and is primarily devoted to and used to grow and harvest timber;

(c) A brief description of the timber on the timber land or, if the timber has been recently harvested, the owner's plan to restock the land with timber;

(d) A statement about whether the timber land is also used to graze livestock;

(e) A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and

(f) If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a description of the owner's plan to restock the timber land within three years.

(3) **Where to submit.** An application for classification or reclassification of land as timber land under RCW 84.34.-020(3) is submitted to the county legislative authority of the county in which the land is located.

(4) **Granting authority.** The identity of the entity that will act as the granting authority will be determined by the location of the land the applicant seeks to classify or reclassify as timber land. The granting authority will be determined as follows:

(a) If the parcel(s) of land is located in an unincorporated area of county, the county legislative authority is the granting authority.

(b) If the parcel(s) of land is located in an incorporated area, a copy of the application for classification is forwarded to the city legislative authority in which the land is located. The granting authority is composed of three members of the county legislative body and three members of the city legislative authority.

(5) **Application process.**

(a) Consider all relevant evidence. The granting authority will act upon the application with due regard to all relevant evidence.

(b) Information that must accompany application. An application for classification or reclassification of a parcel(s) of land as timber land is made on forms prepared by the department. An application must include the following information and be accompanied by a timber management plan as defined in subsection (2) of this rule:

(i) A legal description of or the parcel number(s) of all land the applicant desires to be classified as timber land;

(ii) The date or dates the land was acquired;

(iii) A brief description of the timber on the land or, if the timber has been harvested, the owner's plan for restocking;

(iv) If the timber or forest management plan for the land has existed for more than one year, the application must indicate the nature and extent to which the plan has been implemented or changed;

(v) Whether the land is used for grazing;

(vi) Whether the land has been subdivided or a plat has been filed with respect for the land;

(vii) Whether the land and the applicant have complied with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

(viii) Whether the land is subject to forest fire protection assessments under RCW 76.04.610;

(ix) Whether the land is subject to a lease, option, or other right that permits the land to be used for a purpose other than growing and harvesting timber;

(x) A summary of the applicant's past experience and activities in growing and harvesting timber;

(xi) A summary of the applicant's current and continuing activities in growing and harvesting of timber; and

(xii) A statement that the applicant is aware of the potential tax liability involved if the land ceases to be classified as timber land.

(c) Solitary factors that will result in automatic denial. An application may be denied for any of the following reasons without regard to any other factor:

(i) The land does not contain a stand of timber as defined in subsection (1) of this rule, as well as in chapter 76.09 RCW, and WAC 222-16-010. This reason alone is not sufficient to deny the application if:

(A) The land has been recently harvested or supports a growth of brush or noncommercial type timber and the application includes a plan for restocking within three years or a longer period necessitated because seed or seedlings are unavailable; or

(B) Only isolated areas within the land do not meet minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions.

(ii) The applicant, with respect to the land for which classification or reclassification is sought, has failed to comply with a final administrative or judicial order regarding a violation of the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW.

(iii) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling the ordinary high tide line and two hundred feet horizontally landward from the high tide line.

(6) **Public hearing required.** An application for classification of land as timber land will be approved or denied after a public hearing on the application is held. A notice of this hearing is to be announced once by publication in a newspaper of general circulation in the region, city, or county at least ten days before the hearing. The owner who submitted the application for classification or reclassification is to be notified in writing of the date, time, and location of the public hearing.

(7) **Timber management plan required.** A timber management plan must be filed with the county legislative authority either:

(a) When an application for classification is submitted; or

(b) Within sixty days of the date an application for reclassification under chapter 84.34 RCW or from designated forest land under chapter 84.33 RCW is received. The application for reclassification will be accepted, but may not be processed until the timber management plan is received. If this plan is not received within sixty days of the date the application for reclassification is received, the application will be denied.

(c) If circumstances require it, the assessor may allow an extension of time for submitting a timber management plan when an application for classification or reclassification is received. The applicant will be notified of this extension in writing. When the assessor extends the filing deadline for a timber management plan, the county legislative authority should delay processing the application until this plan is received. If this plan is not received by the date set by the assessor, the application for classification or reclassification will be automatically denied.

(8) **Approval or denial of application.** The granting authority will either approve or disapprove the application for classification or reclassification within six months of the date it is received by the county legislative authority.

(a) The granting authority may approve the application for classification or reclassification in whole or in part. If any

part of the application is denied, the applicant may withdraw the entire application.

(b) In approving the application in whole or in part, the granting authority may also require that certain conditions be met. The granting authority may not require the granting of easements for land classified as timber land.

(c) The granting or denial of an application for classification as open space land or reclassification is a legislative determination and is reviewable only for arbitrary and capricious actions.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-232, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-232, filed 10/4/95, effective 11/4/95.]

WAC 458-30-240 Agreement relating to open space and timber land classifications. (1) Introduction. This section explains the contents of and the procedures relating to the agreement that is executed when an application for classification or reclassification as open space land under RCW 84.34.037 or timber land under RCW 84.34.041 has been approved by the granting authority.

(2) **Preparation and contents.** When an application for classification or reclassification as open space or timber land has been approved by the granting authority, the granting authority shall prepare an agreement. For purposes of this section, the date of approval shall be the date on which the granting authority approves the application for classification or reclassification.

(a) The agreement shall state all conditions attached to the approval of the application. The conditions of approval and any requirements of the classification detailed in the agreement shall be binding upon any heir, successor, or assignee of the parties of the original agreement.

(b) The agreement shall apply to the parcel(s) of land described in the agreement.

(c) The agreement may include, but is not limited to, a description of the ways the classified land may be used to retain its classified status, the actions that will cause removal of the land from classification, and the consequences of a change in the classified use of the land.

(3) **Submit agreement to owner for signature.**

(a) Within five calendar days after the approval of the application for classification or reclassification, in whole or in part, the granting authority shall deliver by certified mail, return receipt requested, the agreement to the owner for signature.

(b) The owner may accept or reject the agreement.

(c) If accepted, the agreement shall be signed and returned to the granting authority within thirty calendar days after receipt.

(d) If the agreement is not signed and returned to the granting authority within thirty days of the date the unsigned agreement was mailed to the owner, the granting authority shall conclusively presume the agreement has been rejected unless the owner can show proof that he or she was prevented from returning the agreement by events beyond his or her control.

(e) To be properly executed, the agreement shall be signed by the owner and shall become effective on the date

the granting authority receives the signed agreement from the owner of the classified parcel(s) of land.

(4) **Executed agreement to be sent to assessor.** The granting authority shall, within ten days after receiving the signed agreement, send one copy to the assessor of the county in which the land is located.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-240, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-240, filed 11/15/88.]

WAC 458-30-242 Application for open space/farm and agricultural conservation land classification. (1) **Introduction.** The 1992 legislative changes to chapter 84.34 RCW created a subclassification of farm and agricultural conservation land within the open space classification. This section explains the criteria and procedures related to farm and agricultural conservation land.

(2) **Open space application criteria and process must be followed.** Farm and agricultural conservation land is not a separate classification within chapter 84.34 RCW. This type of land is merely a subclassification within the open space classification.

(a) To obtain the open space/farm and agricultural conservation land classification, the applicant must follow and comply with the procedures and requirements related to the open space classification. The process of applying for open space classification is set forth in RCW 84.34.037 and WAC 458-30-230.

(b) In addition to the information normally required to accompany an application for open space classification, an applicant seeking open space/farm and agricultural conservation land classification shall submit a statement about the previous use, the current use, and the intended future use of the land. If the land is traditional farmland that has never been classified under chapter 84.33 or 84.34 RCW, this information should be included in the applicant's signed statement.

(3) **Specific requirements for classification as open space/farm and agricultural conservation land.** To be classified as farm and agricultural conservation land, the land shall be:

(a) Previously classified as farm and agricultural land under RCW 84.34.020(2), that no longer meets the criteria for classification under RCW 84.34.020(2), and that shall be reclassified as open space land under RCW 84.34.020(1); or

(b) Traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably dedicated to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agricultural purposes.

(4) **Examples.**

(a) Farmer Jones and his wife own nineteen acres of classified farm and agricultural land. Farmer Jones dies and his wife inherits the classified land. Mrs. Jones realizes that she cannot actively farm the land and produce the annual amount of income required by RCW 84.34.020 (2)(b). She decides to have the land reclassified as farm and agricultural conservation land within the open space classification. The land may be reclassified as open space/farm and agricultural conservation land under subsection (3)(a) of this section if she submits an application for reclassification as open space/farm and

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agricultural conservation land and the application for reclassification is approved by the granting authority.

(b) Farmer McDowell has a fifty acre parcel of land on which he raises pigs and goats. He inherited this land from his father who farmed it before him. Also, the land has never been classified under chapter 84.34 RCW nor has it ever been designated forest land under chapter 84.33 RCW. As the result of an accident, Farmer McDowell breaks his back and cannot actively farm the land for an extended period of time. This land may be classified as open space/farm and agricultural conservation land under subsection (3)(b) of this section if Farmer McDowell submits an application for classification as open space/farm and agricultural conservation land, the application for classification is approved, the land is not irrevocably dedicated to a use inconsistent with agricultural uses, and the land has a high potential for returning to commercial agriculture.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-242, filed 10/4/95, effective 11/4/95.]

WAC 458-30-245 Recording of documents. (1) **Introduction.** This section details the documents relating to lands classified under chapter 84.34 RCW that must be filed with the county assessor and the county recording authority in accordance with RCW 84.34.050.

(2) **Notice to assessor.** When the granting authority has classified land under chapter 84.34 RCW, the granting authority shall file a notice to this effect with the assessor within ten working days of making the determination. As to any land classified under chapter 84.34 RCW, the assessor shall annually make a notation on the county's assessment list and tax roll of the assessed value of this land for the use for which it is classified and the assessed value of this land if it were not so classified.

(3) **Agreement relating to open space land or timber land classification.** Within ten working days of receipt of an agreement regarding land classified as open space or timber land from a granting authority, the assessor shall submit the executed agreement to the county recording authority for recording in the place and manner provided for the public recording of tax liens on real property. The county recording authority shall return the agreement to the assessor following recording.

(4) **Notice of approval relating to farm and agricultural land classification.** Within ten working days of the approval of an application for farm and agricultural land classification or reclassification, the assessor shall send a notice of approval to the county recording authority for recording in the place and manner provided for the public recording of tax liens on real property.

(5) **Notice of withdrawal or removal.** When land is to be withdrawn or removed from classification under chapter 84.34 RCW, the assessor shall forward a notice of withdrawal or removal to the county recording authority. The county recording authority shall record all notices of withdrawal or removal. The owner shall pay all recording fees for the notices.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-245, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-245, filed 11/15/88.]

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WAC 458-30-250 Approval or denial and appeal. (1)

Introduction. This section describes the procedure an applicant must follow if his or her application for classification or reclassification under chapter 84.34 RCW is denied, in whole or in part, and he or she wishes to appeal the determination.

(2) **General requirement.** The granting authority shall immediately notify the assessor and the applicant of the approval or denial of an application for classification or reclassification. An application for classification or classification as open space, timber, or farm and agricultural land should be approved or denied no later than six months after the receipt of this application. However, if an application for classification or reclassification as farm and agricultural land is not denied, in whole or in part, by the first day of May of the year after the application was submitted, the application shall be deemed approved. For example, an application for classification as farm and agricultural land shall be considered approved if it was delivered to the assessor on August 30, 1993, and was not denied prior to May 1, 1994.

(3) **Written denials with reasons required.** All denials of an application for classification or reclassification shall be in writing and shall include the reasons for denial.

(4) **Owner's right to appeal.** The owner shall have the right to appeal any denial of an application for classification or reclassification.

(a) If an application for classification or reclassification as farm and agricultural land is denied by the granting authority, in whole or in part, the applicant may appeal to the board of equalization of the county in which the land is located within thirty calendar days of date the denial was mailed.

(b) If an application for classification or reclassification as either open space or timber land is denied by the granting authority, in whole or in part, the applicant may appeal only to the superior court of the county in which the land is located and the application was made.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-250, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-250, filed 11/15/88.]

WAC 458-30-260 Valuation procedures for farm and agricultural land. (1) Introduction.

This section outlines the methods an assessor may use to determine the value of land classified as farm and agricultural land under chapter 84.34 RCW. The valuation procedures are outlined in RCW 84.34.065. The method used to value the principal residence of the farm operator or owner and the housing of farm and agricultural employees on classified farm and agricultural land is described in WAC 458-30-317.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Landlord" means the person(s) or business enterprise that leases or rents classified farm and agricultural land to another person(s) or business entity.

(b) "Net cash rental" means the average rental paid on an annual basis, in cash, for the land being appraised and other farm and agricultural land of similar quality and similarly situated that is available for lease for a period of at least three years to any reliable person without unreasonable restrictions on its use for the production of agricultural crops.

(c) "Rate of interest" means the rate of interest charged by the farm credit administration and other large financial institutions regularly making loans secured by farm and agricultural lands through mortgages or similar legal instruments averaged over the immediate past five years.

(3) **General considerations.** The assessor shall use all available information to determine the productive or earning capacity of classified farm and agricultural land including, but not limited to, farm production information, actual crop production within an area averaged over not less than five years, and other relevant data. The assessor may also use reliable statistical sources. Additionally, a soil capability analysis may be considered in determining the productive or earning capacity of classified land.

(4) **Determination of current use value.** The value of classified farm and agricultural land shall be determined by the productive or earning capacity of comparable land from crops typically grown in the area averaged over not less than five years, capitalized at indicative rates. The assessor shall use the capitalization of income method to value this type of classified land.

(a) The earning or productive capacity of comparable land is the "net cash rental," capitalized at a "rate of interest" charged on long-term loans secured by a mortgage on farm or agricultural land plus a component for property taxes. The rate of interest and the property tax component for each county are set forth in WAC 458-30-262.

(b) The value of classified farm and agricultural land shall be the net cash rental of the land divided by the capitalization rate.

(5) **Net cash rental.** The net cash rental to be capitalized shall be determined as follows:

(a) Based on leases. Leases of farm and agricultural land paid on an annual basis, in cash, shall be used in determining the net cash rental. The cash value of these leases shall include government subsidies if the subsidies are based on the earning or productive capacity of the land. Only leases of land that is available for rent for a period of at least three years to any reliable person without unreasonable restrictions on its use to produce agricultural crops may be used in this determination. Lease payments shall be averaged as follows:

(i) Each annual lease or rental payment for the land being valued and for other farm and agricultural land within the area of similar quality and upon which typical crops in the area are grown shall be averaged for at least the preceding five crop years; and

(ii) The typical cash rental for each year shall be averaged for at least the preceding five crop years.

(A) Costs of crop production customarily paid by the landlord may be deducted from the typical cash rental. All costs and expenses shall be averaged for at least the preceding five crop years.

(B) If the land is irrigated by a sprinkler system, the amount of rent attributable, if any, to the irrigation equipment shall be deducted from the gross cash rent to determine the net cash rental of the land only. However, the value of irrigation equipment will be placed on the assessment roll at its true and fair value.

(b) Earning or productive capacity of land. If only an insufficient number of leases are available, the earning or productive capacity of farm and agricultural land shall be cal-

culated by determining the cash value of typical crops grown on land of similar quality and similarly situated within the area then subtracting the standard production costs of the crops. The cash value minus the production costs of typical crops are to be averaged over at least five crop years. Cash value shall include, but is not limited to, government subsidies if the subsidies are based on the earning or productive capacity of the land. Any acreage kept out of production because of government subsidies shall be included in the total acreage valued by the capitalization of the income method.

(c) When the land being valued is not being used for commercial agricultural purposes or when the available information is insufficient to determine the earning or productive capacity of the land, the assessor shall compute a reasonable amount based on the land's estimated productive capacity to be capitalized as income.

(6) **Capitalization rate.** The capitalization rate that is used to value classified farm and agricultural land is the sum of the following:

(a) An interest rate determined by the department on or before January 1st each year. This rate shall be the rate of interest charged on long-term loans secured by mortgages or similar legal instruments averaged over the immediate past five years; plus

(b) A component for property taxes determined by dividing the total taxes levied within the county for the year preceding the assessment by the total assessed value of all property within the county and multiplying the quotient by one hundred.

(7) **Appeal of interest rate determination.** The department shall annually determine a rate of interest and property tax component that shall be announced in a rule. (WAC 458-30-262.) This rule will be published in the *Washington State Register* before January 1st each year so that it may be used in that assessment year. The department's determination of the interest rate may be appealed to the state board of tax appeals within thirty calendar days after the date of publication by:

(a) Any owner of a parcel(s) of land classified as farm and agricultural; or

(b) The assessor of any county containing parcels of land that are classified as farm and agricultural under chapter 84.34 RCW.

(8) **Valuation of principal residence or housing for employees.** Land classified as farm and agricultural land because it is the site of the principal residence of the operator or owner of the land and the housing for farm and agricultural employees will be valued in accordance with RCW 84.34-065 and WAC 458-30-317. If the residence or housing for employees does not meet all the requirements for classification, the land may not be classified as farm and agricultural land and it must be valued at its true and fair value in accordance with WAC 458-12-301.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-260, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2) and 84.34.141. 90-02-080 (Order PT 90-1), § 458-30-260, filed 1/2/90, effective 2/2/90. Statutory Authority: RCW 84.08.010(2) and 84.34.065. 89-05-009 (Order PT 89-2), § 458-30-260, filed 2/8/89. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-260, filed 11/15/88.]

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year 2005, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is 7.76 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	1.36	Lewis	1.13
Asotin	1.44	Lincoln	1.36
Benton	1.39	Mason	1.27
Chelan	1.33	Okanogan	1.24
Clallam	1.11	Pacific	1.44
Clark	1.33	Pend Oreille	1.16
Columbia	1.33	Pierce	1.50
Cowlitz	1.26	San Juan	0.67
Douglas	1.37	Skagit	1.20
Ferry	0.98	Skamania	0.99
Franklin	1.57	Snohomish	1.26
Garfield	1.60	Spokane	1.50
Grant	1.44	Stevens	1.13
Grays Harbor	1.37	Thurston	1.38
Island	0.94	Wahkiakum	1.06
Jefferson	1.11	Walla Walla	1.43
King	1.09	Whatcom	1.30
Kitsap	1.28	Whitman	1.59
Kittitas	1.07	Yakima	1.28
Klickitat	1.20		

[Statutory Authority: RCW 84.34.065 and 84.34.141. 05-01-051, § 458-30-262, filed 12/7/04, effective 1/1/05. Statutory Authority: RCW 84.34.065 and 84.34.141. 03-24-013, § 458-30-262, filed 11/20/03, effective 12/21/03; 02-23-080, § 458-30-262, filed 11/19/02, effective 12/20/02; 02-03-040, § 458-30-262, filed 1/8/02, effective 2/8/02. Statutory Authority: RCW 84.34.065, 84.34.360. 00-24-105, § 458-30-262, filed 12/6/00, effective 1/1/01; 99-24-034, § 458-30-262, filed 11/23/99, effective 1/1/00. Statutory Authority: RCW 84.34.065, 84.34.360 and 84.08.010. 99-01-067, § 458-30-262, filed 12/14/98, effective 1/1/99. Statutory Authority: RCW 84.34.065, 84.34.141 and 84.08.010. 98-01-178, § 458-30-262, filed 12/23/97, effective 1/1/98. Statutory Authority: RCW 84.34.065, 84.34.141, 84.08.010 and 84.34.070. 97-02-066, § 458-30-262, filed 12/31/96, effective 1/1/97. Statutory Authority: RCW 84.34.065, 84.34.141, 84.08.010 and 84.34.070. 96-01-095, § 458-30-262, filed 12/19/95, effective 1/1/96. Statutory Authority: RCW 84.34.065, 84.34.141, 84.08.010 and 84.08.070. 95-09-041, § 458-30-262, filed 4/14/95, effective 5/15/95. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.34.065. 94-05-062, § 458-30-262, filed 2/11/94, effective 3/14/94. Statutory Authority: RCW 84.08.010 and 84.08.070. 93-07-067, § 458-30-262, filed 3/17/93, effective 4/17/93; 92-03-068, § 458-30-262, filed 1/14/92, effective 2/14/92; 91-04-001, § 458-30-262, filed 1/24/91, effective 2/24/91; 90-24-087, § 458-30-262, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2) and 84.34.141. 90-02-080 (Order PT 90-1), § 458-30-262, filed 1/2/90, effective 2/2/90.]

WAC 458-30-265 Valuation cycle. (1) Introduction. This section explains the timing of revaluations of land classified under the provisions of chapter 84.34 RCW.

(2) **Revaluation cycle.** In determining the true and fair value and the current use value of classified lands, the assessor shall follow a revaluation cycle that adheres to the requirements contained in WAC 458-12-335 through 458-12-339. The cycle used shall be the same as that used for other real property in the county and shall be in an orderly manner, pursuant to a regular plan, and in a manner that is not arbitrary, capricious, or intentionally discriminatory.

(3) **Notice required.** The assessor shall notify the owner of classified lands of any change in the true and fair value and/or current use value in the same manner as prescribed in RCW 84.40.045.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-265, filed 10/4/95, effective 11/4/95. Statutory Author-

ity: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-265, filed 11/15/88.]

WAC 458-30-267 Valuation procedures for open space and timber land. (1) **Introduction.** This section outlines the procedures set forth in RCW 84.34.060 about how to value land(s) classified as open space or timber land under the provisions of chapter 84.34 RCW.

(2) **Open space land.**

(a) In valuing land classified as open space, the assessor shall consider only the way in which the land and improvements are currently used; the assessor shall not consider potential uses of the land.

(b) The assessed value of open space land shall not be less than the minimum value per acre of classified farm and agricultural land.

(c) If open space land is located within a county where the county legislative authority has adopted an open space plan and a public benefit rating system in accordance with RCW 84.34.055, the assessed value of this open space land may be based on the public benefit rating system. The open space plan shall contain criteria for determining eligibility of lands, the process for establishing a public benefit rating system, and an assessed valuation schedule. An assessed valuation schedule shall be developed by the assessor and shall be a percentage of true and fair value based on the public benefit rating system.

(3) **Timber land.** The assessor shall value classified timber land according to the provisions of chapter 84.33 RCW.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-267, filed 10/4/95, effective 11/4/95.]

WAC 458-30-270 Data relevant to continuing eligibility—Assessor may require owner to submit. (1) **Introduction.** This section explains the types of data or information the assessor may require a person seeking continued classification or reclassification to submit so that land may retain its eligibility or be reclassified under chapter 84.34 RCW.

(2) **General authorization.** The assessor may require an owner of land classified under chapter 84.34 RCW to submit data relevant to the use of the land, productivity of typical crops, and other information pertinent to continued classification or reclassification and appraisal of the land. The assessor may request any relevant information that will assist him or her in determining whether the land is eligible for continued classification or reclassification. Relevant data or information includes, but is not limited to:

- (a) Receipts from sales of agricultural products produced on classified land;
- (b) Federal income tax returns including schedules documenting farm income, production costs, and other operating expenses;
- (c) Rental or lease agreements and receipts;
- (d) Government payments and subsidies;
- (e) Crop and livestock production data; or
- (f) Other income and expense information related to the land for which continued classification or reclassification is sought.

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(3) **Request for information - procedure.** The assessor shall send the request for information by first class mail. The person seeking continued classification or reclassification must submit the requested information or data, in writing, no later than sixty calendar days following the date the request was mailed.

(a) If no response is received within sixty days, the assessor's office shall send the owner a second request for information by certified mail, return receipt requested. This second request shall include a statement that failure to submit the requested information or data within thirty calendar days of the date of mailing may cause the land to be removed from classification.

(b) If the owner of classified land does not respond to a request for information, the assessor may remove the land from classification.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-270, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-270, filed 11/15/88.]

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 shall 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. (Subsection (9) of this rule contains an explanation about REET.) Both the REET affidavit and the notice of continuance are forms prepared by the department of revenue and supplied to the counties. Both forms are available from the department by sending a written request to:

Department of Revenue
Taxpayer Services
P.O. Box 47478
Olympia, WA 98504-7478.

A copy of the notice of continuance may be obtained from the county assessor or it may be downloaded from the internet at <http://dor.wa.gov/index.asp> under property tax, "forms." 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 on the affidavit or the separate 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

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classification under chapter 84.34 RCW. (See 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 bodies if the classified open space 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 shall 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 signs a notice of continuance and the assessor determines that the land will or will not continue to qualify for classification. If the assessor decides that the land must be removed from classification, the assessor will note that the land does not qualify for continuance on the REET affidavit and begin the removal procedures set forth in WAC 458-30-295.

(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 current use 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.

(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 at the time of sale or transfer. If circumstances require it, the assessor may allow an extension of time for submitting this plan when a notice of continuance is received. The applicant will be notified of this extension in writing. When the assessor extends the filing deadline for a timber management plan, the county legislative authority should delay processing the application until this plan is received. 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 dictates 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 contiguous 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 data relating to the productivity of the farm or agricultural operation for three of the past five years. This income data is used to determine whether the land meets the income production requirements listed in RCW 84.34.020 (2)(b) and (c) for classification. However, if the income data is unavailable but the new owner is willing to sign the notice of continuance and accept the responsibility for any additional tax and interest 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 use of the land has changed or has not produced the requisite minimum income.

(i) RCW 84.34.020 (2)(b) and (c) set forth the minimum income production requirements for classified farm and agricultural land of less than twenty acres. Any sale or transfer of classified land is subject to these income limits. However,

the income production requirements will not be examined when classified land is being transferred to a surviving spouse, but such land is subject to the same production requirements that were applicable before the spouse's death. For example, a sixteen acre parcel of classified farm and agricultural land, which was classified in 1998, is still required to produce a minimum of two hundred dollars per acre per year even though the assessor is not required to review the income production data 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 income production 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, the higher minimum income requirements set forth in RCW 84.34.020 (2)(b)(ii) 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 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 1978 to a fifteen acre parcel that produced a gross income of one hundred thirty dollars per acre per year until it was sold on April 15, 1999, the minimum income requirements will be deferred until 2002. By the end of 2002, the new owner must show that the parcel produced two hundred dollars per acre at least one year during the three-year period between 2000 and 2002. 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 after January 1, 1993. The higher minimum income production requirements of RCW 84.34.020 (2)(b)(ii) and (c)(ii) apply to all land classified after January 1, 1993. When such land is sold or transferred, the assessor may ask the seller or buyer to provide gross income data relating to the productivity of the farm or 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 income the land produced during the five calendar years preceding the sale (i.e., 1995 through 2000). To retain the farm and agricultural classification, the land must have produced a minimum 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 income data is unavailable but the new owner is willing to sign the notice of continuance and accept the responsibility for any additional tax and interest 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 use of the land has changed or has not produced the requisite minimum income.

(c) Segregation of land. If the sale or transfer of classified land involves a segregation, the owner of the newly cre-

ated parcel(s) and the owner of the parcel from which the land was segregated must comply with the requirements for classification, including the production of minimum income, to enable the assessor to continue the classified status of the land.

(8) **New owner's acknowledgement.** 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. (See 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 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-275, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.34.141. 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. 95-21-002, § 458-30-275, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 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. 88-23-062 (Order PT 88-12), § 458-30-275, filed 11/15/88.]

WAC 458-30-280 Notice to withdraw from classification. (1) **Introduction.** When an owner of classified land wishes to withdraw all or part of this land from the current use program, the owner must submit a request to withdraw classification to the assessor. This section explains when an owner may request a withdrawal from classification under the provisions of chapter 84.34 RCW and what the assessor must do upon receipt of this request.

(2) **Definition.** For purposes of this section, the following definition applies: "Withdrawal" or "withdrawn" occurs when the owner of land classified under the provisions on chapter 84.34 RCW has filed a notice of request to withdraw all or a portion of the land from classification. In order to qualify for withdrawal, the parcel(s) of land must have been classified for a minimum of ten years and the owner must have filed a notice of request to withdraw with the assessor at least two years prior to the assessment year when the parcel will be valued at the assessed value as determined in accordance with the county's approved revaluation cycle. Land is withdrawn from classified status by a voluntary act of the owner.

(3) **Requirements - ten years and notice of request for withdrawal.** Except as otherwise provided, land classified under the provisions of chapter 84.34 RCW shall remain classified and shall not be applied to any other use for at least ten assessment years from the effective date of classification.

(a) During the ninth or later assessment year of classification, the owner may file with the assessor a notice of request for withdrawal. The request for withdrawal may involve all or part of the land.

(b) Upon receiving the request for withdrawal, the assessor shall, within seven working days, transmit one copy of the request to the granting authority that approved the original application for classification.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-280, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-280, filed 11/15/88.]

WAC 458-30-285 Withdrawal from classification. (1)

Introduction. RCW 84.34.070(1) states that once land has been classified under chapter 84.34 RCW, it must remain so classified for a minimum of ten years from the date of classification. The land will remain classified until and unless the owner submits to the assessor a notice of request for withdrawal of all or a portion of the land from classification. After a request to withdraw classification is received, the assessor is required to make a series of determinations. This rule explains the procedures the assessor must follow upon receipt of a request for withdrawal.

(2) **Withdrawal process.** Land classified under chapter 84.34 RCW must be applied to the classified use and remain in its classified status for at least ten years from the date of classification. During the ninth or later year of classification, the owner may request to have all or a portion of the land withdrawn from the current use program. The owner must submit a written request to withdraw classification to the assessor of the county in which the land is located. The land will be withdrawn from classification two assessment years after the request to withdraw is received.

(a) A parcel of land may be withdrawn from classification in whole or in part. See RCW 84.34.070(1).

(b) The additional tax and interest imposed by RCW 84.34.108 are due when land is withdrawn from classification if the land has been classified under chapter 84.34 RCW for a minimum of ten assessment years. If a request to withdraw classification is received by the assessor's office and an intervening act causes the current use classification to be removed before the two assessment years have elapsed, the penalty described in RCW 84.34.108 (4)(c) is also due. However, if the removal is a result of one of the circumstances listed in RCW 84.34.108(6) no additional tax, interest, or penalty will be imposed. (See WAC 458-30-300.)

(c) Within seven days of receiving a notice to withdraw classification, the assessor forwards a copy of this notice to the legislative body that approved the initial application for classification.

(d) A request to withdraw classification may be revoked by the owner at any time before the land is actually withdrawn from classification.

(3) **Procedure for partial withdrawal.** RCW 84.34.070 allows an owner to withdraw all or only a portion of the land from classification as long as the owner submits a notice of request for withdrawal two assessment years in advance of the effective date of the withdrawal. If only a portion of the classified land is to be withdrawn from classification, the remaining parcel must satisfy the same requirements the entire parcel was required to meet when the land was originally granted classification unless different criteria are required by statute. For example, if the owner of a thirty acre parcel of classified farm and agricultural land wishes to withdraw fifteen acres, the remaining fifteen acres must meet the income production requirements listed in RCW 84.34.020 (2)(b)(i) or (ii) to remain classified even though the thirty

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acre parcel was not required to meet any minimum income production requirements under RCW 84.34.020 (2)(a).

(a) The assessor may ask the owner of the parcel that will remain classified to submit information relevant to its continuing eligibility under chapter 84.34 RCW. See WAC 458-30-270 for more details for the types of information that may be requested.

(b) If the parcel is classified farm and agricultural land, the assessor will verify that the remaining portion meets the requirements of RCW 84.34.020(2).

(c) If the parcel is classified open space or timber land, the assessor will consult with the granting authority before determining whether the remaining portion meets the requirements of RCW 84.34.020 (1) or (3). The granting authority may ask the owner to submit any data that it considers necessary to assist it in making this determination.

(d) The assessor may segregate the portion of land from which classification is being withdrawn for valuation and taxation purposes.

(4) **Date of withdrawal and notice to owner.** RCW 84.34.070(1) requires the assessor to withdraw land from classification when two assessment years have elapsed following receipt of the owner's request to withdraw. In other words, land is withdrawn from classification as of January 1st of the third assessment year after the request to withdraw classification is received by the assessor's office.

(a) Method for counting assessment years. The year in which the request to withdraw is received counts as the first assessment year; the second assessment year begins on January 1 of the year immediately following the year in which the request is received; and the third assessment year begins on January 1 of the following year. (For example, if a request to withdraw classification is received on November 1, 1999, the first assessment year is 1999, the second assessment year is 2000, and the third assessment year is 2001. The land is withdrawn from classification as of January 1, 2001.)

(b) Notice to owner. No later than thirty days after withdrawing the land from classification, the assessor must notify the owner in writing that classification has been withdrawn.

(c) Valuation of land withdrawn from classification. When land has been withdrawn from classification, it shall be placed on the assessment roll at its true and fair value determined in accordance with the county's approved revaluation plan.

(d) Example. An application for classification as open space land was submitted in April 1990 and approved effective assessment year 1991. In 1999, the owner submits a notice of request to withdraw all the land from classification. The assessor withdraws the land from classification as of January 1, 2001, which is the third assessment year after the request to withdraw was received. This land is placed on the assessment roll at its true and fair value as of January 1, 2001, in accordance with the county's approved revaluation plan.

[Statutory Authority: RCW 84.34.141. 01-24-030, § 458-30-285, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-285, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-285, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-285, filed 11/15/88.]

WAC 458-30-295 Removal of classification. (1) **Introduction.** This rule discusses the circumstances that may cause land to be removed from classification and the actions an assessor takes to remove the land, in whole or in part, from classification under chapter 84.34 RCW.

(2) **General requirement - removal process.** If land classified under chapter 84.34 RCW is applied to a use other than the one for which classification is granted, the owner must notify the assessor of the change in use within sixty days of the change. If the new use of the land does not qualify for classification under chapter 84.34 RCW, the land must be removed from classification and, in most cases, additional tax, interest, and a penalty are imposed. Land may be totally or partially removed from classification depending on the reason(s) for the removal. See WAC 458-30-300 for details about the additional tax, interest, and penalty imposed when land is removed.

(3) **Circumstances that cause removal of land from classification.** When any of the following actions occur, the assessor shall remove all or a portion of the land from classification:

(a) Receipt of a written notice from the owner directing the assessor to remove the land from classification;

(b) Sale or transfer of the land to an owner that makes the land exempt from property taxes, except a transfer resulting from a default in loan payments made to or secured by a governmental agency that intends to or is required by law or regulation to resell the land for the same use as before;

(c) Any change in use that occurs after a request to withdraw classification is made under RCW 84.34.070 and before the actual withdrawal of the classification occurs;

(d) Sale or transfer of classified land to a new owner who is required to pay property tax and who does not sign the notice of classification continuance, except a transfer to an owner who is an heir or devisee of a deceased owner;

(e) Failure of an owner to respond to a request from the assessor for data regarding the use of the land, productivity of typical crops, and similar information pertinent to continued classification and assessment of the land (see RCW 84.34.-121 and WAC 458-30-270);

(f) The assessor denies an owner's request for reclassification and the land no longer meets the criteria under which it was originally classified; or

(g) The assessor determines, based on field inspections, analysis of income and expense data, or any other reasonable evidence, that the land no longer meets the criteria for classification under chapter 84.34 RCW.

(i) Example 1. During an on-site inspection, the assessor discovers that classified farm and agricultural land has been paved over and is used as a parking lot for school buses.

(ii) Example 2. Based on information released at a public meeting of the county planning commission, the assessor learns that an owner of classified timber land has harvested all timber from the land, the land has been platted, public services such as roads, sewers, and domestic water supply have been made available to the platted land, and houses have been built on the land. This information has led the assessor to conclude that the use of the land has changed or that the land no longer meets the criteria for classification as timber land.

(4) **Procedure when an assessor discovers a change in use.** If the assessor determines that the land is not being used

for a classified use, the assessor must notify the owner in writing regarding this determination and may not remove the land from classification until the owner has had an opportunity to respond to the assessor's determination.

(a) The owner must respond, in writing, to the assessor's inquiry about the use of the classified land no later than thirty calendar days following the postmark date the assessor's inquiry was mailed to the owner.

(b) If the parcel in question is classified open space land or timber land, the assessor may ask, but is not required to ask, the granting authority to provide reasonable assistance in determining whether the classified land continues to meet the criteria for classification. The granting authority shall provide this assistance within thirty days of receiving the assessor's request for assistance (see RCW 84.34.108(1)).

(c) Unless the owner demonstrates to the assessor that the classified use of the land has not changed, the assessor will remove the land from classification and impose additional tax, interest, and penalty from the date of the change in use (see RCW 84.34.080 and 84.34.108).

(5) **Procedure for partial removal.** If the use of only a portion of the classified land has changed and it no longer qualifies for classification under chapter 84.34 RCW, the assessor will remove the nonqualifying portion of the classified land. The remaining parcel must satisfy the same requirements the entire parcel was required to meet when the land was originally granted classification unless different criteria are required by statute because of the reduced size of the land that remains classified.

(a) The assessor may ask the owner of the parcel that will remain classified to submit information relevant to its continuing eligibility under chapter 84.34 RCW. See WAC 458-30-270 for more details.

(b) If the parcel is classified farm and agricultural land, the assessor will verify that the remaining portion meets the requirements of RCW 84.34.020(2).

(c) If the parcel is classified open space or timber land, the assessor will consult with the granting authority before determining whether the remaining portion meets the requirements of RCW 84.34.020 (1) or (3). The granting authority and assessor may ask the owner to submit pertinent data for this determination.

(d) The assessor may segregate the portion of land from which classification is being removed for valuation and taxation purposes.

(6) **Transactions that do not cause land to be removed from classification.** Land cannot be removed from classification solely because of:

(a) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120; or

(b) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040.

(7) **Notice to owner.** Within thirty days of the removal of land from classification, the assessor must notify the owner in writing of the reason(s) for removal.

(8) **Right of appeal.** The seller, transferor, or owner of classified land may appeal the removal from classification to the board of equalization of the county in which the land is located. The appeal must be filed within thirty calendar days (or up to sixty days if such a time limit has been adopted by

the county legislative authority) of the date the notice of removal was mailed by the assessor or given to the owner, or on or before July 1st of the year of removal, whichever is later (RCW 84.40.038).

(9) **Assessor's duty after removal.** Unless the removal is reversed on appeal, the assessor places the land on the assessment roll at its true and fair value determined in accordance with the county's approved revaluation plan. The value on the date of removal is the true and fair value as of January 1st of the year of removal. The assessment roll lists both the assessed value of the land before and after the removal of classification. Taxes for the current tax year are prorated according to the portion of the year to which each assessed value applies.

(10) **Possible segregation after removal.** If only a portion of the land is being removed from classification, the assessor must segregate the affected portion for valuation and tax purposes.

(11) **Additional tax, interest, and penalty are due when land is removed.** The additional tax, interest, and penalty imposed by RCW 84.34.080 and 84.34.108 are due when land is removed from classification unless the removal is the result of one of the exempt circumstances or transactions listed in RCW 84.34.108(6). (See WAC 458-30-300.)

[Statutory Authority: RCW 84.34.141, 01-24-030, § 458-30-295, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360, 95-21-002, § 458-30-295, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070, 90-24-087, § 458-30-295, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW, 88-23-062 (Order PT 88-12), § 458-30-295, filed 11/15/88.]

WAC 458-30-300 Additional tax—Withdrawal or removal from classification. (1) Introduction. This rule outlines the withdrawal and removal procedures, events that trigger removal, and how to calculate the additional property tax ("additional tax"), interest, and penalty that may be imposed because land is withdrawn or removed from classification. When land is withdrawn or removed additional tax and interest are due. A twenty percent penalty is also due when land is removed from classification (see RCW 84.34.108 and 84.34.070(2)).

(2) **Duties of assessor and treasurer.** As soon as possible after determining that the land no longer qualifies for classification under chapter 84.34 RCW or the use of the land has changed, the assessor must notify the owner in writing regarding this determination and of his or her intent to remove the land from classification. The assessor may not remove the land from classification until the owner has had an opportunity to be heard on the issue of removal.

(a) The owner has thirty calendar days following the postmark date on the assessor's notice of intent to remove to respond, in writing, to the assessor about the removal of the land from classification. After giving the owner an opportunity to be heard and unless sufficient information or evidence is presented as to why the land should not be removed from classified status, the land will be removed from classification as of the date the land no longer qualified for classification or the use of the land changed.

(b) Within thirty days of removing land from classification, the assessor notifies the owner, in writing, about the rea-

sons for the removal. The owner, seller, or transferor may appeal the removal to the county board of equalization.

(c) Unless the removal is reversed on appeal, the assessor revalues the affected land with reference to its true and fair value on the date of removal from classification. The assessment roll will list the assessed value of the land before and after the removal from classification. Taxes will be allocated to the part of the year to which each assessed value applies; that is, current use and true and fair value.

(d) The assessor computes the amount of additional tax, interest, and penalty, unless the removal is the result of one of the circumstances listed in subsection (5) of this rule.

(e) The assessor notifies the treasurer of the amount of additional tax, interest, and penalty due.

(f) The treasurer mails or gives the owner written notice about the amount of the additional tax, interest, and, if required, penalty due and the date on which the total amount must be paid.

(g) The total amount is due and payable to the treasurer thirty days after the owner is notified of the amount of additional tax, interest, and penalty due.

(3) **Amount of additional tax, interest, and penalty.** The amount of additional tax, interest, and penalty will be determined as follows:

(a) The amount of additional tax is equal to the difference between the property tax paid on the land because of its classified status and the property tax that would have been paid on the land based on its true and fair value for the seven tax years preceding the withdrawal or removal. And in the case of a removal, the taxes owed for the balance of the current tax year;

(b) The amount of interest, calculated at the same statutory rate charged on delinquent property taxes specified in RCW 84.56.020, is based upon the amount of additional tax determined under (a) of this subsection, starting from the date the additional tax could have been paid without interest until the date the tax is paid; and

(c) A penalty amounting to twenty percent of the additional tax and interest; that is, twenty percent of the total amount computed in (a) and (b) of this subsection. A penalty is not imposed when:

(i) The land has been classified for at least ten years at the time it is withdrawn from classification and the owner submitted a request to withdraw classification to the assessor at least two assessment years prior to the date the land is withdrawn from classification; or

(ii) The use of the land has changed and the change in use was the result of one of the circumstances listed in RCW 84.34.108(6). See subsection (5) of this rule for a detailed list of these circumstances.

(4) **Failure to sign notice of continuance.** Land will be removed from current use classification if a new owner fails to sign the notice of continuance when the classified land is sold or transferred. Additional tax, interest, and penalty will be imposed in accordance with RCW 84.34.108(4) because of this removal. A notice of continuance is not required when classified land is transferred to a new owner who is the heir or devisee of a deceased owner and the new owner wishes to continue classified use (see RCW 84.34.108 (1)(c)). If the heir or devisee elects not to continue classified use, the land

will be removed from classification and additional tax, interest, and penalty are due.

(5) **Exceptions.** No additional tax, interest, or penalty will be imposed if the withdrawal or removal from classification was the result of one or more of the following circumstances:

(a) Transfer to a governmental entity in exchange for other land located within the state of Washington;

(b) A taking through the exercise of the power of eminent domain or the sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of this power. This entity must have declared its intent to exercise the power of eminent domain in writing or by some other official action;

(c) A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than an act of the landowner changing the use of the property;

(d) Official action by an agency of the state of Washington or by the county or city in which the land is located disallowing the current use of classified land. For the purposes of this rule, "official action" includes: City ordinances, zoning restrictions, Growth Management Act, Shoreline Management Act, and Environmental Policy Act;

(e) Transfer of land to a church when the land would qualify for a property tax exemption under RCW 84.36.020. Only the land that would qualify for exemption under RCW 84.36.020 is included within this exception. Additional tax, interest, and, if appropriate, the penalty will be assessed upon the remainder of the land withdrawn or removed from classification;

(f) Acquisition of property interests by public agencies or private organizations qualified under RCW 84.34.210 or 64.04.130 for the conservation purposes specified therein. See subsection (6) of this rule for a listing of these agencies, organizations, and purposes. However, when the property interests are no longer used for one of the purposes enumerated in RCW 84.34.210 or 64.04.130, additional tax, interest, and penalty will be imposed on the owner of the property at that time;

(g) Removal of land granted classification as farm and agricultural land under RCW 84.34.020 (2)(d) because the principal residence of the farm operator or owner and/or housing for farm and agricultural employees was situated on it. This exception applies only to the land upon which the housing is located even if this portion of the agricultural enterprise has not been allocated a separate parcel number for assessment and tax purposes;

(h) Removal of classification after a statutory exemption is enacted that would exempt the land from property tax and the landowner submits a written request to the assessor to remove the land from classification. This exception applies only to newly enacted exemptions that would cause classified land to go from taxable to exempt status. For example, in 1999 the legislature created a new property tax exemption for property used for agricultural research and education programs. Subsequently, the owner of such land requests removal of the land from classification, no additional tax, interest or penalty are imposed because of this new property tax exemption authorized by RCW 84.36.570.

(i) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(j) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040;

(k) The sale or transfer of land within two years of the death of an owner who held at least a fifty percent interest in the land if:

(i) The individual(s) or entity(ies) who received the land from the deceased owner is selling or transferring the land; and

(ii) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on the death certificate begins the two-year period for sale or transfer;

(l) The sale or transfer of classified land between July 22, 2001, and July 22, 2003, if:

(i) An owner who held at least a fifty percent interest in the land died after January 1, 1991;

(ii) The individual(s) or entity(ies) who received the land from the deceased owner is selling or transferring the land; and

(iii) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on the death certificate is the date used to determine the deceased owner's date of death; or

(m) The result of one of the following changes in classification because of the owner's request:

(i) Reclassification from farm and agricultural land under RCW 84.34.020(2) to: Timber land under RCW 84.34.020(3), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(ii) Reclassification from timber land under RCW 84.34.020(3) to: Farm and agricultural land under RCW 84.34.020(2), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(iii) Reclassification from open space/farm and agricultural conservation land under RCW 84.34.020 (1)(c) to farm and agricultural land under RCW 84.34.020(2) if the land was previously classified as farm and agricultural land; or

(iv) Reclassification from forest land under chapter 84.33 RCW to open space land under RCW 84.34.020(1).

(6) **Land acquired by agencies or organizations qualified under RCW 84.34.210 or 64.04.130.** If the purpose for acquiring classified land is to protect, preserve, maintain, improve, restore, limit the future use of, or conserve the land for public use or enjoyment and the classified land is acquired by any of the following entities, no additional tax, interest, or penalty will be imposed as long as the property is used for one of these purposes:

(a) State agency;

(b) Federal agency;

(c) County;

(d) City;

(e) Town;

(f) Metropolitan park district (see RCW 35.61.010);

(g) Metropolitan municipal corporation (see RCW 35.58.020);

(h) Nonprofit historic preservation corporation as defined in RCW 64.04.130; or

(i) Nonprofit nature conservancy corporation or association as defined in RCW 84.34.250.

(7) **Removal of classification from land that was previously classified or designated forest land under chapter 84.33 RCW.** Land that was previously classified or designated as forest land under chapter 84.33 RCW may be reclassified under chapter 84.34 RCW at the request of the land owner. If such land is subsequently removed from the current use program before the land has been classified under chapter 84.34 RCW for at least ten assessment years, a combination of compensating tax imposed under chapter 84.33 RCW and additional tax, interest, and penalty imposed under chapter 84.34 RCW is due. RCW 84.33.145 explains the way in which these taxes are to be calculated.

[Statutory Authority: RCW 84.34.141. 01-24-030, § 458-30-300, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-300, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-300, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-300, filed 11/15/88.]

WAC 458-30-305 Due date of additional tax, interest, and penalty upon withdrawal or removal. (1) Introduction. This rule specifies the date upon which the additional tax, interest, and, if appropriate, penalty are due when land is withdrawn or removed from classification under chapter 84.34 RCW. This rule also explains the consequences of failure to timely pay these charges.

(2) **General rule - payable within thirty days of removal or withdrawal.** No later than thirty days after the date the treasurer mails or gives the owner written notice that the land will be removed from classification with the amount of additional tax, interest, and penalty due, the total amount owing must be paid, except in the case of a sale or transfer. The notice must list the amount of additional tax, interest, and penalty owed, as well as the date on which the total amount must be paid.

(3) **Exception to general rule - payable on date of sale or transfer.** If classified land is to be removed because of a sale or transfer, additional tax, interest, and penalty, if owed, must be paid at the time of sale or transfer.

(4) **Failure to timely pay - delinquency.** Any additional tax, interest, or penalty that is unpaid on its due date is delinquent. Interest is charged on the total amount due at the same rate that is applied by law to delinquent property taxes (see RCW 84.56.020). Interest accrues from the date of the delinquency until the date the total amount is paid in full.

(5) **Additional tax, interest, and penalty constitute a lien.** When land is withdrawn or removed from classification, the amount of additional tax, interest, and penalty becomes a lien on the land that attaches on the date of withdrawal or removal.

(a) This lien has priority to and must be fully paid and satisfied before any recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable.

(b) The lien may be foreclosed at the same time and in the same manner as liens for delinquent real property taxes are foreclosed under RCW 84.64.050.

[Statutory Authority: RCW 84.34.141. 01-24-030, § 458-30-305, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110,

(2005 Ed.)

84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-305, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-305, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-305, filed 11/15/88.]

WAC 458-30-310 County recording authority—County financial authority—Duties. (1) Introduction. This rule explains the conditions under which documents conveying ownership of land classified under chapter 84.34 RCW will be accepted by the county recording authority. It also describes the duties of the treasurer in the withdrawal and removal processes.

(2) **County recording authority—Limited documents may be accepted.** The county recording authority, usually the auditor, will not record any instrument of conveyance involving land classified under chapter 84.34 RCW unless:

(a) Any required additional tax, interest, and penalty has been paid to the treasurer and the treasurer has affixed a stamp on the REET affidavit showing this payment;

(b) The notice of continuance on or attached to the REET affidavit is signed by the new owner or transferee, the assessor agrees that the land should remain classified, and the assessor checks the box on the REET affidavit that the land qualifies for continued classified current use status; or

(c) The land is to be removed from classification because of one of the exceptions listed in RCW 84.34.108(6) and is exempt from additional tax, interest, and penalty.

(3) **Treasurer's duties.** The treasurer has a number of responsibilities relative to land classified under chapter 84.34 RCW and to land that is to be withdrawn or removed from classification.

(a) **Withdrawal.** Upon receipt of a request for withdrawal from classification, the assessor prepares a statement listing the amount of additional tax and interest due as a result of the withdrawal, the date on which this sum must be paid, and the effective date of the withdrawal. The assessor sends a copy of this statement to the treasurer's office. The treasurer's office collects the total amount of additional tax and interest listed on the date specified.

(b) **Removal.** As soon as possible after determining that land must be removed from classification, the assessor prepares a notice of removal of classification and statement containing additional tax, interest, and penalty calculations. This notice and statement lists the reason(s) for removing the land from classification and the assessor's calculations of the total amount of additional tax, interest, and penalty due. The assessor sends or gives a copy of this notice and statement to the treasurer's office and to the taxpayer. The treasurer's office collects the total amount due on the date specified.

(c) **Collection and distribution.** The additional tax, interest, and, if any, penalty imposed under RCW 84.34.080 or 84.34.108 must be paid in full to the treasurer's office thirty days after the date the statement was mailed to the owner. When classified land is sold or transferred and real estate excise tax must be paid, the treasurer will affix a stamp on the REET affidavit as proof that the REET and additional tax, interest, and if any, penalty have been paid so the conveyance may be recorded. The additional tax collected is distributed to taxing districts in the same manner as current taxes applicable to the land are distributed. The treasurer distributes the

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interest and penalty collected to the county's current expense fund.

(d) The treasurer treats any additional tax, interest, and penalty not paid on the due date as delinquent property taxes.

[Statutory Authority: RCW 84.34.141, 01-24-030, § 458-30-310, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360, 95-21-002, § 458-30-310, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070, 90-24-087, § 458-30-310, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW, 88-23-062 (Order PT 88-12), § 458-30-310, filed 11/15/88.]

WAC 458-30-317 Principal residence of farm operator or housing for farm and agricultural employees. (1) Introduction. Under RCW 84.34.020 (2)(d) the land on which the principal residence of the farm operator or owner of farm and agricultural land is situated and the housing for farm and agricultural employees is situated may be classified as farm and agricultural land.

This section explains the criteria that must be met to include this type of residence or employee housing within the farm and agricultural land classification and the procedure used to value a classified residence or housing.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Farm employee or farm and agricultural employee" means an individual who is employed on farm and agricultural land on a full-time basis or a seasonal or migratory worker who works on farm and agricultural land only during the planting, growing, and/or harvesting seasons.

(i) For purposes of this section, "full-time basis" refers to an individual who is employed at least twenty-five hours per week on farm and agricultural land.

(ii) The term does not include a person who is employed full time by a business activity that is not conducted on classified farm and agricultural land and who only works occasional weekends or during the harvest season on classified farm and agricultural land.

For example, housing occupied by a person who works full time at a foundry and who works on a farm only two weeks per year helping with the wheat harvest should not be granted classification.

(b) "Integral" means that which is central to or inherent in the use or operation of classified farm and agricultural land for commercial agricultural purposes. For purposes of this section, the residence of the farm operator or owner and/or housing for farm employees must be the place(s) from which the farmer conducts his commercial agricultural business.

(c) "True and fair value" means the value of a parcel of land placed on the assessment rolls at its highest and best use without regard to its current use value. The term also refers to market value; that is, the amount of money a buyer willing but not obligated to buy would pay to a seller willing but not obligated to sell for the real property.

(3) **Requirements for classification.** The land on which the principal residence of a farm operator or the owner of land is situated and the housing for farm or agricultural employees is situated may be classified as farm and agricultural land if it meets the following conditions:

(a) The land on which the residence or housing stands is twenty or more acres or multiple parcels that are contiguous and total twenty or more acres; and

(i) Primarily used to produce livestock or agricultural products for commercial purposes; or

(ii) Enrolled in the federal Conservation Reserve Program or its successor administered by the United States Department of Agriculture; and

(b) The use of the residence or housing is integral to the use of the classified land for commercial agricultural purposes.

(4) **Examples.**

(a) On a parcel of land twenty acres or more, there are two dwellings: One is the principal residence of the farm operator or owner of classified farm and agricultural land and the second is inhabited by the owner's son who is employed full time at a foundry in town and works on the farm only during harvest time. The land on which the principal residence is situated may be classified as farm and agricultural land if the use of the dwelling is integral to the use of the classified land. The land on which the second home is situated may not be included within the farm and agricultural land classification because it is not inhabited by a farm employee as defined in subsection (2) of this section.

(b) On a parcel of land twenty acres or more, there are two dwellings: One is the principal residence of the farm operator or owner of farm and agricultural land and the second is inhabited by seasonal farm workers who work on the farm only during harvest time. The land on which both dwellings are situated may be classified as farm and agricultural land if the use of the dwellings are integral to the use of the classified land.

(c) On a parcel of classified land that is twenty acres, there is one dwelling. This dwelling is occupied by the owner of the classified land but the owner does not run the farm. The farm is leased to a cooperative that conducts the commercial agricultural activities of the farm from central administrative headquarters that are not located on the classified land. The land on which this dwelling stands may not be classified as farm and agricultural land because the use of the dwelling is not integral to the commercial agricultural purposes of the farm.

(5) **Valuation.**

(a) The land. The land on which the principal residence of a farm operator or owner of farm and agricultural land or the housing for farm and agricultural employees is situated shall be valued in the following manner:

(i) The prior's year average value of classified farm and agricultural land in the county; plus

(ii) The value of land improvements used to serve the residence or housing, such as sewer, water, and power.

(iii) If the use of the residence or housing for employees is not integral to the farming operation, the land on which the residence or housing stands shall be valued at its true and fair value in accordance with WAC 458-12-301.

(b) The principal residence or housing for employees. The building(s) used by the farm operator or owner as his or her principal residence and building(s) used to provide shelter to farm and agricultural employees shall be valued at its true and fair value in accordance with WAC 458-12-301.

(c) Excluded structures. The land on which storeyards, barns, machine sheds, and similar type structures are located shall not be considered as part of the principal residence of the farm operator or owner nor housing for farm and agricul-

tural employees. However, the land upon which these structures stand may be classified as farm and agricultural land generally.

(6) **Withdrawal or removal.** Additional tax, interest, and penalty, if owed, are not imposed if farm and agricultural land classified under RCW 84.34.020 (2)(d) is withdrawn or removed from classification.

(7) **Effect of 1992 legislation on county revaluation cycle.** Land on which the farm owner's or operator's residence is located and land on which the housing for farm and agricultural employees is located shall be revalued in accordance with the 1992 legislative changes, described in subsection (5) of this section, only in the assessment year when the land is being revalued in accordance with the county's revaluation cycle.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-317, filed 10/4/95, effective 11/4/95.]

WAC 458-30-320 Assessment and tax rolls. (1) Introduction. This section explains the manner in which land classified under chapter 84.34 RCW is to be listed on the assessment and tax rolls.

(2) **Listing of current use land.** When land has been classified under chapter 84.34 RCW, the assessor shall annually enter on the assessment and tax rolls, the current use value and the true and fair value of that land. The assessor shall provide notice of these values to the county financial authority who shall list these values in the place and manner provided for public recording of tax liens on real property.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-320, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-320, filed 11/15/88.]

WAC 458-30-325 Transfers between classifications—Application for reclassification. (1) Introduction. This rule discusses the process used when land is reclassified into a different classification under chapter 84.34 or 84.33 RCW.

(2) **General information - when reclassification is required.** In 1992, the legislature created an opportunity for owners of classified land to change the classification under which their land is classified under chapter 84.34 RCW or designated under chapter 84.33 RCW. The name given to this process is "reclassification." It is now possible to switch between the different classifications of chapter 84.34 RCW and forest land under chapter 84.33 RCW. The following circumstances may cause an owner of classified land to seek reclassification:

(a) The classified land is no longer being used for the purpose for which it was granted classification;

(b) The owner or new owner of classified land has decided to change the use of classified land;

(c) The classified land no longer meets the requirements of the classification under which it was originally classified; for example, farm and agricultural land that no longer produces the minimum income required by RCW 84.34.020 (2)(b) and (c) must either be reclassified or removed from the current use program;

(d) The new owner is an heir or devisee of a deceased owner who held classified land and the new owner either

does not choose to meet or cannot meet the requirements of the classification under which the land was originally classified; or

(e) The assessor has determined the classified land is no longer eligible under the existing classification and the land must either be reclassified or removed from the current use program.

(3) **Reclassification process if land is subject to removal.** Within thirty days of receiving notice from the assessor that classified land is to be removed from the current use program, the owner must submit an application for reclassification into another classification under chapter 84.34 or 84.33 RCW if the owner elects to have the land remain classified. The removal notice must include a statement informing the owner of the classified land about the reclassification option. If an application for reclassification is submitted within thirty days, the land is not removed from classification until the application for reclassification is approved or denied.

(4) **Reclassification process if an owner seeks change of classification.** An owner of classified land may seek to have the land reclassified under a different current use classification under chapter 84.34 RCW or may seek designation as forest land under chapter 84.33 RCW.

(a) If an owner elects to have land reclassified, the owner must submit an application for reclassification to the assessor of the county in which the land is located. This application form will be prepared by the department and supplied to assessors or it may be obtained on the internet at <http://dor.wa.gov/index.asp> under property tax, "forms."

(b) Within seven days of receiving this request, the assessor must forward a copy of the application for reclassification to the appropriate granting authority (see the definition of "granting authority" in WAC 458-30-200 for more details). The assessor retains a copy of all applications for reclassification.

(c) When an application for reclassification is submitted, the classified status of the land is not changed until the application is approved or denied.

(5) **Application procedure.** An application for reclassification is processed in the same manner as an initial application for classification, which may include payment of an application fee if the county requires one. All classification requirements of RCW 84.34.035 for farm and agricultural land, RCW 84.34.037 for open space land, RCW 84.34.041 for timber land, and chapter 84.33 RCW for forest land must be satisfied in order to reclassify land. (These requirements are also described in WAC 458-30-225, 458-30-230, 458-30-232, 458-30-242, and chapter 458-40 WAC.)

(a) The granting authority must process an application for reclassification in the same manner as it processes an initial application for classification under chapter 84.34 RCW or for designation as forest land under chapter 84.33 RCW.

(b) A timber management plan must be filed with the county legislative authority within sixty days of the date the application for reclassification under this chapter or from designated forest land under chapter 84.33 RCW is received. The application for reclassification will be accepted, but may not be processed until this plan is received.

(i) If this plan is not received within sixty days of the date the application for reclassification is received, the application will be denied.

(ii) If circumstances require it, the assessor may allow an extension of time for submitting a timber management plan when an application for reclassification is received. The applicant will be notified of this extension in writing. When the assessor extends the filing deadline for this plan, the county legislative authority should delay processing the application until the plan is received. If the timber management plan is not received by the date set by the assessor, the application for reclassification will be automatically denied.

(c) An application for reclassification may be approved or denied, in whole or in part.

(i) The granting authority must notify the applicant in writing of the extent to which the application for reclassification is approved or denied.

(ii) The applicant has the same appeal rights in relation to a denial of an application for reclassification as the applicant has in regard to an initial application for classification.

(iii) If an application for reclassification is denied, the assessor removes the land from classification and calculates additional tax, interest, and penalty in accordance with RCW 84.34.108.

(6) **Reclassifications exempt from additional tax.** No additional tax, interest, or penalty are due when reclassification is a result of any of the following transfers between classifications:

(a) Reclassification from farm and agricultural land under RCW 84.34.020(2) to: Timber land under RCW 84.34.020(3), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(b) Reclassification from timber land under RCW 84.34.020(3) to: Farm and agricultural land under RCW 84.34.020(2), open space land under RCW 84.34.020(1), or forest land under chapter 84.33 RCW;

(c) Reclassification from open space/farm and agricultural conservation land under RCW 84.34.020 (1)(c) to farm and agricultural land under RCW 84.34.020(2) if the land was previously classified as farm and agricultural land; or

(d) Reclassification from forest land under chapter 84.33 RCW to open space land under RCW 84.34.020(1).

(7) **Income production requirements of land to be reclassified.** The income production requirements relating to the following reclassifications may be deferred for a period of up to five years from the effective date of reclassification when:

(a) Land classified as open space/farm and agricultural conservation land under RCW 84.34.020 (1)(c) or timber land under RCW 84.34.020(3) is reclassified as farm and agricultural land under RCW 84.34.020 (2)(b) or (c); or

(b) Land designated as forest land under chapter 84.33 RCW is reclassified as farm and agricultural land under RCW 84.34.020 (2)(b) or (c).

(8) **Valuation of reclassified land.** The value of reclassified land will be based on the new classification as of January 1 of the assessment year following approval of the request for reclassification. For example, if an application for reclassification from farm and agricultural land to open space/farm and agricultural conservation land is submitted on February 15, 1999, and approved effective June 1, 1999, the land will

be valued and assessed as open space/farm and agricultural conservation land on January 1, 2000, and the owner is required to pay taxes on this new assessed value in 2001.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-325, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.34.141. 01-24-030, § 458-30-325, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-325, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-325, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-325, filed 11/15/88.]

WAC 458-30-330 Rating system—Authorization to establish. (1) **Introduction.** This section sets forth the general authority that has been conferred on a county legislative authority to establish an open space plan and a public benefit rating system under RCW 84.34.055.

(2) **General authorization.** The county legislative authority may direct the county planning commission to set open space priorities and to adopt, following a public hearing, an open space plan and a public benefit rating system for the county. The open space plan shall include, but is not limited to, the following:

(a) Criteria to determine eligibility of land;

(b) A process for establishing a public benefit rating system; and

(c) An assessed valuation schedule that shall be developed by the assessor and shall be a percentage of true and fair value based on the public benefit rating system.

(3) **Public hearing required.** At least one public hearing must be held before an open space plan, a public benefit rating system, or an assessed valuation schedule may be approved by the county legislative authority.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-330, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-330, filed 11/15/88.]

WAC 458-30-335 Rating system—Procedure to establish. (1) **Introduction.** This section discusses the factors that must be considered when a public benefit rating system is established under RCW 84.34.055. It also includes a nonexclusive list of recognized sources to be used in determining open space priorities.

(2) **Rating of land.** The public benefit rating system shall provide for the rating of parcel(s) of land classified as open space under chapter 84.34 RCW.

(3) **Criteria.** The county legislative authority shall include within the public benefit rating system the criteria contained in chapter 84.34 RCW. The granting authority shall consider this criteria when acting on an application for classification or reclassification.

(4) **Open space plan-recognized sources.** In developing the open space plan, the county planning authority shall take all reasonable steps to determine open space priorities, or use recognized sources for the same purpose, or both.

(a) Recognized sources of open space priorities include, but are not limited to:

(i) The natural heritage data base;

(ii) The state office of historic preservation;

- (iii) The interagency committee for outdoor recreation inventory of dry accretion beach and shoreline features;
- (iv) The state, national, county, and/or state registers of historic places;
- (v) The shoreline master program; or
- (vi) Studies conducted by the parks and recreation commission and by the departments of fisheries, natural resources, and wildlife.

(b) Particular features and sites may be verified by an outside expert in the field and approved by the appropriate state or local agency to be sent to the county legislative authority for final approval as open space.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-335, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-335, filed 11/15/88.]

WAC 458-30-340 Rating system—Adoption—Notice to owner—Loss of classification. (1) **Introduction.** This section outlines the procedures that must be followed when an open space plan and a public benefit rating system have been approved and the effects of this adoption on owners of land classified as open space at the time of adoption under the provisions of RCW 84.34.055.

(2) **Notice to owner upon classification - request for removal.** When the county legislative authority has adopted an open space plan and a public benefit rating system, the assessor shall notify all owners of land classified as "open space" of the new assessed value of their land in the same manner as provided in RCW 84.40.045.

(a) Within thirty days of receipt of this notice of new assessed value, the owner may request that the parcel(s) of land be removed from the classification without additional tax, interest, or penalty.

(b) If land classified as open space no longer qualifies for this classification after an open space plan and a public benefit rating system are adopted, the land shall not be removed from the open space classification, but it may be rated in accordance with the public benefit rating system.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-340, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-340, filed 11/15/88.]

WAC 458-30-345 Advisory committee. (1) **Introduction.** This section explains how the advisory committee mandated by RCW 84.34.145 is formed, the type of advice this committee may give the assessor, and the consequences of not forming this committee.

(2) **Formation.** The county legislative authority shall appoint a five-member advisory committee representing the active farming community to advise the assessor in implementing assessment guidelines as established by the department for open space, farm and agricultural, and timber land classified under the provisions of chapter 84.34 RCW, unless the county legislative authority finds insufficient interest by the farming community in the formation of such a committee.

(a) The committee shall elect officers and adopt operating procedures.

(b) All meetings and records shall be open to the public according to chapters 42.30 and 42.17 RCW.

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(c) Upon appointment, each member of the advisory committee shall serve a one-year term.

(d) Members may be removed from the advisory committee by majority vote of the county legislative authority.

(3) **Type of advice.** The advisory committee shall not give advice regarding the valuation or assessment of specific parcels of land. However, it may supply the assessor with advice on typical crops, land quality, and net cash rental assessments to assist the assessor in determining appropriate values.

(4) **Failure to appoint advisory committee.** Failure of the county legislative authority to appoint an advisory committee shall not invalidate the listing of property on the assessment or the tax rolls.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-345, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-345, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-345, filed 11/15/88.]

WAC 458-30-355 Agreement may be abrogated by legislature. (1) **Introduction.** This section explains that the agreement to tax according to current use is a noncontractual agreement that may be annulled or cancelled at any time by the legislature.

(2) **No contractual obligation.** The agreement to tax land according to its current use is not a contract between the owner and any other party. This agreement can be abrogated, annulled, or cancelled at any time by the legislature in which event no additional tax, interest, and/or penalty shall be imposed. In other words, if the changes made to the Open Space Taxation Act or chapter 84.34 RCW by the legislature cause classified land to be removed from classification, the owner of the land shall not be required to pay the additional tax, interest, or penalty that is generally imposed when land is removed from classification.

(a) Example 1. The legislature eliminates the timber land classification from chapter 84.34 RCW. All land classified as timber land shall be removed from classification and no additional tax, interest, or penalty will be imposed because the legislature caused the removal of the land when it eliminated the timber land classification from the Open Space Taxation Act.

(b) Example 2. The legislature amends RCW 84.34.020(2) so that only parcels of twenty acres or more may be granted classified status as farm and agricultural land. All parcels of classified farm and agricultural land that are less than twenty acres in size may be removed from classification and no owner of such land may be required to pay any additional tax, interest, or penalty because the legislature's action caused the removal of the land.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-355, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-355, filed 11/15/88.]

WAC 458-30-500 Definitions of terms used in WAC 458-30-500 through 458-30-590. (1) **Introduction.** This rule sets forth the definitions to be used in administering and understanding the statutes and rules relating to special benefit

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assessments on classified farm and agricultural and timber land.

(2) **Definitions.** For the purposes of WAC 458-30-500 through 458-30-590, unless otherwise required by the context, the following definitions apply:

(a) "Average rate of inflation" means the annual rate of inflation adopted each year by the department of revenue in accordance with WAC 458-30-580 averaged over the period of time provided in WAC 458-30-550 and 458-30-570.

(b) "Connection charge" or "charge for connection" means the charge required to be paid to the district for connection to the service as opposed to the assessment based upon the benefits derived.

(c) "District" means any local improvement district, utility local improvement district, local utility district, road improvement district, or any similar unit created by a local government for the purpose of levying special benefit assessments against property specially benefited by improvements relating to the districts.

(d) "Farm and agricultural land" means land classified under the provisions of RCW 84.34.020(2); in other words, one of the following:

(i) Any parcel of land twenty or more acres in size or multiple parcels of land that are contiguous and total twenty or more acres in size when the land is:

(A) Primarily used to produce livestock or agricultural products for commercial purposes;

(B) Enrolled in the federal Conservation Reserve Program or its successor administered by the United States Department of Agriculture; or

(C) Primarily used in similar commercial agricultural activities as may be established by rule.

(ii) Any parcel of land or contiguous parcels of land at least five acres, but less than twenty acres, in size that is primarily used for commercial agricultural purposes, and produces a gross income each year equal to:

(A) One hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; or

(B) Two hundred dollars or more in cash per acre per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.

(iii) Any parcel of land or contiguous parcels of land less than five acres in size that is primarily used for commercial agricultural purposes, and produces a gross income each year equal to:

(A) One thousand dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application was made prior to January 1, 1993; and

(B) One thousand five hundred dollars or more in cash per year for three of the five calendar years preceding the date of application for classification when the application is made on or after January 1, 1993.

(iv) Any parcel of land that is twenty or more acres in size or multiple parcels of land that are contiguous and total twenty or more acres in size on which housing for farm and agricultural employees and the principal residence of the

farm operator or the owner of land classified under RCW 84.34.020 (2)(a) is situated if:

(A) The housing or residence is on or contiguous to the classified parcel; and

(B) The use of the housing or the residence is integral to the use of the classified parcel for agricultural purposes.

(e) "Final assessment roll" means a final special benefit assessment roll approved or confirmed by local government for the purpose of levying special benefit assessments against property specially benefited by a sanitary and/or storm sewerage system, domestic water supply and/or distribution system, or road construction and/or improvement.

(f) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special benefit assessments for sanitary and/or storm sewerage systems, domestic water supply and/or distribution systems, or road construction and/or improvement purposes.

(g) "Owner" means:

(i) Any person(s) having the fee interest in land; or

(ii) The contract vendee when the land is subject to a real estate contract.

(h) "Removal" or "removed" means land classified under chapter 84.34 RCW is removed from classification by the assessor because the owner requests removal, the new owner fails to sign notice of classification continuance, or the land is no longer being used for the purpose for which classification was granted.

(i) "Special benefits assessments" means special assessments levied or capable of being levied in any local improvement district or otherwise levied or capable of being levied by a local government to pay for all or part of the costs of a local improvement and that may be levied only for the special benefits to be realized by property because of the local improvement.

(j) "Timber land" means land classified under the provisions of RCW 84.34.020(3); in other words, any parcel of land five or more acres in size or multiple parcels of land that are contiguous and total five or more acres in size that is primarily used to commercially grow and harvest forest crops. "Timber land" refers only to the land.

(k) "Withdrawal" or "withdrawn" means action taken by the owner of land classified under chapter 84.34 RCW by filing a notice of request to withdraw the land from classification under the current use program in compliance with RCW 84.34.070. Once land has been classified under chapter 84.34 RCW, it must remain so classified for at least ten years from the date of classification. At any time after eight years of the initial ten-year classification period have elapsed, the owner may file a notice of request to withdraw all or a portion of the land from classification with the assessor of the county in which the land is located. Land is withdrawn from classification as a result of a voluntary act by the owner.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-500, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-500, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-500, filed 3/10/87.]

WAC 458-30-510 Creation of district—Protest—Adoption of final assessment roll. (1) **Introduction.** RCW 84.34.320 requires local government officials to take certain steps upon "creation" of a district and upon adoption or confirmation of a final assessment roll. This section defines when a district shall be deemed to have been "created" and when a final assessment shall be deemed "adopted" or "confirmed."

(2) **Exemption from special benefit assessments.** Any farm and agricultural or timber land classified in accordance with the provisions of chapter 84.34 RCW shall be exempt from special benefit assessments or charges in lieu of assessment for such purposes as long as the classified land remains in classification if the legislative authority of a local government adopts a resolution, ordinance, or legislative act:

(a) To create a local improvement district in which the classified land is included or would have been included but for the classification designation; or

(b) To approve or confirm a final specific benefit assessment roll that would have included the classified land but for the classification designation relating to a:

- (i) Sanitary and/or storm sewerage system;
- (ii) Domestic water supply and/or distribution system; or
- (iii) Road construction and/or improvement.

(3) **When a district is deemed to be created.**

(a) For districts outside of cities, a district shall be considered created upon its actual adoption at the required public hearing.

(b) For districts within cities, creation shall occur thirty days after passage of the ordinance ordering the improvement, thereby allowing the protest period set forth in RCW 35.43.180.

(4) **Protest the formation of a district.**

(a) For districts within cities, a protest may be filed with the city or town council within thirty days of the date the ordinance ordering the improvement is passed. Creation of a district can be prevented by the property owners within the district whose combined payments for said improvement(s) are equal to, or in excess of, sixty percent of the cost of the improvement.

(b) For all other districts, their creation can be prevented by the property owners within those districts whose combined property ownership is equal to, or greater than, forty percent of the area to be included in the district.

(5) **Final assessment roll.** For those districts that have an annual assessment roll hearing on capital assessments, the final assessment roll will be considered as "adopted" upon confirmation of the roll at the hearing in the first year.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-510, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-510, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-510, filed 3/10/87.]

WAC 458-30-520 Notification of district—Certification by assessor—Estimate by district. (1) **Introduction.** This section explains the procedures that follow the creation of a district.

(2) **Notice to assessor and legislative authority.** Upon creation of a district, the local government shall immediately

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notify the assessor and legislative authority of the county where the district is located of its creation.

(3) **Assessor duties.** Upon receipt of notification that a district has been created, the assessor shall certify in writing to the district whether or not classified farm and agricultural or timber land is within its boundaries.

(a) If there is any classified farm and agricultural or timber land within the district boundaries, the assessor shall certify what land is within its boundaries by providing parcel numbers and legal descriptions of the property.

(b) If any owner of land within the created district has timely filed, as of January 1st, an application for current use classification or reclassification as farm and agricultural or timber land and no action has been taken, the assessor will report the status of the pending application(s) to the district. The assessor shall take immediate action to render a decision for the approval or denial of this application. The assessor shall also inform the district that any decision regarding classification or reclassification is appealable under RCW 84.34.035 and that the classification or reclassification as farm and agricultural or timber land would become effective as of the initial filing date, January 1.

(c) If the legislature extends the filing date for applying for classification or reclassification as farm and agricultural or timber land beyond December 31, those applications approved will receive their status as of January 1 of the filing year.

(4) **District duties.** The district, upon receipt of the assessor's certification required by subsection (3) of this section, shall notify the assessor and the legislative authority of the extent to which classified lands may be subject to a partial assessment for connection to the service provided by the improvement(s). Said estimate will be based upon WAC 458-30-560.

(5) **If land is removed from classification.** The assessor shall notify the district when any farm and agricultural or timber land is removed from current use classification.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-520, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-520, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-520, filed 3/10/87.]

WAC 458-30-525 Notification of final assessment roll. (1) **Introduction.** This section explains the procedures outlined in RCW 84.34.320 that follow the adoption or confirmation of a final special benefit assessment roll.

(2) **Notice to assessor, legislative authority, and treasurer required.** When a local government approves or confirms a final assessment roll, it shall file a notice of this action with the assessor, legislative authority, and treasurer of the county in which classified farm and agricultural or timber land is located. This notice shall describe:

- (a) The action taken;
- (b) The type of improvement involved;
- (c) The land exempted from special benefit assessments; and
- (d) The amount of special benefit assessments that would be levied against the land if the land was not exempt.

(3) **Effect of notice.** If local government has filed a notice signifying the adoption of a final assessment roll with

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the assessor and treasurer of the county in which land exempt from special benefits is located, the notice shall serve as constructive notice to a purchaser or encumbrancer of the affected land and to any person who subsequently executes or records a conveyance or encumbrance that the land is subject to special benefits assessment when the farm and agricultural or timber land is removed or withdrawn from its current use classification.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-525, filed 10/4/95, effective 11/4/95.]

WAC 458-30-530 Notification of owner regarding creation of district. (1) **Introduction.** This section explains the assessor's duty to notify an owner of classified farm and agricultural or timber land when a local improvement district is created.

(2) **Assessor to notify owner.** The assessor, upon receiving notice that a district was created, shall notify the owner of the farm and agricultural or timber lands as shown on the current assessment rolls of this fact. This notification shall be made on forms approved by the department of revenue and shall contain the following:

(a) Notice of the creation of the local improvement district;

(b) Notice of the exemption of classified farm and agricultural or timber land from special benefit assessments;

(c) Notice that the farm and agricultural or timber land will become subject to the special benefit assessments if the owner waives the exemption by filing a notarized document with the governing body of the local government creating the district before the final special benefit assessment roll is confirmed;

(d) Notice of potential liability if the exemption is not waived and the land is subsequently withdrawn or removed from the farm and agricultural or timber land classification;

(e) The portion of the land measured as the benefited "residence" as provided in WAC 458-30-560 will be assessed for benefits received;

(f) That connection to the system shall result in a connection charge; and

(g) That connection to the system subsequent to the creation of the district and the initial final assessment will result in being liable for the amounts as calculated in WAC 458-30-570.

(3) **Owner's right to appeal.** The property owner shall have the same right of appeal that is guaranteed to any other property owner within the district.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-530, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-530, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-530, filed 3/10/87.]

WAC 458-30-540 Waiver of exemption. (1) **Introduction.** This section explains the owner's right to waive the exemption relating to special benefit assessments as set forth in RCW 84.34.320.

(2) **Owner may waive exemption.** The owner of land exempted from special benefit assessments may waive this exemption by filing a notarized statement to that effect with the legislative authority of the local government creating the

district after receiving notice from local government concerning the assessment roll hearing. This statement must be filed before the local government confirms the final special benefit assessment roll.

(3) **Copy of waiver to assessor.** A copy of this waiver shall be filed by the local government with the assessor and the county legislative authority, but the failure to file this document shall not affect the waiver.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-540, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-540, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-540, filed 3/10/87.]

WAC 458-30-550 Exemption—Removal or withdrawal. (1) **Introduction.** This section explains the process that must be followed when classified land subject to a special benefit assessment is withdrawn or removed from the farm and agricultural classification.

(2) **General treatment of land.** After the creation of a district or the adoption and confirmation of a final assessment roll, an owner of classified farm and agricultural or timber land who wishes it to be exempt from special benefit assessments is not required to take any further action. The land will retain its classified status; it will not be connected to the improvement(s) or be listed on the final assessment roll.

(3) **Subsequent withdrawal or removal.** If the owner initially chose to remain exempt, but subsequently is removed or withdrawn from the farm and agricultural or timber land classification, the owner shall become liable to pay for the special benefit assessment in the following manner:

(a) If the bonds used to fund the improvement have not been completely retired when the land is withdrawn or removed from classification, the liability will be:

(i) The amount of the special benefit assessment listed in the notice provided for in RCW 84.34.320 and;

(ii) Interest on that amount, compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed by the governmental entity creating the district to the time the land is withdrawn or removed from exempt status; or

(b) If the bonds used to fund the improvement in the district have been completely retired when the land is withdrawn or removed from classification, immediate payment shall be due for:

(i) The amount of the special benefit assessment listed in the notice provided for in RCW 84.34.320;

(ii) Interest on that amount compounded annually at a rate equal to the average rate of inflation from the time the initial notice is filed to the time the bonds used to fund the improvement were retired, and;

(iii) Interest on the total amount of (i) and (ii) at a simple per annum rate equal to the average rate of inflation from the time the bonds used to fund the improvement were retired to the time the land is withdrawn or removed from exempt status.

(4) **Withdrawal or removal of land with partial assessment.** If land is withdrawn or removed from classification and a partial special benefit assessment has been paid because the classified land was connected to a domestic water system, sewerage facility, or road improvement, the amount

of partial assessment paid shall be credited against the total amount due for special benefit assessments.

(5) **Due date of special benefit assessment upon withdrawal or removal.** When land is to be withdrawn or removed from farm and agricultural or timber land classification and an amount of special benefit assessments is due, the amount of special benefit assessments shall be due on the date the land is withdrawn or removed from its classification. This amount shall be a lien on the land prior and superior to any other lien whatsoever except for general taxes and shall be enforceable in the same manner as special benefit assessments are collected by local government.

(6) **Notice of withdrawal or removal to local government and land owner.** When farm and agricultural or timber land is withdrawn or removed from classification, the assessor of the county in which the land is located shall send a written notice of the withdrawal or removal to the local government, or its successor, that filed the original notice regarding creation of a district with the assessor. After receiving this notice, the local government shall mail a written statement setting forth the amount of special benefit assessments due to the owner of the farm and agricultural or timber land withdrawn or removed from classification. This amount shall be delinquent if it is not paid within one hundred eighty days of the date the statement is mailed and is subject to the same interest, penalties, lien, priority, and enforcement procedures that are applicable to delinquent assessments on the final assessment roll from which the land was exempted, except the rate of interest charged shall not exceed the rate provided in RCW 84.34.330.

(7) **Partial withdrawal or removal of land exempt from special benefit assessments.** If a portion of classified farm and agricultural or timber land exempt from special benefit assessments is withdrawn or removed from classification, the previously exempt benefit assessments shall be due only on the portion of the land being withdrawn or removed.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-550, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-550, filed 11/15/88. Statutory Authority: RCW 84.34.360. 87-07-009 (Order PT 87-3), § 458-30-550, filed 3/10/87.]

WAC 458-30-560 Partial special benefit assessment—Computation. (1) **Introduction.** When classified farm and agricultural or timber land is connected to a domestic water system, sewerage facilities, or road improvements, a partial special benefit assessment will be made. This section explains the manner in which this partial assessment is calculated.

(2) **General obligation.** A portion of the exempt classified farm and agricultural land shall be subject to special benefit assessment if it is actually connected to the domestic water system or sewerage facilities, or for access to a road improvement.

(3) **Amount of partial assessment.** The amount of special benefit assessment shall be calculated by the method used in the district to assess nonexempt property. If a district uses more than one method to calculate the assessment, it shall use the one that results in the least cost to the property owner, regardless of the owner's property holdings and/or exempt status. The district shall provide the owner of the

property with a written estimate of the partial assessment as determined from the following methods:

(a) For assessments relating to sanitary and/or storm sewerage service or domestic water service one of the following methods shall be used:

(i) Square foot method: If the special benefit assessment is determined on a square footage basis, the assessable portion of the exempt land shall be determined as follows:

(A) Calculate the square footage of the residential area, i.e., the "main dwelling."

(B) This area shall include all those facilities normally found on a residential lot such as a garage or carport, driveway, front and back yards, etc. Also included in the area shall be any buildings or facilities directly benefited by an actual connection to the improvement. (For example: A dairy barn connected to a sewer or water system.)

(ii) Front foot method: If the special benefit assessment is determined on a front footage basis, the assessable portion of the exempt land shall be determined by one of the following:

(A) Calculate the square footage for the residential area in the same manner as the square foot method. The square foot measurement of the entire "residence," shall then be converted into the area of a square. The calculated square will be used as the unit to be charged for the special benefit assessment. One side of the square will be used as front footage; or

(B) Determine the mean (average) front footage of all nonexempt properties within the district, and use it to assess the portion of otherwise exempt property for the special benefit assessment, i.e., add all of the nonexempt front footage relevant to the improvement and divide by the number of nonexempt properties within the district.

(iii) Zone-termini method: If the special benefit assessment is determined on a zone-termini basis, the assessable portion of the exempt land shall be determined by one of the following:

(A) Convert the square foot area of the residence to a square as in the front foot method. Use this square as the zone for assessing the portion of otherwise exempt property for the special benefit assessment; or

(B) Calculate the mean (average) width and depth (length) of all nonexempt properties within the district, using these averages to create a rectangular unit as the zone for assessing the portion of otherwise exempt property for the special benefit assessment. To perform this calculation:

(I) Add all nonexempt front footage relevant to the improvement and divide by the number of nonexempt properties within the district to determine the mean width of the zone; and

(II) Add the depths (lengths) of all nonexempt properties within the district and divide by the number of nonexempt properties within the district to determine the mean depth of the zone.

(iv) Equivalent residential unit method (ERU): The ERU method shall be used in the same manner as it is used on all other properties within the district. The value to be determined is based on the amount of benefit derived or, when appropriate, the degree of contribution to the service, such as drainage or sewer. This amount shall be measured for all uses of property. (For example, if a dairy barn uses a greater amount of water or contributes a greater amount of sewerage

than the normal residential unit, it shall be classified as more than one ERU and shall be charged a proportionately greater amount.)

(v) Combined methods: In districts making assessments using a combination of two or more methods (e.g., an assessment based on a front footage charge plus a square foot charge), the procedures for determining the assessable portion of previously exempt property shall be the same as those described above.

(b) For assessments relating to road construction and/or improvements. If the property is provided access to a constructed or improved road, the assessment will be based upon the percentage of current use value to true and fair value as evidenced by the last property tax assessment roll as equalized by the county board of equalization to what the assessment would have been if the owner had waived the exemption. (For example, if the current use value is forty-five percent of its true and fair value, then the assessable portion is forty-five percent of the amount the assessment would have been if the owner had waived the exemption.)

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-560, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-560, filed 11/15/88. Statutory Authority: RCW 84.34.360, 87-07-009 (Order PT 87-3), § 458-30-560, filed 3/10/87.]

WAC 458-30-570 Connection subsequent to final assessment roll—Interest—Connection charge. (1) **Introduction.** If classified farm and agricultural or timber land is connected to water and/or sewer systems or road improvements after the final assessment roll has been approved, the owner of this land will be liable for the special benefit assessments relating to the improvements. This section explains how the assessments are calculated and the costs associated with the services.

(2) **Connection to local improvements after final assessment roll.** The owner of property exempted from special benefit assessments under the current use farm and agricultural or timber land classification who connects to the sanitary and/or sewerage systems, domestic water supply and/or distribution systems, or road construction and/or improvements provided by the district after the final assessment roll has been approved will be liable for the special benefit assessments as determined by WAC 458-30-560 including interest. In addition, the annual payment required for each year following the connection shall be due and payable.

(3) **Cost of connection.** In addition to the charges imposed in subsection (2) of this section, the owner will also be liable for the cost of connection.

[Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. 95-21-002, § 458-30-570, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. 88-23-062 (Order PT 88-12), § 458-30-570, filed 11/15/88. Statutory Authority: RCW 84.34.360, 87-07-009 (Order PT 87-3), § 458-30-570, filed 3/10/87.]

WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation. (1) **Introduction.** This section sets forth the rates of inflation discussed in WAC 458-30-550. It also explains the department of revenue's obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department—Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from farm and agricultural or timber land classification that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) Example. A local improvement district for a domestic water supply system was created in January 1990 and the owner used the statutory exemption provided in RCW 84.34.320. On July 1, 1997, the land was removed from the farm and agricultural classification. An average interest rate was calculated using the inflation rates for 1990 through 1997. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89

YEAR	PERCENT	YEAR	PERCENT
2002	1.16	2003	1.84
2004	2.39		

[Statutory Authority: RCW 84.34.360 and 84.34.310. 05-01-052, § 458-30-590, filed 12/7/04, effective 1/1/05; 03-24-076, § 458-30-590, filed 12/2/03, effective 1/2/04; 02-24-058, § 458-30-590, filed 12/3/02, effective 1/3/03; 02-03-041, § 458-30-590, filed 1/8/02, effective 2/8/02; 00-24-107, § 458-30-590, filed 12/6/00, effective 1/1/01; 99-24-035, § 458-30-590, filed 11/23/99, effective 12/24/99; 99-01-068, § 458-30-590, filed 12/14/98, effective 1/1/99; 98-01-179, § 458-30-590, filed 12/23/97, effective 1/1/98; 97-02-067, § 458-30-590, filed 12/31/96, effective 1/1/97; 96-01-094, § 458-30-590, filed 12/19/95, effective 1/1/96; 95-06-043, § 458-30-590, filed 2/24/95, effective 3/27/95. Statutory Authority: RCW 84.34.360. 94-11-098, § 458-30-590, filed 5/17/94, effective 6/17/94; 92-22-061, § 458-30-590, filed 10/29/92, effective 11/29/92. Statutory Authority: RCW 84.08.010 and 84.08.070. 90-24-087, § 458-30-590, filed 12/5/90, effective 1/5/91. Statutory Authority: Chapter 84.34 RCW and RCW 84.34.360. 89-05-010 (Order PT 89-3), § 458-30-590, filed 2/8/89. Statutory Authority: RCW 84.34.360. 88-07-004 (Order PT 88-4), § 458-30-590, filed 3/3/88; 87-07-009 (Order PT 87-3), § 458-30-590, filed 3/10/87.]

WAC 458-30-700 Designated forest land—Removal—Change in status—Compensating tax. (1) Introduction. This rule describes what events trigger the removal of land from designated forest land status under chapter 84.33 RCW, the procedures followed for removal, and the resulting compensating tax.

(2) Events triggering the removal of designated forest land status. The assessor must remove forest land from its designated forest land status when:

- (a) The owner submits a written request to remove the owner's land from designated forest land status;
- (b) The owner sells or transfers the land to an individual or entity exempt from property tax because of that individual's or entity's ownership;
- (c) The assessor determines that the land is no longer primarily devoted to and used for growing and harvesting timber;
- (d) The owner has failed to comply with a final administrative or judicial order made because of the violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or the rules that implement Title 76 RCW;
- (e) Restocking has not occurred to the extent or within the time specified in the application for designation of the land; or
- (f) The owner sells or transfers forest land to a new owner who has not signed a notice of continuance, except when the new owner is the heir or devisee of a deceased owner. RCW 84.33.140(5).

(3) How to retain designated forest land status when the land is sold or transferred. When designated forest land is sold or transferred, the new owner may retain designated forest land status by filing a signed notice of continuance with the deed. The notice of continuance may be signed as part of the real estate excise tax (REET) affidavit or as a separate form if the county has decided it will require owners to submit both the REET affidavit and an attached separate notice of continuance. If multiple owners own the land, all owners or their agent(s) must sign the notice of continuance. A notice of continuance is not required for a new owner to retain designated forest land status when the new owner inherits the property.

(2005 Ed.)

(a) The owner may obtain the notice of continuance form and a real estate excise tax (REET) affidavit from the county. The county assessor's office has the notice of continuance form and the county treasurer's office has the REET affidavit.

The notice of continuance may also be obtained on the internet at <http://dor.wa.gov> under property tax, "forms."

(b) After the new owner signs the notice of continuance as part of the REET affidavit and, if required, the separate notice, the REET affidavit and notice must be submitted to the assessor for approval. The assessor may also require the owner to submit a timber management plan before approving the notice of continuance.

(i) The assessor signs the REET affidavit and indicates whether the land will or will not qualify to continue as designated forest land.

(ii) An assessor signs the REET affidavit and approves the land for continued classification if:

(A) The owner provides a complete and accurate notice of continuance signed by the new owner demonstrating that the forest land will continue to qualify as designated forest land; and

(B) At the assessor's option, the new owner provides a timber management plan for the property.

(iii) The assessor is allowed up to fifteen days to confirm that the information upon the notice is complete and accurate. The assessor may use this time to confirm that the timber management plan provides:

(A) The correct legal description for the forest land;

(B) The new owner's statement that the forest land is owned by the same person, consists of twenty or more contiguous acres, and is primarily devoted to and used to grow and harvest timber;

(C) A statement about whether the land is used to graze livestock;

(D) A brief description of the timber stands located on the land;

(E) A statement about whether the land has been used in compliance with the restocking, forest management, fire protection, insect and disease control, and forest debris provisions of Title 76 RCW; and

(F) If the land has been recently harvested or supports a growth of brush and noncommercial type timber, a description of the owner's plan to restock the forest land within three years.

A timber management plan may contain, but is not required to contain, any other information that the harvester needs for its own business purposes (i.e., a statement of goals for managing the land or identifying resource protection areas on the land (like riparian buffer areas along a stream or an unstable slope) that limit harvesting activities).

(iv) If the assessor determines that the notice of continuance or the timber management plan is not accurate or complete, the owner may resubmit the corrected information to the assessor.

(v) If the assessor determines that the land does not qualify to continue as designated forest land, the assessor removes the land upon the date of the conveyance and provides the owner with a notice of removal containing reason(s) for the removal and the amount of compensating taxes owed.

(c) Once the assessor signs the notice of continuance as part of the REET affidavit and the separate notice of continu-

ance, if required, the notice(s) are then submitted to the treasurer. Before the treasurer can stamp the REET affidavit as approved for recording, the treasurer collects any REET due because of the transfer, and collects all compensating tax if the land does not qualify for continuance as designated forest land because it was denied continuance by the assessor. The county recording clerk must not accept any deeds or other transfer documents unless the treasurer has stamped the REET affidavit.

(d) A notice of continuance is not required when the transfer of the forest land is to a new owner who is an heir or devisee, however, the new owner must continue to meet the requirements of designated forest land to avoid removal from designation. 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 forest land has been transferred by inheritance without a notice of continuance.

(4) **Assessor decisions and procedures.** Before removing the land from its designated forest land status, the assessor follows certain procedures and takes into account circumstances that may delay or prevent removal.

(a) The assessor must determine:

(i) The actual area of land to be removed from forest land status;

(ii) Whether the land has been exempted from an unretired special benefit assessment;

(iii) The true and fair value of the area being removed as of January 1st of the year of removal from designation;

(iv) Forest land value for the area to be removed;

(v) The last levy rate that applied for that area; and

(vi) The amount of time the land has been designated and classified as forest land, including the number of days up to the date of removal for the current year of removal.

(b) The assessor may require the owner to provide a legal description of the land area intended for removal when the landowner requests removal of owner's land from designated forest land status.

(c) The remaining land outside of the affected removal area continues to be designated as forest land if the owner retains twenty or more contiguous acres primarily devoted to and used for growing and harvesting timber. If the remaining land fails to meet the forest land definition because there are less than twenty contiguous acres primarily devoted to and used for growing and harvesting timber, the owner may request reclassification as timber land under the open space program in chapter 84.34 RCW.

(d) The assessor must provide the owner with a written notice and an opportunity to be heard by the assessor, or the assessor's deputy, when the assessor intends to remove the land because it is no longer primarily devoted to and used for growing and harvesting timber. RCW 84.33.140 (5)(d). Each county assessor may set his or her own procedure for giving a landowner this notice and opportunity to be heard so long as it is done in a reasonable and consistent manner that ensures due process for each owner.

(e) An assessor may not remove forest land merely because an owner subdivides the land into separate parcels, if contiguous parcels of the subdivided land still add up to at least twenty contiguous acres, remain in the same ownership,

and continue to be primarily devoted to and used for growing and harvesting timber. An assessor may ask an owner of designated forest land if the use of the land has changed when the owner subdivides a tract of designated forest land into separate parcels.

(f) If the assessor determines the land is no longer primarily devoted to and used for growing and harvesting timber, but there is a pending acquisition by an entity that would qualify for exemption from compensating tax under subsection (6)(e) of this rule, the assessor must not remove the land from its designated forest land status. RCW 84.33.140 (5)(d)(i). In order to prevent removal, the government entity or other qualified recipient must provide written proof to the assessor of its intent to acquire the land or documentation that demonstrates the transaction will qualify for an exemption from compensating tax under subsection (6)(e) of this rule. The entity acquiring the land must provide this written proof within sixty days of a request by the assessor. Thereafter, once a year, the governmental entity or other recipient must provide the assessor of the county in which the land is located written evidence of its intent to acquire the land. This written evidence must be provided on or before December 31st of each year or at an earlier date if the assessor makes a written request for such information. RCW 84.33.140 (5)(d)(i). Upon the assessor's written request, the information must be provided within sixty days from the date the assessor mails or hands the request to the owner or the postmark date of the request, if later.

(g) The assessor must not remove forest land from its designation if a governmental restriction is imposed on the land that prohibits, in whole or in part, the harvesting of timber.

(i) If only a portion of the forest land is impacted by the governmental restriction, the assessor cannot use the restriction as a basis to remove the remainder of the land from its designated forest land status.

(ii) A governmental restriction includes:

(A) Any law, regulation, rule, ordinance, program, or other action adopted or taken by a federal, state, county, city, or other governmental entity; or

(B) The land's zoning or its presence within an urban growth area designated under RCW 36.70A.110.

(5) **Removal proceedings.** After determining that a triggering event causing removal has occurred, the assessor must provide timely written notice(s) to the taxpayer. RCW 84.33.140 (5)(d) (written notice and opportunity to be heard), RCW 84.33.140(9) (notice of removal). Upon receiving the notice of removal, the landowner may appeal the removal or apply for reclassification of the land to the open space program under chapter 84.34 RCW. If the owner chooses to appeal the removal, the appeal must be filed within thirty days of the postmark date for the notice or by July 1st of the year of removal, whichever is later. If the owner chooses to apply for reclassification, they must do so within thirty days of the postmark date of the notice.

(a) **When does the land get removed from the designated forest land status?** If the removal is a result of a sale or transfer, the assessor removes the land on the date of sale or transfer provided in the legal conveyance. If the removal is based upon a determination made about the land by the assessor or at the request of the owner, the assessor removes the

land on the date shown on the notice of removal mailed to the owner.

(b) **Notice of removal.** The assessor uses the notice of removal to notify the owner that the land has been removed from designated forest land status. Within thirty days of removing land from designated forest land status, the assessor must mail a notice of removal to the owner with the reasons for the removal. The owner, seller, or transferor may appeal the removal to the county board of equalization.

(i) If the property is being removed because the assessor has determined the land is no longer primarily devoted to and used for growing and harvesting timber, the assessor provides two notices. First, the assessor must notify the taxpayer of his or her intent to remove the property and give the owner an opportunity to be heard. The assessor may require the owner to provide pertinent information about the land and its use in the response to the assessor's first notice. When the assessor determines that the property still does not qualify as designated forest land after the first notice is sent, the assessor mails the owner the second notice, the notice of removal, but only after:

(A) The owner declines the opportunity to be heard;

(B) The owner fails to timely respond to the first notice;
or

(C) The assessor has received and considered the owner's timely response to the notice of intent to remove and nevertheless concludes that the property is no longer primarily devoted to growing and harvesting timber.

(ii) If the removal is based upon an owner's request for removal, upon receipt of a request for removal from an owner, the assessor sends the notice of removal to the owner showing the compensating tax and recording fee due.

(iii) The notice provides the reason(s) for removing the land from designation and the date of the removal. RCW 84.33.140(9). The notice includes the compensating tax calculated in rule section (6) and the necessary recording fees to be paid. It also includes the due date for payment, along with the landowner's rights to appeal the removal or the true and fair value at the time of removal, and the owner's right to apply for the land to be reclassified under chapter 84.34 RCW. The county must use the notice of removal form prepared by the department.

(iv) The assessor must also provide written notice of the removal to any local government filing a notice regarding a special benefit assessment under RCW 84.33.210 within a reasonable time after the assessor's decision to remove the land. The assessor may provide a simple statement with the legal description of the land, the name of the landowner, and the date of removal, if he or she includes a copy of the notice sent to the landowner. RCW 84.33.230.

(c) **What happens when an owner chooses to appeal the removal?** Unless the removal is reversed upon appeal, the assessor continues the process to remove the property from designated forest land status. The assessor may choose to delay collection of the compensating tax and recording fee until the appeal is decided. However, if the assessor postpones the collection of the compensating tax and recording fee, the assessor must notify the treasurer to temporarily delay collection. The assessor must also notify the owner that if the determination to remove is upheld, then interest will be

due from the date the compensating tax and recording fee were due.

(i) If the removal is reversed upon appeal, the assessor shall reinstate the land as designated forest land, discharge any lien placed against the land, revise any assessments made against the property during the interim, refund the recording fee paid, and refund or cancel any compensating taxes and interest paid or owing.

(ii) If the removal is upheld upon an appeal in which the assessor has delayed collection, the compensating tax and recording fee are due immediately with interest accrued from the date the tax and fee were originally due. Upon receiving notice of the decision upholding the removal, the assessor must immediately notify the treasurer to collect any unpaid compensating taxes, fees, and interest on the land.

(d) **What happens when an owner applies to have the land reclassified under chapter 84.34 RCW?** If an application for reclassification is submitted by the owner within thirty days after the notice of removal has been mailed, the forest land is not removed from classification until the application for reclassification under chapter 84.34 RCW is denied or later removed from classification under RCW 84.34.108. RCW 84.33.145(1).

(i) The assessor processes an application for reclassification in the same manner as it processes an initial application for classification under chapter 84.34 RCW.

(ii) A timber management plan must be filed with the county legislative authority within sixty days of the date the application for reclassification under this chapter or from designated forestland under chapter 84.33 RCW is received. The application for reclassification will be accepted, but may not be processed until this plan is received.

(A) If this plan is not received within sixty days of the date the application for reclassification is received, the application will be denied.

(B) If circumstances require it, the assessor may allow an extension of time for submitting a timber management plan when an application for reclassification is received. The applicant will be notified of this extension in writing. When the assessor extends the filing deadline for this plan, the county legislative authority may delay processing the application until the plan is received. If the timber management plan is not received by the date set by the assessor, the application for reclassification will be automatically denied.

(iii) When the owner sells or transfers land (or a portion of the land) while an application for reclassification is pending, an assessor may accept a notice of continuation, and allow the owner to revise the application for reclassification to reflect the name of the new owner of the property.

(iv) If the application for reclassification under chapter 84.34 RCW is approved, the assessor shall transfer the property to its new classification.

(v) If the application for reclassification under chapter 84.34 RCW is denied, the assessor must record the removal notice and inform the treasurer's office to immediately begin collection of the compensating tax and the recording fee.

(6) **Compensating tax.** Compensating tax is imposed when land is removed from its forest land status. This tax recaptures taxes that would have been paid on the land if it had been assessed and taxed at its true and fair value instead of the forest land value.

(a) **Calculating the compensating tax.** The assessor uses the current year's levy rate, the forest land value, and the true and fair value for the area to be removed from forest land status to calculate the compensating tax. The compensating tax consists of two parts: The recapture of taxes for previous years that the land was classified or designated as forest land, up to a maximum of nine years; and the recapture of taxes for the portion of the current year up to the date of removal in the year the land is removed from designation. RCW 84.33.140 (11).

(i) The compensating tax for the previous years is calculated by determining the difference between the amount of taxes assessed at the forest land value for the removal area

(i) Calculation of prior year's compensating tax:

True and Fair Value of Land (Jan 1st of year removed)	Less	Forest Land Value at time of removal	Multiplied by	Last levy Rate Extended Against Land	Multiplied by	Year (not to exceed 9)	Equals	Compensating Tax
\$ _____	-	\$ _____	x	\$ _____	x		=	\$ _____

(ii) Calculation of current year's taxes to date of removal:

$$\begin{array}{l}
 \frac{\text{No. of days designated as forest land}}{\text{No. of days in year}} \div \frac{365}{\text{No. of days in year}} = \text{Proration factor (To items (A) and (B))} \\
 \text{(A) } \$ \frac{\text{Market value}}{\text{Market value}} \times \frac{\text{Levy rate}}{\text{Levy rate}} \times \frac{\text{Proration factor}}{\text{Proration factor}} = \$ \text{_____} \\
 \text{(B) } \$ \frac{\text{Forest land value}}{\text{Forest land value}} \times \frac{\text{Levy rate}}{\text{Levy rate}} \times \frac{\text{Proration factor}}{\text{Proration factor}} = \$ \text{_____} \\
 \text{(C) Amount of compensating tax for current year ((A) minus (B))} = \$ \text{_____}
 \end{array}$$

(c) The assessor notifies the treasurer of the amount of compensating tax and the due date for the tax by providing the treasurer a copy of the removal notice. Compensating tax is due and payable to the county treasurer thirty days after the assessor mails to the owner the notice of removal informing the owner of the reasons for removal and the amount of compensating tax due. RCW 84.33.140(11). However, when property is sold or transferred, any compensating tax owed must be paid to the county treasurer before recording the conveyance. The county recording authority will not accept any instrument transferring the land, unless the compensating tax was paid or was not owed.

(d) **What happens if the compensating tax is not paid on the due date?** If the compensating tax is not paid by the due date, the tax is considered delinquent. Interest, set at the statutory rate for delinquent property taxes specified in RCW 84.56.020, will accrue against the amount of the outstanding taxes from the due date until the entire amount owing is paid. Unpaid compensating tax and interest becomes a lien on the land. RCW 84.60.020.

(i) This lien attaches at the time the forest land is removed from designation.

(ii) The lien has priority over any recognizance, mortgage, judgment, debt, obligation, or responsibility against the land.

and the amount of taxes that would have been paid if the land had been valued at its true and fair value in the year of removal. That difference is multiplied by the number of years the land was classified or designated as forest land up to a maximum of nine years.

(ii) The compensating tax for the portion of the year of removal from January 1st to the date of removal is calculated by determining the difference between the amount of taxes assessed at the forest land value and the taxes that would have been paid if the land had been valued at its true and fair value for the portion of the year up to the removal date.

(b) Formulas for calculating taxes after removal:

(iii) This lien must be fully paid before any other recognizance, mortgage, judgment, debt, obligation, or responsibility may be charged against the land.

(iv) The lien can be foreclosed upon expiration of the same period after delinquency and in the same manner as liens for delinquent real property taxes are foreclosed under RCW 84.64.050. RCW 84.33.140(12).

(e) Compensating tax is not imposed on land removed from the forest land designation if the removal resulted solely from any of the following:

(i) A transfer to a government entity in exchange for other forest land within Washington state;

(ii) A transfer under either the power of eminent domain or upon the threat of eminent domain by an entity with the power of eminent domain that intends to exercise this power. The entity must threaten to exercise eminent domain in writing or demonstrate this threat by some other official action;

(iii) A donation of fee title, development rights, or the right to harvest timber in order to protect, preserve, maintain, improve, restore, limit the future use, or conserve the property for public use or enjoyment (see RCW 84.34.210 and 64.04.130). Provided, this donation is made to a:

- (A) State agency;
- (B) Federal agency;
- (C) County;
- (D) City;

- (E) Town;
- (F) Metropolitan park district (see RCW 35.61.010);
- (G) Metropolitan municipal corporation (see RCW 35.58.020);
- (H) Nonprofit historic preservation corporation as defined in RCW 64.04.130; or

(I) Nonprofit nature conservancy corporation or association as defined in RCW 84.34.250.

However, when the land is no longer being used for one of the purposes listed above, compensating tax will be imposed on the owner of the land at that time;

(iv) The sale or transfer of fee title to a government entity (see the governmental entities listed above in clause (iii) of this rule section) or a nonprofit nature conservancy corporation as defined in RCW 64.04.130 exclusively for the protection and conservation of lands recommended for state natural area preserve purposes by the natural heritage advisory council under its established natural heritage plan as defined in chapter 79.70 RCW (natural area preserves). However, if the land is no longer used to protect and conserve the area for state natural area preserve purposes, or fails to comply with the terms of a natural heritage plan, compensating tax will be imposed on the owner of the land at that time;

(v) A sale or transfer of fee title to the state's parks and recreations commission for park and recreation purposes;

(vi) An official action of an agency of the state of Washington or the county or city in which the land is located disallowing the current use of the land. "Official action" includes city ordinances, zoning restrictions, the Growth Management Act, the Shoreline Management Act, and the Environmental Policy Act;

(vii) The creation, sale, or transfer of forestry riparian easements under RCW 76.13.120;

(viii) The creation, sale, or transfer of a fee interest or a conservation easement for the riparian open space program under RCW 76.09.040;

(ix) In a county with a population of more than one million (i.e., King County), a transfer of a property interest to a government entity, or to a nonprofit historic preservation corporation or nonprofit nature conservancy corporation (as these corporations are defined in RCW 64.04.130) and the property interest being transferred is to:

- (A) Protect or enhance public resources; or
- (B) Preserve, maintain, improve, restore, limit the future use of, or otherwise to conserve for public use or enjoyment.

When the land is no longer being used for any of these purposes, the owner of the land at the time will be required to pay compensating tax. RCW 84.33.140 (12) and (13);

(x) The sale or transfer of forest land within two years after the death of an owner who held at least a fifty percent interest in the land if:

(A) The individual(s) or entity(s) who received the land from the deceased owner is selling or transferring the land; and

(B) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW since 1993. The date of death shown on the death certificate begins the two-year period for sale or transfer; or

(xi) The sale or transfer of forest land between July 22, 2001, and July 22, 2003, if:

(A) An owner who held at least a fifty percent interest in the land died after January 1, 1991;

(B) The individual(s) or entity(s) who received the land from the deceased owner is selling or transferring the land; and

(C) The land has been continuously assessed and valued as classified or designated forest land under chapter 84.33 RCW or classified under chapter 84.34 RCW continuously since 1993. The date of death shown on the death certificate is the date used to determine the owner's date of death.

(7) When will the land be assessed at its true and fair value and the taxes become payable? The land will be assessed at its true and fair value on the date it is removed from forest land status. The assessor revalues the land removed from forest land status with reference to its true and fair value on January 1st in the year of removal. RCW 84.33.140(10). The property tax for the remainder of the year following the date of removal is based on land's true and fair value.

(a) To calculate the increase the assessor must determine the number of days remaining in the year from the date of removal. The increase in property tax is due on the same due date as all other property taxes are due for the year (generally, April 30th and October 1st of the current year. See RCW 84.56.020).

(b) Formula for calculating the increase in property taxes for the remainder of the year in which the land is being removed:

		÷	365		=	
(i)	No. of days from date of removal to the end of the year		No. of days in year			Proration factor for true and fair land value
(ii)	\$ Market value	x	Levy rate	x	Proration factor	= \$
(iii)	\$ Forest land value	x	Levy rate	x	Proration factor	= \$
(iv)	Total amount of increased taxes for current year ((ii) minus (iii))					= \$

(c) If the taxes for the year of removal have not yet been billed, the tax should be recalculated based on the true and fair value of the land removed for the portion of the year following the date of removal.

(d) An owner may appeal the true and fair value of the land used to calculate the increase in the remaining current year's taxes or the compensating taxes within thirty days of the notice (or up to sixty days if such time limit has been adopted by the county legislative authority) or on or before July 1st, whichever is later. RCW 84.40.038.

(8) What happens when forest land reclassified under chapter 84.34 RCW is later removed from that classification before ten years have passed? If reclassified forest land is later removed, a combination of compensating tax and additional tax will be imposed unless the basis for removal is one of the circumstances listed as exempt from additional tax under RCW 84.34.108(6).

(a) The amount of compensating tax is equal to the difference, if any, between the amount of property tax last levied on the land as forest land and an amount equal to the new true and fair value of the land when removed from classification under RCW 84.34.108 multiplied by the dollar rate of the last property tax levy extended against the land, multiplied by

(b) A number equal to:

(i) The number of years the land was classified or designated as forest land under chapter 84.33 RCW, if the total number of years the land was classified or designated under chapter 84.33 RCW and classified under chapter 84.34 RCW is less than ten; or

(ii) Ten minus the number of years the land was classified under chapter 84.34 RCW, if the total number of years the land was classified or designated under chapter 84.33 RCW and under chapter 84.34 RCW is at least ten.

[Statutory Authority: RCW 84.34.141, 84.34.020, and 84.34.030. 02-20-041, § 458-30-700, filed 9/24/02, effective 10/25/02. Statutory Authority: RCW 82.32.300, 84.33.096, and 84.33.140. 02-05-043, § 458-30-700, filed 2/13/02, effective 3/16/02.]

Chapter 458-40 WAC

TAXATION OF FOREST LAND AND TIMBER

WAC

458-40-530	Property tax, forest land—Land grades—Operability classes.
458-40-540	Forest land values—2005.
458-40-610	Timber excise tax—Definitions.
458-40-626	Timber excise tax—Tax liability—Private timber, tax due when timber harvested.
458-40-628	Timber excise tax—Tax liability—Public timber, lump sum and scale sales.
458-40-640	Timber excise tax—Stumpage value area (map).
458-40-650	Timber excise tax—Timber quality codes defined.
458-40-660	Timber excise tax—Stumpage value tables—Stumpage value adjustments.
458-40-670	Timber excise tax—Chipwood and small log destinations.
458-40-680	Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions.
458-40-690	Timber excise tax—Credit for property tax.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

458-40-010	Definitions. [Order 71-4, § 458-40-010, filed 10/8/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
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458-40-020	Forest land grading rules. [Order 71-4, § 458-40-020, filed 10/8/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-025	Forest land values. [Order 72-6, § 458-40-025, filed 6/28/72; Order PT 72-2, § 458-40-025, filed 2/18/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-026	Forest land values—1973. [Order PT 72-14, § 458-40-026, filed 11/29/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-027	Forest land values—1974. [Order PT 73-9, § 458-40-027, filed 11/30/73.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-028	Forest land values—1975. [Order FT 74-1, § 458-40-028, filed 11/22/74.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-029	Forest land values—1976. [Order FT 75-6, § 458-40-029, filed 12/1/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-030	Forest land designation. [Order FT 75-3, § 458-40-030, filed 6/5/75; Order 71-4, § 458-40-030, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-040	Definitions. [Order FT 75-3, § 458-40-040, filed 6/5/75; Order 71-4, § 458-40-040, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-050	Forest land application. [Order FT 75-3, § 458-40-050, filed 6/5/75; Order 71-4, § 458-40-050, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-060	Forest management plan. [Order FT 75-3, § 458-40-060, filed 6/5/75; Order 71-4, § 458-40-060, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-070	Notification by assessor of denial of application, appeals. [Order FT 75-3, § 458-40-070, filed 6/5/75; Order 71-4, § 458-40-070, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-080	Notification by assessor of removal of designated forest land, appeals. [Order FT 75-3, § 458-40-100 (codified as WAC 458-40-080), filed 6/5/75; Order 71-4, § 458-40-080, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-090	Notation on assessment and tax rolls of designated forest land. [Order FT 75-3, § 458-40-080 (codified as WAC 458-40-090), filed 6/5/75; Order 71-4, § 458-40-090, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-100	Removal from designation. [Order FT 75-3, § 458-40-090 (codified as WAC 458-40-100), filed 6/5/75; Order 71-4, § 458-40-100, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-10001	Compensating tax liability and rate. [Order FT 75-3, § 458-40-110 (codified as WAC 458-40-10001), filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-110	Definitions. [Order 71-4, § 458-40-110, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-120	Timber roll—Preparation and use. [Order 71-4, § 458-40-120, filed 12/17/71 and 1/13/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-121	Timber roll—Correction affecting timber factor. [Order 73-5, § 458-40-121, filed 8/13/73.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-130	Reconstruction of 1970 timber value. [Order 71-4, § 458-40-130, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-140	Timber—Assessed valuation. [Order 71-4, § 458-40-140, filed 12/17/71.] Repealed by 87-02-023 (Order 86-

	4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18600	General. [Statutory Authority: Chapter 84.33 RCW. 85-02-026 (Order FT-84-7), § 458-40-18600, filed 12/28/84. Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18600, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18600, filed 12/30/83. Statutory Authority: RCW 84.33.071, 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18600, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18600, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18600, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-18600, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-18600, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-18600, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18600, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-4), § 458-40-18600, filed 12/31/79; Order 76-5, § 458-40-18600, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-150	Determining millage. [Order 71-4, § 458-40-150, filed 12/17/71.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.		
458-40-160	Stumpage value areas. [Order 72-13, § 458-40-160, stumpage value area map, filed 11/28/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.		
458-40-161	Stumpage value areas. [Order PT 73-8, § 458-40-161, filed 11/1/73.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.		
458-40-162	Stumpage value areas. [Order FT 74-2, § 458-40-162, filed 11/27/74.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.		
458-40-163	Stumpage value areas. [Order FT 76-2, § 458-40-163, filed 7/1/76; Order FT 75-7, § 458-40-163, filed 12/1/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.		
458-40-164	Stumpage value areas. [Order FT 76-2, § 458-40-164, filed 7/1/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.		
458-40-165	Hauling distance zones. [Order 72-13, § 458-40-165, filed 11/28/72.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18601	Definitions. [Order 76-5, § 458-40-18601, filed 12/31/76.] Decodified.
458-40-166	Hauling distance zones. [Order PT 73-8, § 458-40-166, filed 11/1/73.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18602	Stumpage value areas—Map for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18602, filed 12/31/76.] Decodified.
458-40-167	Hauling distance zones. [Order FT 74-2, § 458-40-167, filed 11/27/74.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18603	Hauling distance zones—Maps for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18603, filed 12/31/76.] Decodified.
458-40-168	Hauling distance zones. [Order FT 76-2, § 458-40-168, filed 7/1/76; Order FT 75-7, § 458-40-168, filed 12/1/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18604	Timber quality code numbers—Tables for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18604, filed 12/31/76.] Decodified.
458-40-169	Hauling distance zones. [Order FT 76-2, § 458-40-169, filed 7/1/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18605	Stumpage values—Tables for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18605, filed 12/31/76.] Decodified.
458-40-170	Stumpage values. [Order 72-13, § 458-40-170 and Stumpage Tables, filed 11/28/72.] Decodified.	458-40-18606	Harvest adjustments—Tables for 1/1/77 through 6/30/77. [Order 76-5, § 458-40-18606, filed 12/31/76.] Decodified.
458-40-171	Stumpage values. [Order PT 74-3, § 458-40-171, filed 3/21/74; Order PT 73-8, § 458-40-171, filed 11/1/73.] Decodified.	458-40-18607	Definitions for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18607, filed 6/29/77.] Decodified.
458-40-172	Stumpage values. [Order 75-5, § 458-40-172, filed 8/8/75; Emergency Order FT 75-4, § 458-40-172, filed 7/1/75; Order FT 74-2, § 458-40-172, filed 11/27/74.] Decodified.	458-40-18608	Stumpage value areas—Map for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18608, filed 6/29/77.] Decodified.
458-40-173	Stumpage values. [Order FT 76-2, § 458-40-173, filed 7/1/76; Order FT 75-7, § 458-40-173, filed 12/1/75.] Decodified.	458-40-18609	Hauling distance zones—Maps for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18609, filed 6/29/77.] Decodified.
458-40-174	Stumpage values. [Order FT 76-2, § 458-40-174, filed 7/1/76.] Decodified.	458-40-18610	Timber quality code numbers—Tables for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18610, filed 6/29/77.] Decodified.
458-40-175	Adjustments. [Order 72-13, § 458-40-175 and Adjustment Tables, filed 11/28/72.] Decodified.	458-40-18611	Stumpage values—Tables for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18611, filed 6/29/77.] Decodified.
458-40-176	Adjustments. [Order PT 73-8, § 458-40-176, filed 11/1/73.] Decodified.	458-40-18612	Harvest adjustments—Tables for 7/1/77 through 12/31/77. [Order 77-2, § 458-40-18612, filed 6/29/77.] Decodified.
458-40-177	Adjustments. [Order 75-2, § 458-40-177, filed 5/12/75; Order FT 74-2, § 458-40-177, filed 11/27/74.] Decodified.	458-40-18613	Definitions for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18613, filed 12/30/77.] Decodified.
458-40-178	Adjustments. [Order FT 76-2, § 458-40-178, filed 7/1/76; Order FT 75-7, § 458-40-178, filed 12/1/75.] Decodified.	458-40-18614	Stumpage value areas—Map for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18614, filed 12/30/77.] Decodified.
458-40-179	Adjustments. [Order FT 76-2, § 458-40-179, filed 7/1/76.] Decodified.	458-40-18615	Hauling distance zones—Maps for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18615, filed 12/30/77.] Decodified.
458-40-180	Quality classes. [Order 72-13, § 458-40-180 and Quality Class Tables, filed 11/28/72.] Decodified.	458-40-18616	Timber quality code numbers—Tables for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18616, filed 12/30/77.] Decodified.
458-40-181	Quality classes. [Order PT 74-3, § 458-40-181, filed 3/21/74; Order PT 73-8, § 458-40-181, filed 11/7/73 and 11/1/73.] Decodified.	458-40-18617	Stumpage values—Tables for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18617, filed 12/30/77.] Decodified.
458-40-182	Quality classes. [Order FT 74-2, § 458-40-182, filed 11/27/74.] Decodified.	458-40-18618	Harvester adjustments—Tables for 1/1/78 through 6/30/78. [Order FT 77-5, § 458-40-18618, filed 12/30/77.] Decodified.
458-40-183	Quality classes. [Order FT 76-2, § 458-40-183, filed 7/1/76; Order FT 75-7, § 458-40-183, filed 12/1/75.] Decodified.	458-40-18619	Definitions for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18619, filed 6/30/78.] Decodified.
458-40-184	Quality classes. [Order FT 76-2, § 458-40-184, filed 7/1/76.] Decodified.	458-40-18620	Stumpage value areas—Map for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18620, filed 6/30/78.] Decodified.
458-40-185	Stumpage index definition. [Order FT 75-1, § 458-40-185, filed 2/21/75.] Repealed by Order FT 76-2, filed 7/1/76.		

458-40-18621	Hauling distance zones—Maps for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18621, filed 6/30/78.] Decodified.	458-40-18640	Timber quality code numbers—Tables for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18640, filed 12/31/79.] Decodified.
458-40-18622	Timber quality code numbers—Tables for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18622, filed 6/30/78.] Decodified.	458-40-18641	Stumpage values—Tables for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18641, filed 12/31/79.] Decodified.
458-40-18623	Stumpage values—Tables for 7/1/78 through 12/31/78. [Statutory Authority: 1979 c 6 § 1. 79-08-014 (Order FT 79-37), § 458-40-18623, filed 7/10/79. Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18623, filed 6/30/78.] Decodified.	458-40-18642	Harvestable adjustments—Tables for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18642, filed 12/31/79.] Decodified.
458-40-18624	Harvestable adjustments—Tables for 7/1/78 through 12/31/78. [Statutory Authority: RCW 82.04.291. 78-07-065 (Order FT 78-2), § 458-40-18624, filed 6/30/78.] Decodified.	458-40-18643	Definitions for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18643, filed 6/30/80, effective 6/30/80.] Decodified.
458-40-18625	Definitions for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18625, filed 12/29/78.] Decodified.	458-40-18644	Stumpage value areas—Map for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18644, filed 6/30/80, effective 6/30/80.] Decodified.
458-40-18626	Stumpage value areas—Map for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18626, filed 12/29/78.] Decodified.	458-40-18645	Hauling distance zones—Maps for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18645, filed 6/30/80, effective 6/30/80.] Decodified.
458-40-18627	Hauling distance zones—Maps for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18627, filed 12/29/78.] Decodified.	458-40-18646	Timber quality code numbers—Tables for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18646, filed 6/30/80, effective 6/30/80.] Decodified.
458-40-18628	Timber quality code numbers—Tables for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18628, filed 12/29/78.] Decodified.	458-40-18647	Stumpage values—Tables for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18647, filed 6/30/80, effective 6/30/80.] Decodified.
458-40-18629	Stumpage values—Tables for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18629, filed 12/29/78.] Decodified.	458-40-18648	Harvester adjustments—Tables for 7/1/80 through 12/31/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-18648, filed 6/30/80, effective 6/30/80.] Decodified.
458-40-18630	Harvester adjustments—Tables for 1/1/79 through 6/30/79. [Statutory Authority: RCW 82.04.291. 79-01-065 (Order FT 78-7), § 458-40-18630, filed 12/29/78.] Decodified.	458-40-18649	Definitions for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18649, filed 12/30/80.] Decodified.
458-40-18631	Definitions for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18631, filed 6/29/79, effective 6/29/79.] Decodified.	458-40-18650	Stumpage value areas—Map for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18650, filed 12/30/80.] Decodified.
458-40-18632	Stumpage value areas—Map for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18632, filed 6/29/79, effective 6/29/79.] Decodified.	458-40-18651	Hauling distance zones—Maps for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18651, filed 12/30/80.] Decodified.
458-40-18633	Hauling distance zones—Maps for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18633, filed 6/29/79, effective 6/29/79.] Decodified.	458-40-18652	Timber quality code numbers—Tables for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18652, filed 12/30/80.] Decodified.
458-40-18634	Timber quality code numbers—Tables for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18634, filed 6/29/79, effective 6/29/79.] Decodified.	458-40-18653	Stumpage values—Tables for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18653, filed 12/30/80.] Decodified.
458-40-18635	Stumpage values—Tables for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18635, filed 6/29/79, effective 6/29/79.] Decodified.	458-40-18654	Harvester adjustments—Tables for 1/1/81 through 6/30/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18654, filed 12/30/80.] Decodified.
458-40-18636	Harvester adjustments—Tables for 7/1/79 through 12/31/79. [Statutory Authority: RCW 82.01.060 and 1979 c 6 § 1. 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-18636, filed 6/29/79, effective 6/29/79.] Decodified.	458-40-18655	Definitions for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18655, filed 6/30/81.] Decodified.
458-40-18637	Definitions for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18637, filed 12/31/79.] Decodified.	458-40-18656	Stumpage value areas—Map for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18656, filed 6/30/81.] Decodified.
458-40-18638	Stumpage value areas—Map for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18638, filed 12/31/79.] Decodified.	458-40-18657	Hauling distance zones—Maps for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18657, filed 6/30/81.] Decodified.
458-40-18639	Hauling distance zones—Maps for 1/1/80 through 6/30/80. [Statutory Authority: RCW 82.01.060 and 84.33.071. 80-01-091 (Order FT 79-40), § 458-40-18639, filed 12/31/79.] Decodified.	458-40-18658	Timber quality code numbers—Tables for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18658, filed 6/30/81.] Decodified.

- 458-40-18659 Stumpage values—Tables for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18659, filed 6/30/81.] Decodified.
- 458-40-18660 Harvester adjustments—Tables for 7/1/81 through 12/31/81. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-14-047 (Order FT 81-2), § 458-40-18660, filed 6/30/81.] Decodified.
- 458-40-18661 Definitions for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18661, filed 12/31/81.] Decodified.
- 458-40-18662 Stumpage value areas—Map for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18662, filed 12/31/81.] Decodified.
- 458-40-18663 Hauling distance zones—Maps for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18663, filed 12/31/81.] Decodified.
- 458-40-18664 Timber quality code numbers—Tables for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18664, filed 12/31/81.] Decodified.
- 458-40-18665 Stumpage values—Tables for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18665, filed 12/31/81.] Decodified.
- 458-40-18666 Harvester adjustments—Tables for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18666, filed 12/31/81.] Decodified.
- 458-40-18667 Small harvester option for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18667, filed 12/31/81.] Decodified.
- 458-40-18668 Definitions for small harvester option for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18668, filed 12/31/81.] Decodified.
- 458-40-18669 Taxable stumpage value for 1/1/82 through 6/30/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-02-035 (Order FT-81-4), § 458-40-18669, filed 12/31/81.] Decodified.
- 458-40-18670 Definitions for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060, 84.33.030 and 84.33.071 as amended by 1982 2nd ex.s. c 4. 82-19-011 (Order FT-82-5), § 458-40-18670, filed 9/7/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18670, filed 6/30/82.] Decodified.
- 458-40-18671 Stumpage value areas—Map for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18671, filed 6/30/82.] Decodified.
- 458-40-18672 Hauling distance zones—Maps for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18672, filed 6/30/82.] Decodified.
- 458-40-18673 Timber quality code numbers—Tables for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18673, filed 6/30/82.] Decodified.
- 458-40-18674 Stumpage values—Tables for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18674, filed 6/30/82.] Decodified.
- 458-40-18675 Harvester adjustments—Tables for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18675, filed 6/30/82.] Decodified.
- 458-40-18676 Small harvester option for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18676, filed 6/30/82.] Decodified.
- 458-40-18677 Definitions for small harvester option for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060, 84.33.030 and 84.33.071 as amended by 1982 2nd ex.s. c 4. 82-19-011 (Order FT-82-5), § 458-40-18677, filed 9/7/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18677, filed 6/30/82.] Decodified.
- 458-40-18678 Taxable stumpage value for 7/1/82 through 12/31/82. [Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-18678, filed 6/30/82.] Decodified.
- 458-40-18679 Definitions for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18679, filed 12/30/82.] Decodified.
- 458-40-18680 Stumpage value areas—Map for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18680, filed 12/30/82.] Decodified.
- 458-40-18681 Hauling distance zones—Maps for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18681, filed 12/30/82.] Decodified.
- 458-40-18682 Timber quality code numbers—Tables for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18682, filed 12/30/82.] Decodified.
- 458-40-18683 Stumpage values—Tables for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18683, filed 12/30/82.] Decodified.
- 458-40-18684 Harvestable adjustments—Tables for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18684, filed 12/30/82.] Decodified.
- 458-40-18685 Small harvester option for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18685, filed 12/30/82.] Decodified.
- 458-40-18686 Definitions for small harvester option for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18686, filed 12/30/82.] Decodified.
- 458-40-18687 Taxable stumpage value for January 1 through June 30, 1983. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-18687, filed 12/30/82.] Decodified.
- 458-40-18688 Definitions for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18688, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18689 Stumpage value areas—Map for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18689, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18690 Hauling distance zones—Maps for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18690, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18691 Timber quality code numbers—Tables for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18691, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18692 Stumpage values—Tables for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18692, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18693 Harvester adjustments—Tables for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18693, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-18694 Small harvester option for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071. 83-14-039

	and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18694, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18712	Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18695	Definitions for small harvester option for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071, 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18695, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18713	Harvester adjustments—Tables for January 1 through June 30, 1984. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18712, filed 12/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18696	Taxable stumpage value for July 1 through December 31, 1983. [Statutory Authority: RCW 84.33.071, 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-18696, filed 6/30/83, effective 6/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18714	Stumpage values—Tables for July 1 through December 31, 1984. [Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18713, filed 6/29/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18700	Definitions. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18700, filed 6/30/86; 86-02-045 (Order FT-85-5), § 458-40-18700, filed 12/31/85; 85-02-026 (Order FT-84-7), § 458-40-18700, filed 12/28/84. Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18700, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18700, filed 12/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18715	Harvester adjustments—Tables for July 1 through December 31, 1984. [Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18714, filed 6/29/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18701	Small harvester option. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18701, filed 12/30/83.] Repealed by 84-14-049 (Order FT-84-4), filed 6/29/84. Statutory Authority: RCW 82.01.060 and 1984 c 204.	458-40-18716	Stumpage values—Tables for January 1 through June 30, 1985. [Statutory Authority: Chapter 84.33 RCW. 85-02-026 (Order FT-84-7), § 458-40-18715, filed 12/28/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18702	Definitions for small harvester option. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18702, filed 12/30/83.] Repealed by 84-14-049 (Order FT-84-4), filed 6/29/84. Statutory Authority: RCW 82.01.060 and 1984 c 204.	458-40-18717	Harvester adjustments—Tables for January 1 through June 30, 1985. [Statutory Authority: Chapter 84.33 RCW. 85-02-026 (Order FT-84-7), § 458-40-18716, filed 12/28/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18703	Taxable stumpage value for small harvester option. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18703, filed 12/30/83.] Repealed by 84-14-049 (Order FT-84-4), filed 6/29/84. Statutory Authority: RCW 82.01.060 and 1984 c 204.	458-40-18718	Stumpage values—Tables for July 1 through December 31, 1985. [Statutory Authority: Chapter 84.33 RCW. 85-14-048 (Order FT-85-2), § 458-40-18717, filed 6/28/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18704	Stumpage value areas and hauling distance zone—Map. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18704, filed 6/30/86; 85-02-026 (Order FT-84-7), § 458-40-18704, filed 12/28/84. Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18704, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18704, filed 12/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18719	Harvester adjustments—Tables for July 1 through December 31, 1985. [Statutory Authority: Chapter 84.33 RCW. 85-14-048 (Order FT-85-2), § 458-40-18718, filed 6/28/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18705	Hauling distance zones—Maps. [Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18705, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18705, filed 12/30/83.] Repealed by 85-02-026 (Order FT-84-7), filed 12/28/84. Statutory Authority: Chapter 84.33 RCW.	458-40-18720	Stumpage values—Tables for January 1 through June 30, 1986. [Statutory Authority: Chapter 84.33 RCW. 86-02-045 (Order FT-85-5), § 458-40-18719, filed 12/31/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18706	Timber quality code numbers—Tables. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18706, filed 6/30/86; 86-02-045 (Order FT-85-5), § 458-40-18706, filed 12/31/85; 85-02-026 (Order FT-84-7), § 458-40-18706, filed 12/28/84. Statutory Authority: RCW 82.01.060 and 1984 c 204. 84-14-049 (Order FT-84-4), § 458-40-18706, filed 6/29/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18706, filed 12/30/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.	458-40-18721	Harvester adjustments—Tables for January 1 through June 30, 1986. [Statutory Authority: Chapter 84.33 RCW. 86-02-045 (Order FT-85-5), § 458-40-18720, filed 12/31/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
458-40-18711	Stumpage values—Tables for January 1 through June 30, 1984. [Statutory Authority: RCW 82.01.060 and 84.33.071. 84-08-020 (Order FT-84-1), § 458-40-18711, filed 3/28/84. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-18711, filed 12/30/83.]	458-40-18722	Stumpage values—Tables for July 1 through December 31, 1986. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18721, filed 6/30/86.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
		458-40-19000	Harvester adjustments—Tables for July 1 through December 31, 1986. [Statutory Authority: Chapter 84.33 RCW. 86-14-064 (Order FT-86-2), § 458-40-18722, filed 6/30/86.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
			Timber pole volume table for west of Cascade summit. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 84-02-041 (Order FT-83-7), § 458-40-19000, filed 12/30/83. Statutory Authority: RCW 84.33.071, 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-19000, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074. 83-02-033 (Order FT-82-7), § 458-40-19000, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071. 82-14-037 (Order FT-82-3), § 458-40-19000, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19000, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19000, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19000, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19000, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19000, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order

- FT 79-35), § 458-40-19000, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291, 79-01-065 (Order FT 78-7), § 458-40-19000, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19000, filed 6/30/78; Order 77-2, § 458-40-19000, filed 6/29/77; Order 76-5, § 458-40-19000, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19001 Timber piling volume table for west of Cascade summit. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074, 84-02-041 (Order FT-83-7), § 458-40-19001, filed 12/30/83. Statutory Authority: RCW 84.33.071, 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-19001, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074, 83-02-033 (Order FT-82-7), § 458-40-19001, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071, 82-14-037 (Order FT-82-3), § 458-40-19001, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19001, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19001, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19001, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19001, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19001, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-19001, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291, 79-01-065 (Order FT 78-7), § 458-40-19001, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19001, filed 6/30/78; Order 77-2, § 458-40-19001, filed 6/29/77; Order 76-5, § 458-40-19001, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19002 Timber pole volume table for east of Cascade summit. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074, 84-02-041 (Order FT-83-7), § 458-40-19002, filed 12/30/83. Statutory Authority: RCW 84.33.071, 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-19002, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074, 83-02-033 (Order FT-82-7), § 458-40-19002, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071, 82-14-037 (Order FT-82-3), § 458-40-19002, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19002, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19002, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19002, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19002, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19002, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-19002, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291, 79-01-065 (Order FT 78-7), § 458-40-19002, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19002, filed 6/30/78; Order FT 77-5, § 458-40-19002, filed 12/30/77; Order 77-2, § 458-40-19002, filed 6/29/77; Order 76-5, § 458-40-19002, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19003 Timber piling volume table for east of Cascade summit. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074, 84-02-041 (Order FT-83-7), § 458-40-19003, filed 12/30/83. Statutory Authority: RCW 84.33.071, 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-19003, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074, 83-02-033 (Order FT-82-7), § 458-40-19003, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071, 82-14-037 (Order FT-82-3), § 458-40-19003, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19003, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19003, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19003, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19003, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19003, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-19003, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291, 79-01-065 (Order FT 78-7), § 458-40-19003, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19003, filed 6/30/78; Order FT 77-5, § 458-40-19003, filed 12/30/77; Order 77-2, § 458-40-19003, filed 6/29/77; Order 76-5, § 458-40-19003, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19004 Conversion definitions and factors. [Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074, 84-02-041 (Order FT-83-7), § 458-40-19004, filed 12/30/83. Statutory Authority: RCW 84.33.071, 83-14-039 and 83-14-040 (Emergency Order FT-83-4 and Permanent Order FT-83-3), § 458-40-19004, filed 6/30/83, effective 6/30/83. Statutory Authority: RCW 82.01.060, 84.33.071, 84.33.073 and 84.33.074, 83-02-033 (Order FT-82-7), § 458-40-19004, filed 12/30/82. Statutory Authority: RCW 82.01.060 and 84.33.071, 82-14-037 (Order FT-82-3), § 458-40-19004, filed 6/30/82; 82-02-035 (Order FT-81-4), § 458-40-19004, filed 12/31/81; 81-14-047 (Order FT 81-2), § 458-40-19004, filed 6/30/81; 81-02-007 (Order FT 80-6), § 458-40-19004, filed 12/30/80; 80-08-042 and 80-08-041 (Emergency Order FT 80-1 and Permanent Order FT 80-2), § 458-40-19004, filed 6/30/80, effective 6/30/80; 80-01-091 (Order FT 79-40), § 458-40-19004, filed 12/31/79; 79-07-083 and 79-07-084 (Emergency Order FT 79-34 and Permanent Order FT 79-35), § 458-40-19004, filed 6/29/79, effective 6/29/79. Statutory Authority: RCW 82.04.291, 79-01-065 (Order FT 78-7), § 458-40-19004, filed 12/29/78; 78-07-065 (Order FT 78-2), § 458-40-19004, filed 6/30/78; Order FT 77-5, § 458-40-19004, filed 12/30/77; Order 77-2, § 458-40-19004, filed 6/29/77; Order 76-5, § 458-40-19004, filed 12/31/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19005 Timber excise tax credit for personal property tax. [Statutory Authority: RCW 84.33.077, 84-08-021 (Order FT-84-2), § 458-40-19005, filed 3/28/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19100 Forest land values for year 1977. [Statutory Authority: RCW 84.33.120, 79-01-005 (Order FT 78-5), § 458-40-19100, filed 12/8/78; Order 76-3, § 458-40-19100, filed 12/1/76.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19101 Forest land values amended for western Washington for year 1978. [Statutory Authority: RCW 84.33.120, 83-05-013 (Order FT-83-2), § 458-40-19101, filed 2/8/83; 79-08-015 (Order FT 79-36), § 458-40-19101, filed 7/10/79; Order 77-3, § 458-40-19101, filed 11/30/77.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19102 Forest land values—1979. [Statutory Authority: RCW 84.33.120, 78-12-036 (Order FT 78-3), § 458-40-19102, filed 11/22/78.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19103 Forest land values—1980. [Statutory Authority: RCW 84.33.120, 79-12-061 (Order FT 79-38), § 458-40-19103, filed 11/29/79.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19104 Forest land values—1981. [Statutory Authority: RCW 84.33.120, 80-18-029 (Order FT 80-3), § 458-40-19104, filed 12/1/80.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19105 Forest land values—1981. [Statutory Authority: RCW 84.33.120, 80-18-030 (Order FT 80-4), § 458-40-19105, filed 12/1/80.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19106 Forest land values—1982. [Statutory Authority: RCW 84.33.120 as amended by chapter 148, Laws of 1981, 81-24-039 (Order FT 81-2), § 458-40-19106, filed 11/30/81.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19107 Forest land values—1983. [Statutory Authority: RCW 84.33.120 as amended by chapter 148, Laws of 1981, 82-24-030 (Order FT 82-6), § 458-40-19107, filed

- 11/23/82.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19108 Forest land values—1984. [Statutory Authority: RCW 84.33.120 as amended by 1981 c 148, 83-23-027 (Order FT 83-5), § 458-40-19108, filed 11/8/83.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19109 Forest land values—1985. [Statutory Authority: RCW 84.33.120 as amended by 1984 c 204, 84-24-011 (Order FT 84-5), § 458-40-19109, filed 11/27/84.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19110 Forest land values—1986. [Statutory Authority: RCW 84.33.120, 85-24-036 (Order FT 85-3), § 458-40-19110, filed 11/27/85.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-19300 Private forest land grades according to species and site index. [Statutory Authority: RCW 84.33.120, 82-07-086 (Order FT 82-1), § 458-40-19300, filed 3/24/82; 80-18-030 (Order FT 80-4), § 458-40-19300, filed 12/1/80.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-300 Forest land classification. [Order FT 75-3, § 458-40-300, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-310 Definitions. [Order FT 75-3, § 458-40-310, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-320 Application for forest land classification. [Order FT 75-3, § 458-40-320, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-330 Notation on assessment and tax rolls of classified forest land. [Order FT 75-3, § 458-40-330, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-340 Removal of forest land classification. [Order FT 75-3, § 458-40-340, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-350 Removal from classification—Compensating tax not imposed. [Order FT 75-3, § 458-40-350, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-360 Notification to owner of removal. [Order FT 75-3, § 458-40-360, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-370 Compensating tax liability and rate. [Order FT 75-3, § 458-40-370, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-380 Appeals procedure for classification of forest lands. [Order FT 75-3, § 458-40-380, filed 6/5/75.] Repealed by 87-02-023 (Order 86-4), filed 12/31/86. Statutory Authority: Chapter 84.33 RCW.
- 458-40-500 Property tax, forest land—Statement of purpose. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-500, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-510 Property tax, forest land—Definitions. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-510, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-520 Property tax, forest land—Classification, designation, removal by assessor, compensating taxes. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-520, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-535 Property tax, forest land—Operability classes. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-535, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-600 Timber excise tax—Statement of purpose. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-600, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-615 Timber excise tax—Stumpage values—Reporting of private stumpage sales to the department. [Statutory Authority: RCW 82.32.300 and 84.33.096, 95-14-086, § 458-40-615, filed 6/30/95, effective 7/1/95; 92-18-030, § 458-40-615, filed 8/26/92, effective 9/26/92.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-620 Timber excise tax—Tax liability—Harvester as taxpayer, harvester defined. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-620, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-622 Timber excise tax—Tax liability—Government entity as harvester. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-622, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-624 Timber excise tax—Tax liability—Reclassified reforestation lands. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-624, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-630 Timber excise tax—Stumpage value—General definition. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-630, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-632 Timber excise tax—Taxable stumpage value—Private timber. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-632, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-634 Timber excise tax—Taxable stumpage value—Small harvester option. [Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.120, 96-02-056, § 458-40-634, filed 12/29/95, effective 1/29/96. Statutory Authority: RCW 82.33.096, 93-14-090, § 458-40-634, filed 7/1/93, effective 8/1/93. Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-634, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-636 Timber excise tax—Taxable stumpage value—Public timber. [Statutory Authority: RCW 84.33.096 and 82.32.300, 90-14-033, § 458-40-636, filed 6/29/90, effective 7/30/90. Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-636, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-682 Timber excise tax—Volume harvested—Sample scaling. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-682, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-684 Timber excise tax—Volume harvested—Conversions to Scribner Decimal C Scale for Western Washington. [Statutory Authority: RCW 82.32.300 and 84.33.096, 95-14-086, § 458-40-684, filed 6/30/95, effective 7/1/95. Statutory Authority: RCW 84.33.091, 84.32.300 [82.32.300] and 84.33.096, 92-14-083, § 458-40-684, filed 6/29/92, effective 7/1/92. Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-684, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.
- 458-40-686 Timber excise tax—Volume harvested—Conversions to Scribner Decimal C Scale for Eastern Washington. [Statutory Authority: Chapter 84.33 RCW, 87-02-023 (Order 86-4), § 458-40-686, filed 12/31/86.] Repealed by 00-24-068, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.300 and 84.33.096.

WAC 458-40-530 Property tax, forest land—Land grades—Operability classes. (1) Introduction. RCW 84.33.120 requires that the department of revenue annually adjust and certify forest land values to be used by county assessors in preparing assessment rolls. These values are based upon land grades and operability classes. The assessors

use maps that provide the land grades and operability classes for forest land in Washington.

This rule explains how the land grades and operability classes provided in the maps used by the assessors were established. The forest land values are annually updated in WAC 458-40-540. For the purposes of this rule and WAC 458-40-540, the term "forest land" is synonymous with timberland and means all land in any contiguous ownership of twenty or more acres which is primarily devoted to and used for growing and harvesting timber and means land only.

(2) **Land grades.** The land grades are established based upon timber species and site index. "Site index (plural site indices)" is the productive quality of forest land, determined by the total height reached by the dominant and codominant trees on a particular site at a given age.

WASHINGTON STATE PRIVATE FOREST LAND GRADES

SPECIES	SITE INDEX	LAND GRADE
WESTSIDE		
Douglas Fir	136 ft. and over	1
	118-135 ft.	2
	99-117 ft.	3
	84-98 ft.	4
	under 84 ft.	5
Western Hemlock	136 ft. and over	1
	116-135 ft.	2
	98-115 ft.	3
	83-97 ft.	4
	68-82 ft.	5
Red Alder	under 68 ft.	6
	117 ft. and over	6
	under 117 ft.	7
	Marginal forest productivity Noncommercial	7 or 8 *2
		8
EASTSIDE		
Douglas Fir & Ponderosa Pine	140 ft. and over	3 *1
	120-139 ft.	4 *1
Ponderosa Pine	96-119 ft.	5 *1
	70-95 ft.	6 *1
	under 70 ft.	7 *1
	Marginal forest productivity Noncommercial	7 or 8 *2
		8

*1 These are the site indices for one hundred percent stocked stands. Stands with lower stocking levels would require higher site indices to occur in the same land grade.

*2 Marginal forest productivity is land grade 7 operability class 3, in the following townships. All marginal forest productivity in other townships is land grade 8.

WESTERN WASHINGTON

Whatcom County - all townships east of Range 6 East, inclusive.

Skagit County - all townships east of Range 7 East, inclusive.

Snohomish County - all townships east of Range 8 East, inclusive.

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King County - all townships east of Range 9 East, inclusive.

Pierce County - T15N, R7E; T16N, R7E; T17N, R7E; T18N, R7E; T19N, R9E; T19N, R10E; T19N, R11E.

EASTERN WASHINGTON

Chelan County - all townships west of Range 17 East, inclusive.

Kittitas County - all townships west of Range 15 East, inclusive.

Yakima County - all townships west of Range 14 East, inclusive.

(3) **Operability classes.** Operability classes are established according to intrinsic characteristics of soils and geomorphic features. The criteria for each class apply statewide.

(a) **Class 1-Favorable.** Stable soils that slope less than thirty percent. Forest operations do not significantly impact soil productivity and soil erosion. Forest operations, such as roading and logging, are carried out with minimal limitations.

(b) **Class 2-Average.** Stable soils that slope less than thirty percent, but on which significant soil erosion, compaction, and displacement may occur as a result of forest operations.

(c) **Class 3-Difficult.** Soils with one or both of the following characteristics:

(i) Stable soils that slope between thirty and sixty-five percent; and

(ii) Soils that slope between zero and sixty-five percent, but display evidence that rapid mass movement may occur as a direct result of forest operations.

(d) **Class 4-Extreme.** All soils that slope more than sixty-five percent.

(e) **Variations.** Unique conditions found in any one geographic area may impact forest operations to a greater degree than the above classes permit. With documented evidence, the department of revenue may place the soil in a more severe class.

[Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-530, filed 12/1/00, effective 1/1/01. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-530, filed 12/31/86.]

WAC 458-40-540 Forest land values—2005. The forest land values, per acre, for each grade of forest land for the 2005 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	2005
		VALUES ROUNDED
1	1	\$ 203
	2	201
	3	190
	4	138
2	1	172
	2	167
	3	160
	4	115
3	1	135
	2	131
	3	130
	4	99

LAND GRADE	OPERABILITY CLASS	2005 VALUES ROUNDED
4	1	103
	2	100
	3	99
	4	76
5	1	75
	2	68
	3	67
	4	46
6	1	38
	2	35
	3	35
	4	33
7	1	17
	2	17
	3	16
	4	16
8		1

[Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, and 84.33.140. 05-02-037, § 458-40-540, filed 12/30/04, effective 1/1/05. Statutory Authority: RCW 82.32.300 and 84.33.140. 04-02-018, § 458-40-540, filed 12/30/03, effective 1/1/04. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, 84.33.091, and 84.33.140. 03-02-004, § 458-40-540, filed 12/19/02, effective 1/1/03. Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091 and 84.33.120. 02-02-033, § 458-40-540, filed 12/24/01, effective 1/1/02. Statutory Authority: RCW 82.32.300, 84.33.096 and 84.33.120. 01-02-018, § 458-40-540, filed 12/21/00, effective 1/1/01; 00-02-018, § 458-40-540, filed 12/27/99, effective 1/1/00; 99-02-030, § 458-40-540, filed 12/30/98, effective 1/1/99; 98-02-014, § 458-40-540, filed 12/30/97, effective 1/1/98; 97-07-041, § 458-40-540, filed 3/14/97, effective 4/14/97; 96-02-055, § 458-40-540, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.300 and 84.33.120. 95-02-039, § 458-40-540, filed 12/30/94, effective 1/1/95. Statutory Authority: RCW 82.32.300. 94-02-046, § 458-40-540, filed 12/30/93, effective 1/1/94. Statutory Authority: RCW 84.33.120. 93-02-024, § 458-40-540, filed 12/31/92, effective 1/1/93; 91-24-026, § 458-40-540, filed 11/26/91, effective 1/1/92. Statutory Authority: RCW 84.33.120 and 84.08.010. 90-24-012, § 458-40-540, filed 11/27/90, effective 12/28/90; 89-23-095, § 458-40-540, filed 11/21/89, effective 12/22/89. Statutory Authority: RCW 84.33.120 and 84.33.130. 88-23-055 (Order FT-88-3), § 458-40-540, filed 11/15/88; 87-22-068 (Order FT-87-3), § 458-40-540, filed 11/4/87. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-540, filed 12/31/86.]

WAC 458-40-610 Timber excise tax—Definitions. (1)

Introduction. The purpose of WAC 458-40-610 through 458-40-690 is to prescribe the policies and procedures for the taxation of timber harvested from public and private forest lands as required by RCW 84.33.010 through 84.33.096.

Unless the context clearly requires otherwise, the definitions in this rule apply to WAC 458-40-610 through 458-40-690. In addition to the definitions found in this rule, definitions of technical forestry terms may be found in *The Dictionary of Forestry*, 1998, edited by John A. Helms, and published by the Society of American Foresters.

(2) **Codominant trees.** Trees whose crowns form the general level of the main canopy and receive full light from above, but comparatively little light from the sides.

(3) **Competitive sales.** The offering for sale of timber which is advertised to the general public for sale at public auction under terms wherein all qualified potential buyers have an equal opportunity to bid on the sale, and the sale is awarded to the highest qualified bidder. The term "competi-

tive sales" includes making available to the general public permits for the removal of forest products.

(4) **Cord measurement.** A measure of wood with dimensions of 4 feet by 4 feet by 8 feet (128 cubic feet).

(5) **Damaged timber.** Timber where the stumpage values have been materially reduced from the values shown in the applicable stumpage value tables due to damage resulting from fire, blow down, ice storm, flood, or other sudden unforeseen causes.

(6) **Dominant trees.** Trees whose crowns are higher than the general level of the main canopy and which receive full light from the sides as well as from above.

(7) **Harvest unit.** An area of timber harvest, defined and mapped by the harvester before harvest, having the same stumpage value area, hauling distance zone, harvest adjustments, harvester, and harvest identification. The harvest identification may be a department of natural resources forest practice application number, public agency harvesting permit number, public sale contract number, or other unique identifier assigned to the timber harvest area prior to harvest operations. A harvest unit may include more than one section, but harvest unit may not overlap a county boundary.

(8) **Harvester.** Every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. The term "harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester. In cases where the identity of the harvester is in doubt, the department of revenue will consider the owner of the land from which the timber was harvested to be the harvester and the one liable for paying the tax.

The definition above applies except when the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use. When a governmental entity described above fells, cuts, or takes timber, the harvester is the first person, other than another governmental entity as described above, acquiring title to or a possessory interest in such timber.

(9) **Harvesting and marketing costs.** Only those costs directly and exclusively associated with harvesting the timber from the land and delivering it to the buyer. The term includes the costs of slash disposal required to abate extreme fire hazard. Harvesting and marketing costs do not include the costs of reforestation, permanent road construction, or any other costs not directly and exclusively associated with the harvesting and marketing of the timber. The actual harvesting and marketing costs must be used in all instances where documented records are available. When the taxpayer is unable to provide documented proof of such costs, the deduction for harvesting and marketing costs is thirty-five percent of the gross receipts from the sale of the logs.

(10) **Hauling distance zone.** An area with specified boundaries as shown on the statewide stumpage value area and hauling distance zone maps contained in WAC 458-40-640, having similar accessibility to timber markets.

(11) **Legal description.** A description of an area of land using government lots and standard general land office subdi-

vision procedures. If the boundary of the area is irregular, the physical boundary must be described by metes and bounds or by other means that will clearly identify the property.

(12) **Log grade.** Those grades listed in the "*Official Log Scaling and Grading Rules*" developed and authored by the Northwest Log Rules Advisory Group (Advisory Group). "Utility grade" means logs that do not meet the minimum requirements of peeler or sawmill grades as defined in the "*Official Log Scaling and Grading Rules*" published by the Advisory Group but are suitable for the production of firm useable chips to an amount of not less than fifty percent of the gross scale; and meeting the following minimum requirements:

- (a) Minimum gross diameter—two inches.
- (b) Minimum gross length—twelve feet.
- (c) Minimum volume—ten board feet net scale.
- (d) Minimum recovery requirements—one hundred percent of adjusted gross scale in firm useable chips.

(13) **Lump sum sale.** Also known as a cash sale or an installment sale, it is a sale of timber where all the volume offered is sold to the highest bidder.

(14) **MBF.** One thousand board feet measured in Scribner Decimal C Log Scale Rule.

(15) **Noncompetitive sales.** Sales of timber in which the purchaser has a preferential right to purchase the timber or a right of first refusal.

(16) **Other consideration.** Value given in lieu of cash as payment for stumpage, such as improvements to the land that are of a permanent nature. Some examples of permanent improvements are as follows: Construction of permanent roads; installation of permanent bridges; stockpiling of rock intended to be used for construction or reconstruction of permanent roads; installation of gates, cattle guards, or fencing; and clearing and reforestation of property.

(17) **Permanent road.** A road built as part of the harvesting operation which is to have a useful life subsequent to the completion of the harvest.

(18) **Private timber.** All timber harvested from privately owned lands.

(19) **Public timber.** Timber harvested from federal, state, county, municipal, or other government owned lands.

(20) **Remote island.** An area of land which is totally surrounded by water at normal high tide and which has no bridge or causeway connecting it to the mainland.

(21) **Scale sale.** A sale of timber in which the amount paid for timber in cash and/or other consideration is the arithmetic product of the actual volume harvested and the unit price at the time of harvest.

(22) **Small harvester.** A harvester who harvests timber from privately or publicly owned forest land in an amount not exceeding two million board feet in a calendar year.

(23) **Species.** A grouping of timber based on biological or physical characteristics. In addition to the designations of species or subclassifications defined in Agriculture Handbook No. 451 Checklist of United States Trees (native and naturalized) found in the state of Washington, the following are considered separate species for the purpose of harvest classification used in the stumpage value tables:

(a) **Other conifer.** All conifers not separately designated in the stumpage value tables. See WAC 458-40-660.

(b) **Other hardwood.** All hardwoods not separately designated in the stumpage value tables. See WAC 458-40-660.

(c) **Special forest products.** The following are considered to be separate species of special forest products: Christmas trees (various species), posts (various species), western redcedar flatsawn and shingle blocks, western redcedar shake blocks and boards.

(d) **Chipwood.** All timber processed to produce chips or chip products delivered to an approved chipwood destination that has been approved in accordance with the provisions of WAC 458-40-670 or otherwise reportable in accordance with the provisions of WAC 458-40-670.

(e) **Small logs.** All conifer logs harvested in stumpage value areas 6 or 7 generally measuring seven inches or less in scaling diameter, purchased by weight measure at designated small log destinations that have been approved in accordance with the provisions of WAC 458-40-670. Log diameter and length is measured in accordance with USFS scaling rules with length not to exceed twenty feet.

(f) **Sawlog.** For purposes of timber harvest in stumpage value areas 6 and 7, a sawlog is a log having a net scale of not less than 33 1/3% of gross scale, nor less than ten board feet and meeting the following minimum characteristics: Gross scaling diameter of five inches and a gross scaling length of eight feet.

(g) **Piles.** All logs sold for use or processing as piles that meet the specifications described in the most recently published edition of the *Standard Specification for Round Timber Piles (Designation: D 25)* of the American Society for Testing and Materials.

(h) **Poles.** All logs sold for use or processing as poles that meet the specifications described in the most recently published edition of the *National Standard for Wood Poles—Specifications and Dimensions (ANSI 05.1)* of the American National Standards Institute.

(24) **Stumpage.** Timber, having commercial value, as it exists before logging.

(25) **Stumpage value.** The true and fair market value of stumpage for purposes of immediate harvest.

(26) **Stumpage value area (SVA).** An area with specified boundaries which contains timber having similar growing, harvesting and marketing conditions.

(27) **Taxable stumpage value.** The value of timber as defined in RCW 84.33.035(7), and this chapter. Except as provided below for small harvesters and public timber, the taxable stumpage value is the appropriate value for the species of timber harvested as set forth in the stumpage value tables adopted under this chapter.

(a) **Small harvester option.** Small harvesters may elect to calculate the excise tax in the manner provided by RCW 84.33.073 and 84.33.074. The taxable stumpage value must be determined by one of the following methods as appropriate:

(i) **Sale of logs.** Timber which has been severed from the stump, bucked into various lengths and sold in the form of logs has a taxable stumpage value equal to the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber.

(ii) **Sale of stumpage.** When standing timber is sold and harvested within twenty-four months of the date of sale, its taxable stumpage value is the actual purchase price in cash

and/or other consideration for the stumpage for the most recent sale prior to harvest. If a person purchases stumpage, harvests the timber more than twenty-four months after purchase of the stumpage, and chooses to report under the small harvester option, the taxable stumpage value is the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber. See WAC 458-40-626 for timing of tax liability.

(b) **Public timber.** The taxable stumpage value for public timber sales is determined as follows:

(i) **Competitive sales.** The taxable stumpage value is the actual purchase price in cash and/or other consideration. The value of other consideration is the fair market value of the other consideration; provided that if the other consideration is permanent roads, the value is the appraised value as appraised by the seller. If the seller does not provide an appraised value for roads, the value is the actual costs incurred by the purchaser for constructing or improving the roads. Other consideration includes additional services required from the stumpage purchaser for the benefit of the seller when these services are not necessary for the harvesting or marketing of the timber. For example, under a single stumpage sale's contract, when the seller requires road abandonment (as defined in WAC 222-24-052(3)) of constructed or reconstructed roads which are necessary for harvesting and marketing the timber, the construction and abandonment costs are not taxable. Abandonment activity on roads that exist prior to a stumpage sale is not necessary for harvesting and marketing the purchased timber and those costs are taxable.

(ii) **Noncompetitive sales.** The taxable stumpage value is determined using the department of revenue's stumpage value tables as set forth in this chapter. Qualified harvesters may use the small harvester option.

(iii) **Sale of logs.** The taxable stumpage value for public timber sold in the form of logs is the actual purchase price for the logs in cash and/or other consideration less appropriate deductions for harvesting and marketing costs. Refer above for a definition of "harvesting and marketing costs."

(iv) **Defaulted sales and uncompleted contracts.** In the event of default on a public timber sale contract, wherein the taxpayer has made partial payment for the timber but has not removed any timber, no tax is due. If part of the sale is logged and the purchaser fails to complete the harvesting, taxes are due on the amount the purchaser has been billed by the seller for the volume removed to date. See WAC 458-40-628 for timing of tax liability.

(28) **Thinning.** Timber removed from a harvest unit located in stumpage value area 1, 2, 3, 4, 5, or 10:

(a) When the total volume removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest; and

(b) The harvester leaves a minimum of one hundred undamaged, evenly spaced, dominant or codominant trees per acre of a commercial species or combination thereof.

[Statutory Authority: RCW 82.32.300 and 84.33.096. 02-21-005, § 458-40-610, filed 10/3/02, effective 11/3/02; 00-24-068, § 458-40-610, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. 96-02-054, § 458-40-610, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.330 and 84.33.096. 95-18-026, § 458-40-610, filed 8/25/95, effective 8/25/95. Statutory Authority: RCW 84.33.096 and 82.32.300. 90-14-033, § 458-40-610, filed 6/29/90, effective 7/30/90.]

[Title 458 WAC—p. 460]

Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-610, filed 12/31/86.]

WAC 458-40-626 Timber excise tax—Tax liability—Private timber, tax due when timber harvested. (1) **Introduction.** For purposes of determining the proper calendar quarter in which the harvester is to pay tax on timber harvested from private land the tax is due and payable on the last day of the month following the end of the calendar quarter in which the timber was harvested.

(2) **Personal use of harvested timber by landowner.** A landowner harvesting timber for commercial or industrial use is subject to the timber excise tax upon the value of harvested timber. See RCW 84.33.041, 84.33.035 and 84.33.073. A landowner cutting timber for that landowner's own personal use is not subject to the timber excise tax.

A landowner selling, bartering, or trading timber is making commercial use of that timber. A landowner providing that individual's own business with timber is making commercial or industrial use of that timber. For example, a logging contractor using timber by-products for hog fuel has made industrial use of that timber. An individual engaged in the construction industry using lumber from that landowner's timber to build a structure meant for sale by that individual or that individual's business has also made industrial use of the timber. On the other hand, a landowner makes personal use of timber when that individual uses the timber, a portion of the cut timber, or a by-product from the timber as:

(a) Firewood in that individual's stove or fireplace;

(b) Lumber for that individual's personal residence, garage or storage structure;

(c) Lumber for a fence around that individual's personal residence or private property not used for commercial purposes; or

(d) Sawdust or shavings for that individual's garden or yard.

[Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-626, filed 12/1/00, effective 1/1/01. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-626, filed 12/31/86.]

WAC 458-40-628 Timber excise tax—Tax liability—Public timber, lump sum and scale sales. For purposes of determining the proper quarter in which the harvester is to pay taxes on timber harvested from public land, the taxes due under RCW 84.33.041 are due and payable as follows:

(1) **Lump-sum sale.** The tax is due and payable on the last day of the month following the quarter in which the purchaser is billed by the seller for the timber: Provided, That if payments are made to the seller before any harvest, road construction or other work has begun on the timber sale contract, payment of taxes may be postponed until the quarter in which harvest or other contract work begins. In the quarter that harvest commences, taxes are due and payable on all billings accrued by the buyer in all prior quarters as well as the current quarter.

(2) **Scale sale.** The tax is due and payable on the last day of the month following the calendar quarter in which the purchaser is billed by the seller for the timber: Provided, That if payments are made to the seller before any harvest, road construction or other work has begun on the timber sale contract, payment of taxes may be postponed until the quarter in which

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harvest or other contract work begins. In the quarter that harvest commences, taxes are due and payable on all billings accrued by the buyer in all prior quarters as well as the current quarter. Indexing or escalation amounts must be included in the quarter in which they apply.

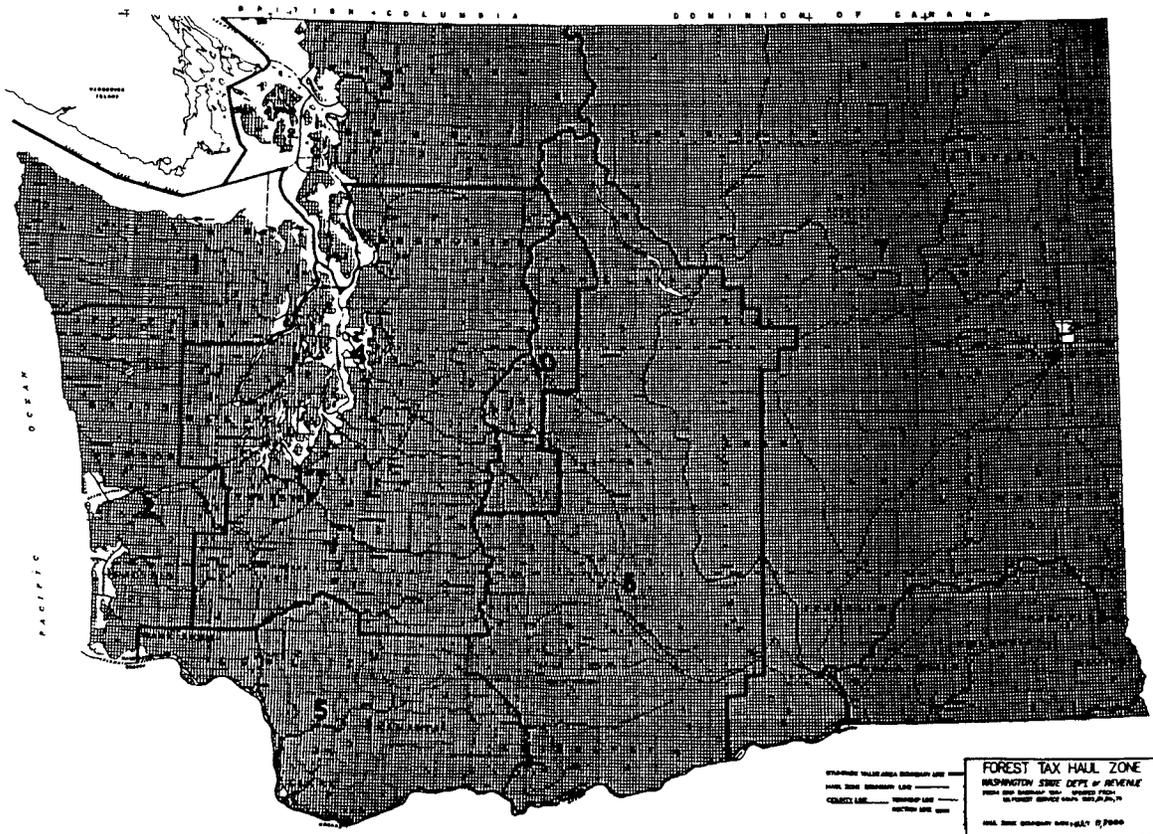
(3) **Other considerations.** Tax due on considerations other than cash is due and payable the first quarter of harvest, or the first quarter the costs are incurred, but not later than the last quarter of harvest: Provided, That if effective road credits (United States Forest Service Sales) are used as payment for stumpage, the tax is due in the quarter in which the road credits are applied as payment.

[Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-628, filed 12/1/00, effective 1/1/01; 90-02-049, § 458-40-628, filed 12/29/89, effective 1/29/90. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-628, filed 12/31/86.]

WAC 458-40-640 Timber excise tax—Stumpage value area (map). The stumpage value area and hauling distance zone map contained in this rule must be used to determine the proper stumpage value table and haul zone to be used in calculating the taxable stumpage value of timber harvested from private land.

WAC 458-40-640 Stumpage value area and hauling zone—Map

Harvesters may obtain a larger scale map by writing to the Washington State Department of Revenue, Special Programs Division, Forest Tax Section, Post Office Box 47472, Olympia, Washington 98504-7472; or by calling 1-800-548-8829.



WAC 458-40-650 Timber excise tax—Timber quality codes defined. The timber quality code numbers for each species of timber shown in the stumpage value tables contained in this chapter are defined as follows:

**TABLE 1—Timber Quality Code Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10**

Species	Quality Code Number	Log grade specifications ¹
Douglas-fir	1	Over 50% No. 2 Sawmill and better log grade, and 15% and over Special Mill, No. 1 Sawmill, and better log grade.
Douglas-fir	2	Over 50% No. 2 Sawmill and better log grade, and less than 15% Special Mill, No. 1 Sawmill, and better log grade.
Douglas-fir	3	25-50% inclusive No. 2 Sawmill and better log grade.
Douglas-fir	4	Less than 25% No. 2 Sawmill and better log grade.
Western Redcedar and Alaska-Cedar	1	All log grades.
Western Hemlock, True Firs, Other Conifer, and Spruce	1	Over 50% No. 2 Sawmill and better log grade, and 5% and over Special Mill, No. 1 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	2	Over 50% No. 2 Sawmill and better log grade, and less than 5% Special Mill, No. 1 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	3	25-50% inclusive No. 2 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	4	Less than 25% No. 2 Sawmill and better log grade.
Ponderosa Pine	1	Less than 10 logs 16 feet long per thousand board feet Scribner scale.
Ponderosa Pine	2	10 or more logs 16 feet long per thousand board feet Scribner scale.
Lodgepole Pine	1	All log grades.
Red Alder	1	40% and over No. 3 Sawmill and better log grades.
Red Alder	2	Less than 40% No. 3 Sawmill and better log grades.
Black Cottonwood and other hardwoods	1	All log grades.
Chipwood	1	All logs that comply with the definition of chipwood in WAC 458-40-610.
Piles	1	All logs that comply with the definition of piles in WAC 458-40-610.
Poles	1	All logs that comply with the definition of poles in WAC 458-40-610.

¹ For information on approved log scaling and grading methods see WAC 458-40-680.

**TABLE 2—Timber Quality Code Table
Stumpage Value Areas 6 and 7**

Species	Quality Code Number	Log grade specifications
Ponderosa Pine	1	Less than 10 logs 16 feet long per thousand board feet Scribner scale.
Ponderosa Pine	2	10 or more logs 16 feet long per thousand board feet Scribner scale.
All conifers other than Ponderosa Pine	1	All log sizes.
Hardwoods	1	Sawlogs only.

Species	Quality Code Number	Log grade specifications
Small logs	1	All conifer logs that comply with the definition of small logs in WAC 458-40-610.
Chipwood	1	All logs that comply with the definition of chipwood in WAC 458-40-610.
Piles	1	All logs that comply with the definition of piles in WAC 458-40-610.
Poles	1	All logs that comply with the definition of poles in WAC 458-40-610.

[Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091, 82.32.060, and 84.33.077. 00-19-067, § 458-40-650, filed 9/19/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. 96-02-054, § 458-40-650, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.300 and 84.33.096. 95-14-084, § 458-40-650, filed 6/30/95, effective 7/31/95. Statutory Authority: RCW 84.33.091, 84.32.300 [82.32.300] and 84.33.096. 94-14-048, § 458-40-650, filed 6/30/94, effective 7/1/94; 92-14-083, § 458-40-650, filed 6/29/92, effective 7/1/92; 92-02-067, § 458-40-650, filed 12/31/91, effective 1/1/92. Statutory Authority: RCW 84.33.091 and chapter 84.33 RCW. 88-14-032 (Order FT-88-2), § 458-40-650, filed 6/30/88. Statutory Authority: Chapter 84.33 RCW. 87-14-042 (Order 87-2), § 458-40-650, filed 6/30/87; 87-02-023 (Order 86-4), § 458-40-650, filed 12/31/86.]

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from January 1 through June 30, 2005:

**TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 2005**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$473	\$466	\$459	\$452	\$445
		2	441	434	427	420	413
		3	400	393	386	379	372
		4	352	345	338	331	324
Western Redcedar ⁽²⁾	RC	1	759	752	745	738	731
Western Hemlock and Other Conifer ⁽³⁾	WH	1	331	324	317	310	303
		2	223	216	209	202	195
		3	223	216	209	202	195
		4	223	216	209	202	195
Red Alder	RA	1	370	363	356	349	342
		2	297	290	283	276	269
Black Cottonwood	BC	1	13	6	1	1	
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles	DFL	1	657	650	643	636	629
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁴⁾	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93

**TABLE 1—Stumpage Value Table
Stumpage Value Area 1**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
RC & Other Posts ⁽⁵⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁶⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁶⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Alaska-Cedar.
- (3) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (4) Stumpage value per ton.
- (5) Stumpage value per 8 lineal feet or portion thereof.
- (6) Stumpage value per lineal foot.

**TABLE 2—Stumpage Value Table
Stumpage Value Area 2**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$502	\$495	\$488	\$481	\$474
		2	418	411	404	397	390
		3	416	409	402	395	388
		4	366	359	352	345	338
Western Redcedar ⁽²⁾	RC	1	759	752	745	738	731
Western Hemlock and Other Conifer ⁽³⁾	WH	1	331	324	317	310	303
		2	276	269	262	255	248
		3	244	237	230	223	216
		4	237	230	223	216	209
Red Alder	RA	1	370	363	356	349	342
		2	297	290	283	276	269
Black Cottonwood	BC	1	13	6	1	1	1
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles	DFL	1	657	650	643	636	629
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁴⁾	CHW	1	1	1	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁵⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁶⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁶⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Alaska-Cedar.
- (3) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

- (4) Stumpage value per ton.
- (5) Stumpage value per 8 lineal feet or portion thereof.
- (6) Stumpage value per lineal foot.

**TABLE 3—Stumpage Value Table
Stumpage Value Area 3**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$386	\$379	\$372	\$365	\$358
		2	334	327	320	313	306
		3	334	327	320	313	306
		4	317	310	303	296	289
Western Redcedar ⁽³⁾	RC	1	759	752	745	738	731
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	331	324	317	310	303
		2	232	225	218	211	204
		3	167	160	153	146	139
		4	148	141	134	127	120
Red Alder	RA	1	370	363	356	349	342
		2	297	290	283	276	269
Black Cottonwood	BC	1	13	6	1	1	1
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles	DFL	1	657	650	643	636	629
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot.

**TABLE 4—Stumpage Value Table
Stumpage Value Area 4**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$434	\$427	\$420	\$413	\$406
		2	434	427	420	413	406
		3	434	427	420	413	406
		4	412	405	398	391	384
Lodgepole Pine	LP	1	207	200	193	186	179
Ponderosa Pine	PP	1	251	244	237	230	223

**TABLE 4—Stumpage Value Table
Stumpage Value Area 4**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		2	199	192	185	178	171
Western Redcedar ⁽³⁾	RC	1	759	752	745	738	731
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	331	324	317	310	303
		2	264	257	250	243	236
		3	225	218	211	204	197
		4	224	217	210	203	196
Red Alder	RA	1	370	363	356	349	342
		2	297	290	283	276	269
Black Cottonwood	BC	1	13	6	1	1	1
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles	DFL	1	657	650	643	636	629
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot.

**TABLE 5—Stumpage Value Table
Stumpage Value Area 5**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$440	\$433	\$426	\$419	\$412
		2	440	433	426	419	412
		3	416	409	402	395	388
		4	412	405	398	391	384
Lodgepole Pine	LP	1	207	200	193	186	179
Ponderosa Pine	PP	1	251	244	237	230	223
		2	199	192	185	178	171
Western Redcedar ⁽³⁾	RC	1	759	752	745	738	731
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	331	324	317	310	303
		2	239	232	225	218	211
		3	237	230	223	216	209

**TABLE 5—Stumpage Value Table
Stumpage Value Area 5**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		4	230	223	216	209	202
Red Alder	RA	1	370	363	356	349	342
		2	297	290	283	276	269
Black Cottonwood	BC	1	13	6	1	1	1
Other Hardwood	OH	1	196	189	182	175	168
Douglas-Fir Poles	DFL	1	657	650	643	636	629
Western Redcedar Poles	RCL	1	1191	1184	1177	1170	1163
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot.

**TABLE 6—Stumpage Value Table
Stumpage Value Area 6**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$312	\$305	\$298	\$291	\$284
Lodgepole Pine	LP	1	207	200	193	186	179
Ponderosa Pine	PP	1	251	244	237	230	223
		2	199	192	185	178	171
Western Redcedar ⁽³⁾	RC	1	475	468	461	454	447
True Firs and Spruce ⁽⁴⁾	WH	1	219	212	205	198	191
Western White Pine	WP	1	302	295	288	281	274
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	475	468	461	454	447
Small Logs ⁽⁵⁾	SML	1	25	24	23	22	21
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35

**TABLE 6—Stumpage Value Table
Stumpage Value Area 6**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- (8) Stumpage value per lineal foot.

**TABLE 7—Stumpage Value Table
Stumpage Value Area 7**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$345	\$338	\$331	\$324	\$317
Lodgepole Pine	LP	1	225	218	211	204	197
Ponderosa Pine	PP	1	240	233	226	219	212
		2	206	199	192	185	178
Western Redcedar ⁽³⁾	RC	1	475	468	461	454	447
True Firs and Spruce ⁽⁴⁾	WH	1	266	259	252	245	238
Western White Pine	WP	1	302	295	288	281	274
Hardwoods	OH	1	50	43	36	29	22
Western Redcedar Poles	RCL	1	475	468	461	454	447
Small Logs ⁽⁵⁾	SML	1	25	24	23	22	21
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	1
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts ⁽⁶⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁷⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per 8 lineal feet or portion thereof.

- (7) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- (8) Stumpage value per lineal foot.

**TABLE 8—Stumpage Value Table
Stumpage Value Area 10**
January 1 through June 30, 2005

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$420	\$413	\$406	\$399	\$392
		2	420	413	406	399	392
		3	420	413	406	399	392
		4	398	391	384	377	370
Lodgepole Pine	LP	1	207	200	193	186	179
Ponderosa Pine	PP	1	251	244	237	230	223
		2	199	192	185	178	171
Western Redcedar ⁽³⁾	RC	1	745	738	731	724	717
Western Hemlock and Other Conifer ⁽⁴⁾	WH	1	317	310	303	296	289
		2	250	243	236	229	222
		3	211	204	197	190	183
		4	210	203	196	189	182
Red Alder	RA	1	356	349	342	335	328
		2	283	276	269	262	255
Black Cottonwood	BC	1	1	1	1	1	
Other Hardwood	OH	1	182	175	168	161	154
Douglas-Fir Poles	DFL	1	643	636	629	622	615
Western Redcedar Poles	RCL	1	1177	1170	1163	1156	1149
Chipwood ⁽⁵⁾	CHW	1	1	1	1	1	
RC Shake Blocks	RCS	1	303	296	289	282	275
RC Shingle Blocks	RCF	1	121	114	107	100	93
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and all Spruce. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- (5) Stumpage value per ton.
- (6) Stumpage value per 8 lineal feet or portion thereof.
- (7) Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment

class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from January 1 through June 30, 2005:

**TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
January 1 through June 30, 2005**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$30.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

**TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
January 1 through June 30, 2005**

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	-\$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	-\$10.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$20.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$30.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
Note: A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.		
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1:	SVA's 1 through 6, and 10	\$0.00
Class 2:	SVA 7	\$0.00

Note: The adjustment will not be allowed on special forest products.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be

received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

[Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, and 84.33.091. 05-02-040, § 458-40-660, filed 12/30/04, effective 1/1/05; 04-14-033, § 458-40-660, filed 6/29/04, effective 7/1/04; 04-01-125, § 458-40-660, filed 12/18/03, effective 1/1/04; 03-14-072, § 458-40-660, filed 6/26/03, effective 7/1/03. Statutory Authority: RCW 82.01.060(2), 82.32.300, 84.33.096, 84.33.091, and 84.33.140. 03-02-004, § 458-40-660, filed 12/19/02, effective 1/1/03. Statutory Authority: RCW 82.32.300, 84.33.096, and 84.33.091. 02-14-019, § 458-40-660, filed 6/21/02, effective 7/1/02. Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091 and 84.33.120. 02-02-033, § 458-40-660, filed 12/24/01, effective 1/1/02. Statutory Authority: RCW 82.32.300, 84.33.096, and 84.33.091. 01-13-105, § 458-40-660, filed 6/20/01, effective 7/1/01; 01-02-020, § 458-40-660, filed 12/21/00, effective 1/1/01. Statutory Authority: RCW 82.32.300, 84.33.096, 84.33.091, 82.32.060, and 84.33.077. 00-19-067, § 458-40-660, filed 9/19/00, effective 1/1/01. Statutory Authority: RCW 82.32.300, 84.33.096 and 84.33.091. 00-14-011, § 458-40-660, filed 6/27/00, effective 7/1/00; 00-02-019, § 458-40-660, filed 12/27/99, effective 1/1/00; 99-14-055, § 458-40-660, filed 6/30/99, effective 7/1/99; 99-02-032, § 458-40-660, filed 12/30/98, effective 1/1/99; 98-14-083, § 458-40-660, filed 6/30/98, effective 7/1/98; 98-02-015, § 458-40-660, filed 12/30/97, effective 1/1/98; 97-14-068, § 458-40-660, filed 6/30/97, effective 7/1/97. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. 97-02-069, § 458-40-660, filed 12/31/96, effective 1/1/97; 96-14-063, § 458-40-660, filed 6/28/96, effective 7/1/96; 96-02-057, § 458-40-660, filed 12/29/95, effective 1/1/96. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.200. 95-18-027, § 458-40-660, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 82.32.300 and 84.33.096. 95-02-038, § 458-40-660, filed 12/30/94, effective 1/1/95. Statutory Authority: RCW 84.33.091, 84.32.300 [82.32.300] and 84.33.096. 94-14-048, § 458-40-660, filed 6/30/94, effective 7/1/94; 94-02-047, § 458-40-660, filed 12/30/93, effective 1/1/94; 93-14-051, § 458-40-660, filed 6/30/93, effective 7/1/93; 93-02-025, § 458-40-660, filed 12/31/92, effective 1/1/93; 92-14-083, § 458-40-660, filed 6/29/92, effective 7/1/92; 92-02-067, § 458-40-660, filed 12/31/91, effective 1/1/92. Statutory Authority: RCW 84.33.096 and 82.32.300. 91-14-077, § 458-40-660, filed 6/28/91, effective 7/1/91; 91-09-030, § 458-40-660, filed 4/12/91, effective 5/13/91; 91-02-088, § 458-40-660, filed 12/31/90, effective 1/31/91; 90-14-033, § 458-40-660, filed 6/29/90, effective 7/30/90; 90-02-049, § 458-40-660, filed 12/29/89, effective 1/29/90. Statutory Authority: Chapter 84.33 RCW and RCW 84.33.091. 89-14-051 (Order FT-89-2), § 458-40-660, filed 6/30/89; 89-02-027 (Order FT-88-5), § 458-40-660, filed 12/30/88; 88-14-032 (Order FT-88-2), § 458-40-660, filed 6/30/88; 88-02-026 (Order FT-87-5), § 458-40-660, filed 12/31/87. Statutory Authority: Chapter 84.33 RCW. 87-14-042 (Order 87-2), § 458-40-660, filed 6/30/87; 87-02-023 (Order 86-4), § 458-40-660, filed 12/31/86.]

(2005 Ed.)

WAC 458-40-670 Timber excise tax—Chipwood and small log destinations. (1) **Introduction.** This rule describes the procedure by which businesses that process chipwood, chipwood products, and/or small logs can become approved chipwood or small log destinations.

(2) **Chipwood destinations.** Businesses that process logs to produce chips or chip products may be designated as approved "chipwood destinations." Logs delivered to the log yards approved as "chipwood destinations" for the purpose of being chipped may be reported as chipwood and have the volume measured by weight.

(a) The department of revenue will maintain a current list of approved chipwood destinations. This list will be updated as necessary and will be formally reviewed by the department of revenue at least twice a year. A list of approved chipwood destinations is available from the forest tax section of the department of revenue.

(b) A log processor in the business of processing logs to produce chips or chip products that has not been designated as an approved destination may file an application to be listed as an approved chipwood destination. The application should be submitted to the Department of Revenue, Forest Tax Section, P. O. Box 47472, Olympia, Washington 98504-7472. To qualify as an approved destination, not less than ninety percent of the weight volume of logs delivered to and purchased by the log processor for chipping at a specified log yard or location must be processed to produce chips or chip products.

(c) Any applicant seeking administrative review of the department of revenue's decision made under (b) of this subsection may appeal the decision in accordance with WAC 458-20-100 (Appeals, small claims and settlements).

(3) **Logs chipped in the woods.** Logs chipped in the woods may also be reported as chipwood. Volume must be measured in net weight of green chips.

(4) **Other chipwood processing locations.** Logs processed at locations other than those listed on the approved list of chipwood destinations maintained by the department of revenue and other than as provided in subsection (3) of this rule may be reported as chipwood volume when scaled as utility grade logs, based on log scaling or upon approved sample log scaling methods.

If a harvester reports chipwood volume that was delivered to a location that is not listed as an approved chipwood destination and there has been no log scaling or approved sample log scaling, the chipwood volume so reported will be converted by the department of revenue to the appropriate sawlog volume in accordance with WAC 458-40-680 for purposes of timber excise taxation.

(5) **Small log destinations.** Businesses that process small logs as defined in WAC 458-40-610 may be designated as approved "small log destinations."

(a) The department of revenue will maintain a current list of approved small log destinations. This list will be updated as necessary and will be formally reviewed by the department of revenue at least twice a year. A list of approved small log destinations is available from the forest tax section of the department of revenue.

(b) A log processor in the business of processing small logs that has not been designated as an approved destination may file an application to be listed as an approved small log

destination. The application should be submitted to the Department of Revenue, Forest Tax Section, P. O. Box 47472, Olympia, Washington 98504-7472.

(c) Any applicant seeking administrative review of the department of revenue's decision made under (b) of this subsection may appeal the decision in accordance with WAC 458-20-100 (Appeals, small claims and settlements).

[Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-670, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.200. 95-18-027, § 458-40-670, filed 8/25/95, effective 9/25/95. Statutory Authority: RCW 84.33.091, 84.32.300 [82.32.300] and 84.33.096. 94-14-048, § 458-40-670, filed 6/30/94, effective 7/1/94; 94-02-047, § 458-40-670, filed 12/30/93, effective 1/1/94; 93-14-051, § 458-40-670, filed 6/30/93, effective 7/1/93; 93-02-025, § 458-40-670, filed 12/31/92, effective 1/1/93; 92-14-083, § 458-40-670, filed 6/29/92, effective 7/1/92; 92-02-067, § 458-40-670, filed 12/31/91, effective 1/1/92. Statutory Authority: RCW 84.33.096 and 82.32.300. 91-14-077, § 458-40-670, filed 6/28/91, effective 7/1/91; 91-02-088, § 458-40-670, filed 12/31/90, effective 1/31/91; 90-14-033, § 458-40-670, filed 6/29/90, effective 7/30/90; 90-02-049, § 458-40-670, filed 12/29/89, effective 1/29/90. Statutory Authority: Chapter 84.33 RCW and RCW 84.33.091. 89-14-051 (Order FT-89-2), § 458-40-670, filed 6/30/89; 89-02-027 (Order FT-88-5), § 458-40-670, filed 12/30/88; 88-14-032 (Order FT-88-2), § 458-40-670, filed 6/30/88; 88-02-026 (Order FT-87-5), § 458-40-670, filed 12/31/87. Statutory Authority: Chapter 84.33 RCW. 87-14-042 (Order 87-2), § 458-40-670, filed 6/30/87; 87-02-023 (Order 86-4), § 458-40-670, filed 12/31/86.]

WAC 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions. (1) **Introduction.** The acceptable log scaling and grading standard for stumpage value areas 1, 2, 3, 4, 5, and 10 is the Scribner Decimal C log rule as described in the most current edition of the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group. The acceptable log scaling standard for stumpage value areas 6 and 7 is the Scribner Decimal C log rule described in the most current edition of the "National Forest Log Scaling Handbook" (FSH 2409.11) as published by the United States Forest Service. Lodgepole pine harvested in stumpage value areas 6, 7, or 10 must be scaled using a one inch taper allowance per log segment.

(2) **Special services scaling.** Special services scaling as described in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group may not be used for tax reporting purposes without prior written approval of the department of revenue.

(3) **Sample scaling.** Sample scaling may not be used for tax reporting purposes without prior written approval of the department of revenue. To be approved, sample scaling must be in accordance with the following guidelines:

(a) Sample selection, scaling, and grading must be conducted on a continuous basis as the unit is harvested.

(b) The sample must be taken in such a manner to assure random, unbiased sample selection in accordance with accepted statistical tests of sampling.

(c) The sample used to determine total volume, species, and quality of timber harvested for a given reporting period must have been taken during that period.

(d) Sample frequency must be large enough to meet board foot variation accuracy limits of plus or minus two and five-tenths percent standard error at the ninety-five percent confidence level.

(e) Harvesters, or a purchaser with an approved sample scaling method, must maintain sufficient supporting documentation to allow the department of revenue to verify source data, and test statistical reliability of sample scale systems.

(f) Exceptions: Sampling designs and accuracy standards other than those described herein may only be used with the prior written approval of the department of revenue.

(4) **Conversions to Scribner Decimal C Scale.** The following definitions, tables, and conversion factors must be used in determining taxable volume for timber harvested that was not originally scaled by the Scribner Decimal C Log Rule. Conversion methods other than those listed are not to be used for tax reporting purposes without prior written approval of the department of revenue. Harvesters who wish to use a method of conversion other than those listed below must obtain written approval from the department of revenue before harvesting. Purchasers may obtain written approval of a sample scaling method from the department of revenue. The department will maintain a list of purchasers with an approved sample scaling method. A harvester may obtain this list and a summary of the approved method for specific purchasers from the department of revenue. If a harvester has not obtained approval of a sample scaling method before harvesting, the harvester may use a purchaser's approved sample scaling method. If the harvester, or purchaser, fails to use an approved sample scaling method or other method of conversion approved by these rules to set the purchase price, the department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold.

(a) **Weight measurement.** If the sole unit of measure used to set the purchase price for logs from harvest units that meet the definition of the lowest quality code for each species was weight, and the harvester does not use an approved method of sample scaling to determine volume for the stumpage value tables, the following tables must be used for converting to Scribner Decimal C. If weight is the sole measure used for a harvest unit with quality codes other than the lowest, the department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold. Harvesters must keep records to substantiate the species and quality codes reported. For tax reporting purposes, a ton equals 2,000 pounds.

(Stumpage Value Areas 1, 2, 3, 4, 5, & 10)				
BOARD FOOT WEIGHT SCALE FACTORS				
(TONS/MBF)				
Species	Quality code			
	1	2	3	4
Douglas-fir ¹	NA	NA	NA	7.50
Western Hemlock ²	NA	NA	NA	8.25
Western Redcedar ³	7.0			
Red Alder ⁴	NA	7.8		
Chipwood	9.0			

¹ Includes Douglas-fir, Western Larch, and Sitka Spruce.
² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
³ Includes Alaska-cedar.
⁴ Maple, Black Cottonwood and other hardwoods.

(Stumpage Value Areas 6 & 7) BOARD FOOT WEIGHT SCALE FACTORS (TONS/MBF)		
Species	Quality code	
	1	2
Ponderosa Pine	NA	6.50
Douglas-fir ¹	5.50	
Lodgepole Pine	6.0	
Western Hemlock ²	5.50	
Englemann Spruce	4.50	
Western Redcedar ³	4.50	
Chipwood	9.0	
Small Logs	6.50	

- 1 Includes Western Larch.
- 2 Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
- 3 Includes Alaska-cedar.

(b) **Cord measurement.** For the purposes of converting cords into Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and 10 logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 400 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 330 board feet per cord.

(ii) In stumpage value areas 6 and 7 logs with an average scaling diameter of 8 inches and larger must be converted to

Scribner volume using 470 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 390 board feet per cord.

(iii) A cord of Western Redcedar shake or shingle blocks must be converted to Scribner volume using 600 board feet per cord.

(c) **Cants or lumber from portable mills.** To convert from lumber tally to Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, 5, and 10 multiply the lumber tally for the individual species by 75%, and round to the nearest one thousand board feet (MBF); or

(ii) In stumpage value areas 6 and 7 multiply the lumber tally for the individual species by 88%, and round to the nearest one thousand board feet (MBF).

(d) **Log scale conversion.** Timber harvested in stumpage value areas 1, 2, 3, 4, 5, and 10 and which has been scaled by methods and procedures published in the "National Forest Log Scaling Handbook" (FSH 2409.11) must have the volumes reported reduced by eighteen percent. Timber harvested in stumpage value areas 6 and 7 and which has been scaled by methods and procedures published in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest log rules advisory group, must have the volumes reported increased by eighteen percent.

(e) **Timber pole and piling volume tables.** Harvesters of poles must use the following tables to determine the Scribner board foot volume for each pole length and class:

Total Scribner Board Foot Volume Stumpage Value Areas 1, 2, 3, 4, 5, and 10																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							50	50	40	40	30	30	20	20	20	80	70
25							60	60	50	50	40	40	30	30	30	100	90
30							110	70	60	60	50	50	40	40		130	110
35					160	160	130	100	80	80	60	60	50			130	110
40			240	200	180	180	150	120	120	90	70	60				150	120
45	380	340	340	280	230	230	190	150	120	120	90	90				150	120
50	430	370	370	300	260	260	210	160	140	140	100					160	140
55	470	410	410	330	280	280	230	180	150	150						180	150
60	540	470	470	410	340	340	290	220	190	190						190	160
65	610	520	520	420	380	380	320	260	210	210						210	180
70	650	560	560	480	400	400	350	270	230	230						230	190
75	700	600	600	520	520	520	440	290	250							230	200
80	820	700	700	600	600	540	440	360	290							250	210
85	910	800	800	660	660	660	570	490	360							260	210
90	1080	930	930	820	820	690	590	490	400							260	220
95	1170	1000	1000	870	870	750	640	540								290	240
100	1190	1030	1030	900	900	760	660	550								310	250
105	1310	1160	1160	1000	1000	860	740	610								330	270
110	1370	1220	1220	1050	1050	910	780	650								380	300
115	1440	1280	1280	1100	1100	960	860	680								400	310
120	1660	1460	1460	1300	1300	1140	970	820								500	400
125	1840	1600	1600	1410	1410	1250	1080	930									
130	1920	1680	1680	1490	1490	1310	1120	970									

- 1 Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.
- 2 Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

Total Scribner Board Foot Volume Stumpage Value Areas 6 and 7																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							70	60	50	50	30	30	20	20	20	90	70
25							80	70	50	50	40	40	30	30	20	100	80
30							110	90	60	60	50	50	50	40		130	110
35					190	160	140	100	100	100	70	60	60	50		140	100

Total Scribner Board Foot Volume Stumpage Value Areas 6 and 7																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
40				240	240	200	170	120	110	100	70	70				140	100
45	390	330	330	270	270	220	180	150	110	110	80	70				150	110
50	460	390	390	340	340	280	240	190	150	150	120					190	150
55	510	430	430	370	360	300	250	190	150	150						190	150
60	610	530	530	440	440	380	310	240	200	200						240	200
65	650	570	570	490	480	410	350	280	220	220						240	200
70	750	650	650	550	470	470	410	320	260	260						260	210
75	810	700	700	600	600	500	440	340	270							270	220
80	960	830	830	710	710	610	510	420	340							220	220
85	1020	870	870	760	760	640	550	450	360							300	240
90	1110	970	970	840	840	720	620	500	420							280	280
95	1160	1010	1010	870	870	740	640	510								360	280
100	1380	1210	1210	1060	1060	910	780	650								360	280
105	1430	1250	1250	1100	1100	940	820	690								400	300
110	1580	1390	1390	1220	1220	1070	920	770								460	340
115	1660	1470	1470	1280	1280	970	810	680								470	360
120	1880	1680	1680	1480	1480	1290	1130	950								560	450
125	1910	1690	1690	1490	1490	1140	970	810									
130	2170	1920	1920	1710	1710	1510	1320	1140									

¹ Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.

² Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

[Statutory Authority: RCW 82.32.300, 82.01.060(2), and 84.33.096. 03-22-099, § 458-40-680, filed 11/5/03, effective 12/6/03. Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-680, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.120. 96-02-056, § 458-40-680, filed 12/29/95, effective 1/29/96. Statutory Authority: RCW 82.32.300 and 84.33.096. 95-14-084, § 458-40-680, filed 6/30/95, effective 7/31/95. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-680, filed 12/31/86.]

WAC 458-40-690 Timber excise tax—Credit for property tax. (1) Introduction. In accordance with RCW 84.33.077 and 84.36.473, harvesters of timber from public land are entitled to a tax credit against the timber excise tax imposed under chapter 84.33 RCW. This credit is limited to personal property taxes paid to a county on public timber purchased on or after August 1, 1982. The credit may be applied only against excise taxes due on timber harvested from public land. No property tax credits are allowed against excise taxes due on timber harvested from private land.

(2) **Amount of credit.** The total dollar amount of all excise tax credits claimed on one or more sales may not exceed the total amount of all personal property taxes levied and paid on such timber. No credit is allowed for property tax penalties or interest charges imposed on delinquent property taxes. No credit is available prior to payment of personal property taxes, and the amount of credit allowed may not exceed the amount of property tax actually paid as certified by the county treasurer.

(3) **Excess credits and refunds.** If the amount of the credit exceeds the amount of timber excise tax due for the calendar quarter in which the credit is claimed, the excess credit may be carried forward to the new quarterly reporting period and applied against the amount of timber excise tax due, if any, on public timber or may be refunded to the taxpayer in accordance with RCW 82.32.060 and WAC 458-20-229 (Refunds).

(4) **Credit application procedures.** Taxpayers who wish to claim this credit must apply on forms prepared by the department of revenue. The application must be certified by the county assessor and treasurer of the county in which the property taxes were paid. Application forms are available in the offices of county assessors, county treasurers, and the

department of revenue. The applications must be submitted with timber excise tax returns for taxes due on public timber.

[Statutory Authority: RCW 82.32.300 and 84.33.096. 00-24-068, § 458-40-690, filed 12/1/00, effective 1/1/01. Statutory Authority: RCW 82.32.330, 84.33.096 and 84.33.091. 97-02-069, § 458-40-690, filed 12/31/96, effective 1/1/97. Statutory Authority: Chapter 84.33 RCW. 87-02-023 (Order 86-4), § 458-40-690, filed 12/31/86.]

**Chapter 458-50 WAC
INTERCOUNTY UTILITIES AND
TRANSPORTATION COMPANIES—ASSESSMENT
AND TAXATION**

WAC

- 458-50-020 Annual reports—Duty to file.
- 458-50-030 Annual reports—Contents.
- 458-50-040 Annual reports—Time of filing—Extension of time.
- 458-50-060 Failure to make report—Default valuation—Penalty—Estoppel.
- 458-50-070 Annual assessment—Procedure.
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- 458-50-090 Methods of valuation.
- 458-50-100 Apportionment of operating property to the various counties and taxing districts.
- 458-50-110 Apportionment reports.
- 458-50-120 Notification of real estate transfers.
- 458-50-130 Taxing district boundary changes—Estoppel.

**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

- 458-50-010 Assessment of public utilities—Purpose—Definitions. [Order PT 75-2, § 458-50-010, filed 3/19/75.] Repealed by 99-08-006, filed 3/25/99, effective 4/25/99. Statutory Authority: RCW 84.12.240.
- 458-50-050 Access to books, records, and property. [Order PT 75-2, § 458-50-050, filed 3/19/75.] Repealed by 99-08-006, filed 3/25/99, effective 4/25/99. Statutory Authority: RCW 84.12.240.

WAC 458-50-020 Annual reports—Duty to file. Each company doing an inter-county or interstate business in this state shall make and file an annual report with the department. At the time of making such report, each company shall if directed by the department also file with the department:

(1) Annual reports of the board of directors or other officers to the stockholders of the company.

(2) Duplicate copies of the annual reports made to the federal regulatory agency or agencies exercising jurisdiction over the company.

(3) Duplicate copies of the annual reports made to the Washington state utilities and transportation commission or other Washington state regulatory agency exercising jurisdiction over the company.

(4) Duplicate copies of such other annual or special reports as the department may, from time to time, direct each company to make.

[Order PT 75-2, § 458-50-020, filed 3/19/75.]

WAC 458-50-030 Annual reports—Contents. Annual reports shall be made on forms furnished by the department, and shall contain such information as is required to enable the department to determine the true and fair value of a company's operating property in the state, and the apportionment thereof to the several counties and taxing districts. The report shall be signed by the president, treasurer or other responsible official of the company.

(1) In determining what types of information shall be required to be included in the annual report, the department may take into account, among other factors, the necessity and worth of such information in valuing, allocating or apportioning operating property; whether such information is of the type customarily maintained by the industry for internal accounting or regulatory agency purposes; and the cost and difficulty of obtaining or maintaining such information. The department's determination shall be final, and no company shall be excused from providing such information except upon a clear showing that undue hardship would result.

(2) On or before December 1st of the year preceding the calendar year to be covered by the annual report, the department shall notify the companies of the types of information required to be included in the annual report for such forthcoming year: Provided, That the foregoing requirement shall not be applicable for calendar year 1975.

[Order PT 75-2, § 458-50-030, filed 3/19/75.]

WAC 458-50-040 Annual reports—Time of filing—Extension of time. Annual reports shall be filed with the department on or before the fifteenth day of March. The department may grant a reasonable extension of time, not to exceed thirty days, upon written application of the company filed with the department on or before the fifteenth day of March, and showing good cause why such an extension is required. In the event any other report required to be filed with the department, e.g., annual stockholders report or regulatory agency report, is not available at the time the annual report is filed, the company shall so notify the department and thereafter file such report as soon as it becomes available.

[Order PT 75-2, § 458-50-040, filed 3/19/75.]

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WAC 458-50-060 Failure to make report—Default valuation—Penalty—Estoppel. (1) If any company, or any of its officers or agents shall refuse or neglect to make any report required by law or by the department, or shall refuse to permit an inspection and examination of its records, books, accounts, papers or property requested by the department, or shall refuse or neglect to appear before the department in obedience to a subpoena, the department shall proceed, in such manner as it may deem best, to obtain facts and information upon which to base its valuation, assessment, and apportionment of such company.

(2) Willful failure to file with the department any report required by the department within the time fixed by law, including any extension granted by the department, shall constitute refusal or neglect to make a report, and the department may proceed in accordance with subsection (1) to value, assess, and apportion the property of such company as if no report had been made.

(3) **Penalty.** When the department has ascertained the value of the property of such company in accordance with subsections (1) or (2), it shall add to the value so ascertained twenty-five percent as a penalty.

(4) Where the department has proceeded in accordance with subsections (1) or (2), such company shall be estopped to question or impeach the valuation, assessment, or apportionment made by the department in any administrative or judicial proceeding thereafter.

[Order PT 75-2, § 458-50-060, filed 3/19/75.]

WAC 458-50-070 Annual assessment—Procedure. (1) **In general.** Annually between the fifteenth day of March and the first day of July the department shall proceed to list and value the operating property of each company subject to assessment by the department. The department shall prepare a report summarizing the information, factors and methods used in determining the tentative value of each such company (hereafter called "report of tentative value"). The department shall prepare an assessment roll upon which shall be placed after the name of each company a general description of the operating property of the company described in accordance with RCW 84.12.200 (16) and WAC 458-50-010, following which shall be entered the actual cash value as tentatively determined by the department.

(2) **Notice of tentative value.** On or before the thirtieth day of June, (for purposes of the 1988 assessment year only, such notice shall be given on or before the thirty-first day of July) the department shall notify each company by mail of the tentative valuation entered upon such assessment roll. At the time of making such notification, the department shall also transmit to the company the report of tentative value prepared by the department. Upon written request of a county assessor the department shall also transmit the report of tentative value to such assessor.

(3) **Hearings.**

(a) *In general.* Each company may petition the department for a hearing relating to the value of its operating property as tentatively determined by the department and to the value of other taxable properties in the counties in which its operating property is situated. Such petition shall be made in writing and filed with the department on or before the ninth day of July. (For purposes of the 1988 assessment year only,

such petition must be filed on or before the ninth day of August.) The department shall appoint a time between the tenth and twenty-fifth days of July, (for purposes of the 1988 assessment year only, the time frame specified shall be between the tenth and twenty-fifth days of August) for the conduct of such hearing, which may be held in such places throughout the state as the department may deem proper or necessary. Notice of the time and place of any or all hearings shall be given to any person upon request.

(b) The hearing shall be conducted by the director or by any employee or agent of the department designated by the director. A record of the proceedings shall be kept and shall be considered a public record. The hearing shall be recorded with a recording device and the recordings shall become a part of the record of the proceedings and considered a part of the public record. All records and documents presented at the hearing shall become a part of the record of the proceeding and shall be considered a part of the public record, except as provided in (c) of this subsection.

(c) The hearing shall be open to the public, except (i) when the company proposes to offer in evidence information relating to its assessment if disclosure of such information to other persons would violate the company's right to privacy or would result in an unfair competitive disadvantage to such company; or (ii) when the department proposes to offer in evidence information which has been obtained pursuant to RCW 84.12.240 if the disclosure of such information to other persons would violate the company's right to privacy or would result in an unfair competitive disadvantage to such company. The hearing at this point shall be closed to the public unless the company consents to the proceeding remaining open to the public.

(d) Testimony recorded, and all records and documents of a confidential nature introduced, during the period when the hearing is closed to the public shall become a part of the record, but shall not be disclosed except upon order of a court of competent jurisdiction or upon consent of the company.

(e) Records of the proceedings shall be maintained for a period of seven years following the close of the hearing.

(4) **Determination of final value.** On or before the twentieth day of August, the department shall make a final determination of the true and correct actual cash value of each company's operating property appearing on the assessment roll. The department may raise or lower the value from that amount tentatively set pursuant to this section: Provided, That failure of a company to request a hearing shall not preclude the department from setting a final value higher or lower than that amount tentatively set pursuant to this section: Provided further, That where a company has not requested a hearing, the department shall not adopt a final value higher than that tentatively set except after giving five days written notice to the company. The department shall notify each company by mail of the final true and correct actual cash value as determined by the department.

[Statutory Authority: RCW 84.12.340 and 84.12.390. 88-15-016 (Order PT 88-10), § 458-50-070, filed 7/11/88; Order PT 75-2, § 458-50-070, filed 3/19/75.]

WAC 458-50-080 True cash value—Criteria. (1) The true cash value of the operating property of public utilities is its "market value," i.e., the amount of money a buyer willing

but not obligated to buy would pay for such operating property from a seller willing but not obligated to sell. In arriving at a determination of such value the department may consider only those factors which can within reason be said to affect the price in negotiations between a willing purchaser and a willing seller, and the department shall consider all such factors to the extent that reliable information is available to support a judgment as to the probable effect of such factors on price.

(2) In determining the true cash value of such operating property the department shall proceed in accordance with generally accepted principles applicable to the valuation of public utilities. The department may consider the cost approach, the income approach and the stock and debt approach to value. Any one of the three approaches to value, or all of them, or a combination of approaches may finally be used in making the final determination of true cash value, depending upon the circumstances.

(A) **The cost approach.** The cost approach determines the value of individual items of property. The types of cost include:

- (i) Historical - cost when first put in service
- (ii) Original - cost to present owner
- (iii) Reproduction - cost today to produce in kind
- (iv) Replacement - cost today to replace present property with a functional equivalent.

The department shall make adequate and reasonable allowances for depreciation, including functional and economic obsolescence where such factors are indicated, but in no event shall property be depreciated below salvage or scrap value.

(B) **Income approach.** The income approach determines the ability of operating property to earn a probable money income over some span of future years, discounted to a present value by means of an appropriate capitalization rate.

(i) **Future income stream.** The income to capitalize is the probable future average annual operating income to be derived from operating properties that exist on the assessment date. In making this estimate of probable future average annual operating income, the department may take into account past earnings, present earnings, the growth or shrinking of the property complex, demand for services provided by the company, and all other factors which can within reason be said to indicate the probable future income stream.

(ii) **Capitalization rate.** The capitalization rate may be derived by the comparative method, summation method, band of investment method, or other generally accepted method. Any one of these methods, or any combination thereof, may be used by the department in deriving the appropriate capitalization rate to be applied to probable future average annual operating income.

(C) **Stock and debt approach.** The stock and debt approach determines the value of a company's assets by appraising the value of the liabilities of the company, such as current liabilities, long term debt, reserves, deferred credits, and stockholder's equity. This approach is applicably [applicable] only where a "unitary" or "enterprise" value is sought. Appropriate deductions shall be made for nonoperating property of the enterprise where necessary.

[Order PT 75-2, § 458-50-080, filed 3/19/75.]

WAC 458-50-085 Computer software—Definitions—Valuation—Centrally assessed utilities. (1) This rule implements the provisions of chapter 29, Laws of 1991, ex. sess, regarding the property taxation of computer software for centrally assessed utilities.

(2) **Computer software.** Computer software is a set of directions or instructions that exist in the form of machine-readable or human-readable code, is recorded on physical or electronic medium and directs the operation of a computer system or other machinery and/or equipment. Computer software includes the associated documentation which describes the code and/or its use, operation, and maintenance and typically is delivered with the code to the user. Computer software does not include data bases, but does include the computer programs and code which are used to generate data bases. Computer software can be canned, custom, or a mixture of both.

(a) A data base is text, data, or other information that may be accessed or managed with the aid of computer software but that does not itself have the capacity to direct the operation of a computer system or other machinery and equipment; and, therefore does not constitute computer software.

(3) **Custom software.** Custom software is computer software that is specially designed for a single person's or a small group of persons' specific needs. Custom software includes modifications to canned software and can be developed in-house by the user, by outside developers, or by both.

(4) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political subdivision of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any instrumentality thereof.

(5) A "small group of persons" shall consist of less than four persons. A group of four or more persons shall be presumed not to be a small group of persons for the purposes of this section unless each of the persons are affiliated through common control and ownership.

(a) "Persons affiliated through common control and ownership" means

(i) Corporations qualifying as controlled group of corporations in 26 USC § 1563; or

(ii) Partnerships or other persons in which at least 80% of the ownership in the persons claimed to be affiliated is the same.

(6) **Canned software.** Canned software, also referred to as pre-written, "shrink-wrapped" or standard software, is computer software that is designed for and distributed "as is" for multiple persons who can use it without modifying its code and which is not otherwise considered custom software.

(a) Computer software that is a combination of pre-written or standard components and components specially modified to meet the needs of a user is a mixture of canned and custom software. The standard or prewritten components are canned software and the modifications are custom software.

(b) Canned software that is "bundled" with or sold with computer hardware retains its identity as canned software and

shall be valued as such. "Bundled" software is canned software that is sold with hardware and does not have a separately stated price, and can include operating systems such as DOS, UNIX, OS-2, or System 6.0 as well as other programs.

(c) An upgrade is canned software provided by the software developer, author, distributor, inventor, licensor or sub-licensor to improve, enhance or correct the workings of previously purchased canned software.

(7) **Embedded software.** Embedded software is computer software that resides permanently on some internal memory device in a computer system or other machinery and equipment, that is not removable in the ordinary course of operation, and that is of a type necessary for the routine operation of the computer system or other machinery and equipment.

(a) Embedded software can be either canned or custom software which:

(i) Is an integral part of the computer system or machinery or other equipment in which it resides;

(ii) Is designed specifically to be included in or with the computer system or machinery or other equipment; and

(iii) In its absence, the computer system or machinery or other equipment is inoperable.

(b) "Not removable in the ordinary course of operation" means that the software is not readily accessible and is not intended to be removed without

(i) Terminating the computer system, machinery, or equipment's operation; or

(ii) Removal of a computer chip, circuit board, or other mechanical device, or similar item.

(c) "Necessary for the routine operation" means that the software is required for the machinery, equipment, or computer to be able to perform its intended function. In the case of machinery or other equipment, such embedded software does not have to be a physical part of the actual machinery or other equipment, but may be part of a separate control or management panel or cabinet.

(8) **Retained rights.** Retained rights are any and all rights, including intellectual property rights such as those rights arising from copyright, patent, and/or trade secret laws, that are owned or held under contract or license by a computer software developer, author, inventor, publisher or distributor, licensor or sub-licensor.

(9) **Golden or master copy.** A golden or master copy of computer software is a copy of computer software from which a computer software developer, author, inventor, publisher or distributor makes copies for sale or license.

(10) **Acquisition cost.**

(a) The acquisition cost of computer software shall include the total consideration paid for the software, including money, credits, rights, or other property expressed in terms of money, actually paid or accrued. The term also includes freight and installation charges but does not include charges for modifying software, retail sales tax or training. No deduction from the acquisition cost of computer software shall be allowed for any retained rights held by the developer, author, inventor, publisher, or distributor.

(b) In cases where the acquisition cost of computer software cannot be specifically identified, it will be valued at the usual retail selling price of the same or substantially similar computer software.

(c) In cases where canned software is specially modified for the user, the canned component of the computer software retains its identity as canned software; and the modifications are considered custom software and not taxable.

(11) Valuation of canned software.

(a) In the first year in which it will be subject to assessment, canned software shall be listed and valued at one hundred percent of acquisition cost as defined in section (10)(a), above, regardless of whether the software has been expensed or capitalized on the accounting records of the business.

(b) In the second year in which it will be subject to assessment, canned software shall be listed at one hundred percent of acquisition cost and valued at fifty percent of its acquisition cost.

(c) After the second year in which canned software has been subject to assessment, it shall be valued at zero.

(d) Upgrades to canned software shall be listed and valued at the acquisition cost of the upgrade package under subsections (11)(a) and (b), above, and not at the value of what the complete software package would cost as a new item.

(12) Valuation of customized canned software. In the case where a person purchases canned software and subsequently has that canned software customized or modified in-house, by outside developers, or both, only the canned portion of such computer software shall be taxable and it shall be valued as described in subsection (11).

(13) Valuation of embedded software. Because embedded software is part of the computer system, machinery, or other equipment, it has no separate acquisition cost and shall not be separately valued apart from the computer system, machinery, or other equipment in which it is housed.

(14) Taxable person. Canned software is taxable to the person having the right to use the software, including a licensee.

(15) Situs. Canned and custom software with situs in Washington means software physically located in Washington or installed in or on machinery, equipment, or computer systems physically located in Washington on the assessment date.

(16) Reporting. Each utility/taxpayer defined in chapter 84.12 and 84.16 RCW shall report to the department, using the Annual Report tax form provided by the department, the following information regarding its software with situs in Washington in use on the assessment date:

(a) The acquisition cost of expensed canned computer software which was purchased:

- (i) In the year preceding the assessment date; and
- (ii) In the second year prior to the assessment date; and
- (iii) In the years prior to the second year preceding the assessment date.

(b) The historic cost less depreciation of capitalized canned computer software which was purchased:

- (i) In the year preceding the assessment date;
- (ii) In the second year prior to the assessment date;
- (iii) In the years prior to the second year preceding the assessment date;

(c) The acquisition cost of expensed custom computer software which was purchased:

- (i) In the year preceding the assessment date;
- (ii) In the second year prior to the assessment date;

(ii) In the years prior to the second year preceding the assessment date;

(d) The historic cost less depreciation of capitalized custom computer software.

(17) Calculation of computer software value. The following formulas shall be used for determining the percent taxable calculation of computer software used by centrally assessed utilities.

(a) For the purpose of determining the numerator of the percent taxable calculation, the historic cost less depreciation of all taxable Washington property shall be computed by adjusting the historic cost less depreciation of property capitalized in the company's records as follows:

(i) Add the acquisition cost of expensed canned software acquired in the year preceding the assessment date; and

(ii) Add 50% of the acquisition cost of expensed canned software acquired in the second year preceding the assessment date; and

(iii) Subtract 50% of the historic cost less depreciation of capitalized canned software acquired in the second year preceding the assessment date; and

(iv) Subtract the historic cost less depreciation of capitalized canned software acquired in years prior to the second year preceding the assessment date; and

(v) Subtract the historic cost less depreciation of capitalized custom software.

(b) For the purpose of determining the denominator of the percent taxable calculation, the historic cost less depreciation of all Washington property shall be computed by adding the acquisition cost of expensed canned and custom software in use on the assessment date to the historic cost less depreciation of Washington property capitalized in the company's records.

(c) The historic cost less depreciation of all taxable Washington property (calculated as set forth in subsection (a) above) shall be divided by the historic cost less depreciation of all Washington property (calculated as set forth in subsection (b) above) to arrive at the percent taxable calculation.

(d) The portion of the unit value allocated to Washington state shall be multiplied by the percent taxable calculated as set forth in subsection (c) above to determine the Washington taxable property value.

(18) Exemptions.

(a) All custom software, except embedded software, shall be exempt from property taxation;

(b) Retained rights of the computer software developer, author, inventor, publisher, distributor, licensor or sublicensee are exempt from property taxation;

(c) Modifications to canned software shall be exempt from property taxation as custom software; however, the underlying canned software shall retain its identity as canned software and shall be valued as prescribed in subsection (11) of this rule;

(d) Master or golden copies of computer software are exempt from property taxation;

(e) The taxpayer is responsible for maintaining and providing records sufficient to support any claim of exemption for either canned or custom software.

[Statutory Authority: RCW 84.08.010 and 1991 c 29. 92-01-132, § 458-50-085, filed 12/19/91, effective 1/19/92.]

WAC 458-50-090 Methods of valuation. The department shall use either the summation method or "unitary" or "enterprise" method in valuing the operating property of companies. As a general rule, the unitary or enterprise method is preferred where valuing a thoroughly integrated group of properties such that removal or destruction of any one property would jeopardize and/or immobilize the entire operation of the company. The summation method is preferred where adequate information is not available to derive reliable indicators of unitary or enterprise value, and the nature of the operating property is such that it may be segregated into component parts and the value of the parts readily determined. Notwithstanding the provisions of WAC 458-50-080, the department may, in using the summation method, employ the comparable sales or "market" approach to value to the exclusion of any other approach.

[Order PT 75-2, § 458-50-090, filed 3/19/75.]

WAC 458-50-100 Apportionment of operating property to the various counties and taxing districts. In general. The department shall apportion the value of all public utility companies to the various counties in such a manner as will reasonably reflect the true cash value of the operating property located within each county and taxing district. Since it is impossible to determine with mathematical precision the precise value of each item of property located within each county and taxing district, the department shall apportion the value of operating property on the following basis:

(1) **Railroad companies** - The ratio that mileage of track, as classified by the department, situated within each county and taxing district bears to the total mileage of track within the state as of January 1 of the assessment year. In the event there exists operating property of railroad companies in counties or taxing districts not having track mileage, the department shall situs such property and apportion value directly on the basis of cost as determined in accordance with the cost approach set forth in WAC 458-50-080(A).

(2) **Pipeline companies** - The ratio that inch-equivalent of miles of pipeline situated within each county or taxing district bears to the total inch-equivalent of miles of pipeline within the state as of January 1 of the assessment year. In the event there exists operating property of pipeline companies in counties or taxing districts not having pipeline mileage, the department shall situs such property and apportion value to such county or taxing district directly on the basis of cost as determined in accordance with the cost approach set forth in WAC 458-50-080(A).

(3) **Telegraph companies** - The ratio that the cost (historical or original) of operating property situated within each county and taxing district bears to the cost (historical or original) of all operating property within the state as of January 1 of the assessment year.

(4) **Telephone companies** - The ratio that the cost (historical or original) of operating property situated within each county or taxing district bears to the total cost (historical or original) of all operating property within the state as of January 1 of the assessment year.

(5) **Electric light and power companies** - The ratio that cost (historical or original) of operating property situated within each county and taxing district bears to the total cost

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(historical or original) of all operating property within the state as of January 1 of the assessment year.

(6) **Gas companies** - The ratio that cost (historical or original) of operating property situated within each county and taxing district bears to the total cost (historical or original) of all operating property within the state as of January 1 of the assessment year: Provided, The value of pipeline shall be allocated on the basis of the ratio that inch-equivalent of miles of pipeline situated within each county or taxing district bears to the total inch-equivalent of miles of pipeline within the state as of January 1 of the assessment year.

(7) **Airplane companies** - The ratio that cost (historical or original) of operating property situated within each county and taxing district bears to the total cost (historical or original) of operating property within the state as of January 1 of the assessment year: Provided, That the value of aircraft shall be apportioned on the basis of the ratio that landings and take-offs of such aircraft within each county and taxing district bears to the total landings and take-offs within the state during the previous calendar year.

(8) **Steamboat companies** - The ratio that cost (historical or original) of operating property situated within each county and taxing district bears to the total cost (historical or original) of operating property within the state as of January 1 of the assessment year: Provided, That the value of watercraft shall be apportioned on the basis of the ratio that calls of such watercraft at ports within each county and taxing district bears to the total calls at all ports of call within the state during the previous calendar year.

[Statutory Authority: RCW 84.12.390. 88-02-009 (Order PT 87-9), § 458-50-100, filed 12/28/87; Order PT 75-2, § 458-50-100, filed 3/19/75.]

WAC 458-50-110 Apportionment reports. (1) On or before April 15 of each year the department shall furnish taxing district maps and report forms (hereinafter referred to as "apportionment reports") to each railroad, pipeline, telegraph, telephone, electric light and power, and gas company.

(2) Each company furnished an apportionment report shall complete and submit such report to the department on or before June 1 of the assessment year. Since all apportionment reports must be in the department's hands by June 1 in order to permit adequate opportunity to properly apportion operating property in accordance with WAC 458-50-100, an extension of time for filing such reports will be granted only upon a showing of undue hardship.

[Order PT 75-2, § 458-50-110, filed 3/19/75.]

WAC 458-50-120 Notification of real estate transfers. Each company shall notify the department of any transfer of title, use or occupancy of operating property consisting of real property, whether such transfer is to or from such company. Such notification shall contain the legal description of the property, date of transfer, and name and address of transferor and transferee. For purposes of this rule, it shall be sufficient to transmit a copy of the deed, real estate contract, or lease (as the case may be) to the department. Such notification shall be made within ninety days of the effective date of such transfer.

[Order PT 75-2, § 458-50-120, filed 3/19/75.]

WAC 458-50-130 Taxing district boundary changes—Estoppel. (1) In accordance with RCW 84.09.030 and WAC 458-12-140, the county assessor is required on or before March 1 to transmit certain documents and maps setting forth taxing district boundary changes to the department of revenue, property tax division.

(2) The department shall prepare taxing district maps based upon information submitted to it on or before March 1. Such maps shall be used to fix taxing district boundaries for purposes of apportioning the operating property of each company among the various counties and taxing districts. Any county or taxing district not having submitted the documents and maps as required by WAC 458-12-140 shall be estopped from questioning the validity of any apportionment of value to it as determined by the department to the extent that such challenge is based upon taxing district boundaries different than as shown on the department's maps.

[Order PT 75-2, § 458-50-130, filed 3/19/75.]

Chapter 458-53 WAC

PROPERTY TAX ANNUAL RATIO STUDY

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 458-53-040 Land Use Code—Ratio study. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-040, filed 10/11/79.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-051 Ratio determination by land use class. [Statutory Authority: RCW 84.48.075. 86-21-004 (Order PT 86-6), § 458-53-051, filed 10/2/86; 83-16-050 (Order PT 83-2), § 458-53-051, filed 8/1/83.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-060 Stratification—Personal property. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-060, filed 10/11/79. Formerly WAC 458-52-050.] Repealed by 84-14-039 (Order PT 84-2), filed 6/29/84. Statutory Authority: RCW 84.48.075.
- 458-53-090 Department generated sales studies. [Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-090, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-090, filed 6/29/84; 83-16-050 (Order PT 83-2), § 458-53-090, filed 8/1/83; 79-11-029 (Order PT 79-3), § 458-53-090, filed 10/11/79.] Repealed by 02-14-031, filed 6/24/02, effective 7/25/02. Statutory Authority: RCW 84.08.010, 84.08.070, and 84.48.075.
- 458-53-110 Property values used in the ratio study. [Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-110, filed 4/12/89. Statutory Authority: RCW 84.48.075. 87-12-029 (Order PT 87-5), § 458-53-110, filed 5/29/87; 86-21-004 (Order

- PT 86-6), § 458-53-110, filed 10/2/86; 84-14-039 (Order PT 84-2), § 458-53-110, filed 6/29/84; 81-22-036 (Order PT 81-15), § 458-53-110, filed 10/30/81; 79-11-029 (Order PT 79-3), § 458-53-110, filed 10/11/79.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-120 Review procedures for county studies. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-120, filed 10/11/79.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-141 Personal property audit selection. [Statutory Authority: RCW 84.48.075. 87-12-029 (Order PT 87-5), § 458-53-141, filed 5/29/87; 84-14-039 (Order PT 84-2), § 458-53-141, filed 6/29/84; 81-22-036 (Order PT 81-15), § 458-53-141, filed 10/30/81.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-142 Personal property audit studies—Date of valuation. [Statutory Authority: RCW 84.08.010 and 84.08.070. 91-01-008, § 458-53-142, filed 12/6/90, effective 1/6/91. Statutory Authority: RCW 84.48.075. 82-24-031 (Order PT 82-9), § 458-53-142, filed 11/23/82.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-150 Indicated real property ratio—Computation. [Statutory Authority: RCW 84.08.010 and 84.08.070. 91-01-008, § 458-53-150, filed 12/6/90, effective 1/6/91. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-150, filed 4/12/89. Statutory Authority: RCW 84.48.075. 86-21-004 (Order PT 86-6), § 458-53-150, filed 10/2/86; 84-14-039 (Order PT 84-2), § 458-53-150, filed 6/29/84; 82-08-061 (Order PT 82-3), § 458-53-150, filed 4/6/82; 81-04-056 (Order PT 81-5), § 458-53-150, filed 2/4/81; 79-11-029 (Order PT 79-3), § 458-53-150, filed 10/11/79. Formerly WAC 458-52-090.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-163 Mobile homes—Use in study. [Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-163, filed 4/12/89. Statutory Authority: RCW 84.48.075. 87-12-029 (Order PT 87-5), § 458-53-163, filed 5/29/87; 84-14-039 (Order PT 84-2), § 458-53-163, filed 6/29/84.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-165 Property not properly valued—Use in study. [Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-165, filed 6/29/84; 83-16-050 (Order PT 83-2), § 458-53-165, filed 8/1/83.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-170 Final indicated ratio—Computation. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-170, filed 10/11/79. Formerly WAC 458-52-110.] Repealed by 84-14-039 (Order PT 84-2), filed 6/29/84. Statutory Authority: RCW 84.48.075.
- 458-53-180 Use of indicated ratios. [Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-180, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-180, filed 10/11/79. Formerly WAC 458-52-120.] Repealed by 96-05-002, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075.
- 458-53-190 County assessor's review. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-190, filed 10/11/79. Formerly WAC 458-52-130.] Repealed by 84-14-039 (Order PT 84-2), filed 6/29/84. Statutory Authority: RCW 84.48.075.

WAC 458-53-010 Declaration of purpose. This chapter is promulgated by the department of revenue in compliance with RCW 84.48.075 to describe procedures for determination of indicated ratios of real and personal property for each county, so as to accomplish the equalization of property values required by RCW 84.12.350, 84.16.110, 84.48.080 and 84.52.065. The procedures in this chapter describing the department's annual ratio study are designed to ensure uniform-

mony and equity in property taxation throughout the state to the maximum extent possible.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-010, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-010, filed 10/11/79. Formerly WAC 458-52-010.]

WAC 458-53-020 Definitions. Unless the context clearly requires otherwise, the following definitions apply throughout this chapter:

(1) "Account" means a listing of personal property as shown on the county assessment record.

(2) "Advisory value" means a valuation determination by the department, made at the request of a county assessor.

(3) "Appraisal" means the determination of the market value of real property, or for real property classified under chapter 84.34 RCW, the determination of the current use value.

(4) "Assessed value" means the value of real or personal property determined by an assessor.

(5) "Audit" means the determination of the market value of personal property.

(6) "Average assessed value" is the total assessed value of a sample group of real or personal property divided by the number of properties in the sample group.

(7) "Average personal property market value" is the total value of a sample group as determined from personal property audits divided by the number of audits in the sample group.

(8) "Average real property market value" is the total sales price, less one percent, of a sample group of real property divided by the number of properties in the sample group, or the total appraised value of a sample group of real property divided by the number of appraisals in the same group.

(9) "Department" means the department of revenue.

(10) "Land Use Code" means the identification of each real property parcel by numerical digits as representations of the major use of the property. The Land Use Code is derived from the Standard Land Use Coding Manual as prepared by the Federal Bureau of Public Roads and includes use classifications specified by state law.

(11) "Market value" means the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might in reason be applied. True and fair value is the same as market value or fair market value.

(12) "Personal property" means all taxable personal property required by law to be reported by a taxpayer.

(13) "Ratio" is the percentage relationship of the assessed value of real or personal property to the market value of real or personal property.

(14) "Ratio study" is the department's annual comparison of the relationship between the county assessed values of real and personal property with the market value of that property as determined by the department's analysis of sales, appraisals, and/or audits or the comparison of the relationship between the county assessed values of real property classified under chapter 84.34 RCW (current use) with the current use value of that property as determined by the department.

(15) "Real property" means all parcels of taxable real property as shown on the county assessment record.

(16) "Sales study" is the comparison of the assessed value of real property with the selling price of the same property.

(17) "Strata" refer to classes of property grouped by assessed value and/or use categories.

(18) "Stratification" means the grouping of the real or personal property assessment records into specific assessed value and/or use categories for ratio sampling and calculation purposes.

(19) "Stratum" refers to a grouping of property with a given range of assessed values and/or having the same use category.

(20) "Valid sale(s)" means a sale of real property that occurs between August 1 preceding January of the current assessment year and March 31 of the current assessment year, and the transfer document is a warranty deed or real estate contract, and the sale is not a type listed in WAC 458-53-080(2).

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-020, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-020, filed 4/12/89. Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-020, filed 10/11/79. Formerly WAC 458-52-020.]

WAC 458-53-030 Stratification of assessment rolls—Real property. (1) Introduction. This rule explains the stratification process for real property. The stratification process is the grouping of real property within each county into homogeneous classifications based upon certain criteria in order to obtain representative samples. Stratification is used in determining the number of appraisals to be included in the ratio study and also for ratio calculation. The county's most current certified assessment rolls are used for stratification. Counties must stratify rolls using a land use code stratification system as prescribed by the department. (See RCW 36.21.100.)

(2) **Stratification—Parcel count and total value—Exclusions.** The stratification of the real property assessment rolls must include a parcel count and a total value of the taxable real property parcels in each stratum, excluding the following:

(a) Designated forest lands.(See chapter 84.33 RCW);

(b) Timberland classified under chapter 84.34 RCW. (See RCW 84.34.060);

(c) Current use properties in those counties where a separate study is conducted pursuant to WAC 458-53-095(3);

(d) State assessed properties; and

(e) State-owned game lands as defined in RCW 77.12.-203(2).

(3) **Stratification—By county.** For the real property ratio study, the assessment roll must be stratified for individual counties according to land use categories and substratified by value classes as determined by the department. Stratification will be reviewed at least every other year by the department to determine if changes need to be made to improve sampling criteria. After the strata have been determined, the department will notify the counties of the strata limits, and each county must provide the department with the following, taken from the county's assessment rolls:

(a) A representative number of samples, as determined by the department, in each stratum, together with:

(i) The name and address of the taxpayer for each sample;

(ii) The land use code for each sample;

(iii) The assessed value for each sample; and

(iv) The actual number of samples;

(b) The total number of real property parcels in each stratum; and

(c) The total assessed value in each stratum.

(4) **Counties to provide information timely.** The stratification information described in subsection (3) of this rule must be provided by the counties to the department in a timely manner to enable the department to certify the preliminary ratios in accordance with WAC 458-53-200(1). Failure to provide the information in a timely manner will result in the department using its best estimate of stratum values to calculate the real property ratio.

(5) **Standard two-digit land use code.** The following two-digit land use code will be used as the standard to identify the actual use of the land. Counties may elect to use a more detailed land use code system using additional digits, however, no county land use code system may use fewer than the standard two digits.

RESIDENTIAL

- 11 Household, single family units
- 12 Household, 2-4 units
- 13 Household, multiunits (5 or more)
- 14 Residential condominiums
- 15 Mobile home parks or courts
- 16 Hotels/motels
- 17 Institutional lodging
- 18 All other residential not elsewhere coded
- 19 Vacation and cabin

MANUFACTURING

- 21 Food and kindred products
- 22 Textile mill products
- 23 Apparel and other finished products made from fabrics, leather, and similar materials
- 24 Lumber and wood products (except furniture)
- 25 Furniture and fixtures
- 26 Paper and allied products
- 27 Printing and publishing
- 28 Chemicals
- 29 Petroleum refining and related industries
- 30 Rubber and miscellaneous plastic products
- 31 Leather and leather products
- 32 Stone, clay and glass products
- 33 Primary metal industries
- 34 Fabricated metal products
- 35 Professional scientific, and controlling instruments; photographic and optical goods; watches and clocks-manufacturing
- 36 Not presently assigned
- 37 Not presently assigned
- 38 Not presently assigned
- 39 Miscellaneous manufacturing

TRANSPORTATION, COMMUNICATION, AND UTILITIES

- 41 Railroad/transit transportation
- 42 Motor vehicle transportation

- 43 Aircraft transportation
- 44 Marine craft transportation
- 45 Highway and street right of way
- 46 Automobile parking
- 47 Communication
- 48 Utilities
- 49 Other transportation, communication, and utilities not classified elsewhere

TRADE

- 50 Condominiums - other than residential condominiums
- 51 Wholesale trade
- 52 Retail trade - building materials, hardware, and farm equipment
- 53 Retail trade - general merchandise
- 54 Retail trade - food
- 55 Retail trade - automotive, marine craft, aircraft, and accessories
- 56 Retail trade - apparel and accessories
- 57 Retail trade - furniture, home furnishings and equipment
- 58 Retail trade - eating and drinking
- 59 Other retail trade

SERVICES

- 61 Finance, insurance, and real estate services
- 62 Personal services
- 63 Business services
- 64 Repair services
- 65 Professional services
- 66 Contract construction services
- 67 Governmental services
- 68 Educational services
- 69 Miscellaneous services

CULTURAL, ENTERTAINMENT AND RECREATIONAL

- 71 Cultural activities and nature exhibitions
- 72 Public assembly
- 73 Amusements
- 74 Recreational activities
- 75 Resorts and group camps
- 76 Parks
- 77 Not presently assigned
- 78 Not presently assigned
- 79 Other cultural, entertainment, and recreational

RESOURCE PRODUCTION AND EXTRACTION

- 81 Agriculture (not classified under current use law)
- 82 Agriculture related activities
- 83 Agriculture classified under current use chapter 84.34 RCW
- 84 Fishing activities and related services
- 85 Mining activities and related services
- 86 Not presently assigned
- 87 Not presently assigned
- 88 Designated forest land under chapter 84.33 RCW
- 89 Other resource production

UNDEVELOPED LAND AND WATER AREAS

- 91 Undeveloped land
- 92 Noncommercial forest
- 93 Water areas
- 94 Open space land classified under chapter 84.34 RCW
- 95 Timberland classified under chapter 84.34 RCW

- 96 Not presently assigned
- 97 Not presently assigned
- 98 Not presently assigned
- 99 Other undeveloped land

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.48.075. 02-14-031, § 458-53-030, filed 6/24/02, effective 7/25/02; 96-05-002, § 458-53-030, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.08.010 and 84.08.070. 91-01-008, § 458-53-030, filed 12/6/90, effective 1/6/91. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-030, filed 4/12/89. Statutory Authority: RCW 84.48.075. 86-21-004 (Order PT 86-6), § 458-53-030, filed 10/2/86; 84-14-039 (Order PT 84-2), § 458-53-030, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-030, filed 10/11/79. Formerly WAC 458-52-030.]

WAC 458-53-050 Land use stratification, sales summary and abstract report. Stratification of the assessment rolls, the annual sales summary, and the abstract report to the department for real property will be based on the following abstract categories:

Abstract Category	Land Use Code
1. Single family residence	11, 14, 18, 19
2. Multiple family residence	12, 13
3. Manufacturing	21 through 39
4. Commercial	15, 16, 17, 41-49, 50-59, 61-69, 71-79
5. Agricultural	81
6. Agricultural (current use law)	83
7. Forest lands (chapter 84.33 RCW)	88
8. Open space (current use law)	94
9. Timberland (current use law)	95
10. Other	82, 84, 85, 89, 91,92, 93, 96-99

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.48.075. 02-14-031, § 458-53-050, filed 6/24/02, effective 7/25/02; 96-05-002, § 458-53-050, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-050, filed 10/11/79. Formerly WAC 458-52-040.]

WAC 458-53-070 Real property sales studies. (1) Sales study data. The basis of the real property ratio study is data obtained from real estate excise tax affidavits from each county. The department will supplement the sales study with appraisals when it is determined that the sales are insufficient to represent the level of assessment. The appraisals will be selected according to criteria set forth in WAC 458-53-130.

(2) **Time period for data used.** The sales study will only use sales occurring in the eight-month period between August 1 preceding January of the current assessment year and March 31 of the current assessment year.

(3) **Deduction from sale price.** One percent will be deducted from the sale price shown on all valid real estate excise tax affidavits as an adjustment for values transferred that are not assessable as real property.

(4) **Sales not included in the study—Assessment rolls using other than market value—New construction.** Individual sales that show a sale price to assessed value ratio of under twenty-five percent, or over one hundred seventy-five percent shall be excluded from consideration in the study. However, if the number of individual sales meeting either one of these criteria exceeds five percent of the total number of valid sales for a county, then these sales shall be considered in the study.

(a) The exclusion of valid sales in accordance with this subsection shall not apply in situations where other than market value of a particular type of property is being listed on the

assessment rolls of the county, as disclosed in any examination by the department. If other than market value is being listed on the assessment rolls for a particular type of real or personal property and, after notification by the department, is not corrected, the department shall adjust the ratio of that type of property, which adjustment shall be used in determining the county's indicated personal or real property ratio. When a particular type of property is found to be at other than market value, that type of property shall be separated from the other properties in the computation of the ratio. The department shall compile the total assessed value and total market value for that type of property, and it shall be included in the ratio as provided in WAC 458-53-135(3) and 458-53-160(3).

(b) The exclusion of valid sales in accordance with this subsection shall not apply to sales of property on which there is new construction value that has not yet been placed on the county assessment roll.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-070, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-070, filed 4/12/89. Statutory Authority: RCW 84.48.075. 83-16-050 (Order PT 83-2), § 458-53-070, filed 8/1/83; 82-08-061 (Order PT 82-3), § 458-53-070, filed 4/6/82; 79-11-029 (Order PT 79-3), § 458-53-070, filed 10/11/79. Formerly WAC 458-52-060.]

WAC 458-53-080 Real property sales sample selection. (1) Sales included. Except as provided in subsection (2) of this section, the sales study shall consider all transactions involving a warranty deed or a real estate contract that occurred during the eight-month period described in WAC 458-53-070(2). Sales of mobile homes shall also be included in the real property ratio study when the mobile home meets the definition of real property as defined in RCW 84.04.090. In the case of a county generated sales study (see WAC 458-53-100), the county may use a representative sample of all such transactions with the prior written approval of the department.

(2) **Sales excluded.** Sales or transfers of real property involving instruments other than a warranty deed or real estate contract shall not be considered in the sales study. The following types of sales transactions are examples of sales to be excluded from the sales study, regardless of the type of sale instrument used. Differences from the numerical coding designations set forth in this example may be used by individual counties with prior approval from the department.

NUMERICAL CODE	TYPE OF TRANSACTION
1	Family - a sale between relatives.
2	Transfers within a corporation by its affiliates or subsidiaries.
3	Administrator, guardian or executor of an estate.
4	Receiver or trustee in bankruptcy or equity.
5	Sheriff or bailee.
6	Tax deed.
7	Properties exempt from taxation (nonprofit, government, etc.).

NUMERICAL

CODE	TYPE OF TRANSACTION
8	Individual sales with assessment-to-sales ratios of less than twenty-five percent or greater than one hundred seventy-five percent except as provided in WAC 458-53-070.
9	Quitclaim deed.
10	Gift deed; love and affection deed.
11	Seller's or purchaser's assignment of contract or deed - transfer of interest.
12	Correction deed.
13	Trade - exchange of property between same parties.
14	Deeds involving partial interest in property, such as one-third or one-half interest. (If transfer involves total interest i.e., one hundred percent of the property, sale is valid.)
15	Forced sales - transfers in lieu of imminent foreclosure, condemnation or liquidation.
16	Easement or right of way.
17	Deed in fulfillment of contract (on a current transaction, a contract with a fulfillment deed is a valid sale).
18	Property physically improved after sale.
19	Timber or forest land.
20	Bare lots platted within the eight-month time period described in WAC 458-53-070(2), with less than twenty percent sold.
21	Plottage - when a larger unit of land is being assembled and an adjoining property is sold at a price significantly different from the price of property of a similar type.
22	\$1,000 sale or under.
23	Lease - assignment, option, leasehold.
24	Classified as "current use" under chapter 84.34 RCW as of date of sale.
25	Change of use where rezoning takes place.
26	Current year segregations that have not been appraised.
27	Other - necessary to identify reason.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-080, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075, 84-14-039 (Order PT 84-2), § 458-53-080, filed 6/29/84; 83-16-050 (Order PT 83-2), § 458-53-080, filed 8/1/83; 79-11-029 (Order PT 79-3), § 458-53-080, filed 10/11/79.]

WAC 458-53-095 Property values used in the ratio study. The following property values shall be included in the ratio study:

(1) **Assessed values.** Values determined by county assessors according to the provisions of chapters 84.40 RCW (Listing of property) and 84.41 RCW (Revaluation of property).

(2) **Forest land values.** Values of forest land classified or designated under chapter 84.33 RCW and values of timberland classified under chapter 84.34 RCW.

(3) **Current use values.** Values of land (except timber land) and improvements classified under chapter 84.34 RCW (current use assessment). Values of land (except timber land) and improvements classified under chapter 84.34 RCW shall be included as a separate class for counties when those values

equal or exceed fifteen percent of the total assessed value of locally assessed real property in the county.

(4) **Advisory values.** Advisory values supplied to the assessor by the department, but only if the property falls within the sales study provided for in WAC 458-53-070 or 458-53-100 or is selected in the appraisal or audit study in accordance with WAC 458-53-130 and 458-53-140.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-095, filed 2/8/96, effective 3/10/96.]

WAC 458-53-100 County generated sales studies. (1) Sales data provided by county. When sales data is provided to the department by counties in accordance with these rules and subject to audit by the department, the data shall be used by the department to determine the indicated real property ratio. The data provided shall be in the form of two reports, a report consisting of data from valid sales, and a report listing those sales deemed to be invalid.

(2) **Report of valid sales.** The county generated sales report consisting of data from valid sales shall include the following information for each valid sale:

- The real estate excise tax affidavit number.
- The parcel number(s), or other file identification number(s).
- The date of sale.
- The sale price of the transaction.
- The sale price of the transaction reduced by one percent.
- The land use code for the sale property.
- The current assessed value on the county's assessment roll for the sale property.
- A ratio determined by dividing the assessed value by the adjusted sale price (the adjusted sale price is the amount determined in (e) of this subsection).

(3) **Summary of valid sales data.** The county generated sales report shall also contain a summary of the sales information arranged according to land use categories and assessed value strata designated by the department for each county. The summaries for each stratum shall include:

- The total number of sales;
- The total assessed value of all sale property;
- The total adjusted sale price for all sales;
- The total average assessed value; and
- The total average adjusted sale price.

(4) **Report of invalid sales.** The county generated sales report consisting of data from invalid sales shall include the following information for each invalid sale:

- The real estate excise tax affidavit number.
- The parcel number(s), or other file identification number(s).
- The date of sale.
- The sale price of the transaction.
- The sale price of the transaction reduced by one percent.
- The land use code for the sale property.
- The current assessed value on the county's assessment roll for the sale property.
- A ratio determined by dividing the assessed value by the adjusted sale price (the adjusted sale price is the amount determined in (e) of this subsection).

(i) The appropriate numerical code (see WAC 458-53-080) or the matching description of the reason for determining that the sale was invalid. If numerical code number 27 is used, the reason for determining that the sale was invalid shall be described.

(5) **Sales report—When submitted.** The county generated sales report shall be submitted as soon as possible following the close of the assessment rolls on May 31st and, for sales of property involving new construction, as soon as possible following August 31st.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-100, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075 and 84.08.010(2). 89-09-021 (Order PT 89-5), § 458-53-100, filed 4/12/89. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-100, filed 6/29/84; 83-16-050 (Order PT 83-2), § 458-53-100, filed 8/1/83; 82-08-061 (Order PT 82-3), § 458-53-100, filed 4/6/82; 79-11-029 (Order PT 79-3), § 458-53-100, filed 10/11/79.]

WAC 458-53-105 Review procedures for county studies. (1) **Department to monitor compliance.** The department shall review a sales assessment study produced by a county in order to monitor compliance with the rules in this chapter.

(2) **Elements to be verified.** Elements of the county sales study that may be verified include, but are not limited to:

- (a) Property identification;
- (b) Land use code classification;
- (c) Properties reported on real estate excise tax affidavits that were transferred using a warranty deed or real estate contract;
- (d) Sales month identification;
- (e) Deletion practices and identification;
- (f) Computation procedures, including whether the sales value used was one hundred percent or whether the sales value was reduced by one percent;
- (g) Sales and assessment values; and
- (h) Revaluation assessment practices.

(3) **Findings to be discussed with assessor.** Ratio study review findings will be discussed with the individual county assessor and/or the assessor's staff upon completion of the department's review. Any errors in data or procedure discovered shall be corrected for the current and future year's studies.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-105, filed 2/8/96, effective 3/10/96.]

WAC 458-53-130 Real property appraisal studies.

(1) **Review of prior year's sales.** In order to determine which strata do not have sufficient sales to produce a sales sample representative of the level of assessment, the department shall review a county's prior year's sales studies. This review will determine the number of appraisals necessary to be added to the sales sample.

(2) **Selection of properties for appraisal.** The properties to be appraised by the department shall be selected on a statistically accepted random basis such as stated numerical sequence or random number tables.

(3) **Department appraisals.** Appraisals conducted by the department shall include a physical appraisal of the subject property in order to assure that the most accurate estimate of market value is determined, and shall not be conducted on

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the basis of mass appraisal techniques. The value determined will be the value as of January 1 of the assessment year, or for appraisals involving new construction, the value as of July 31.

(4) **Review with county.** The department shall review completed appraisals with the assessor and/or the assessor's staff. After the review is complete, the appraisals shall be included with the sales data for computation of the real property ratio.

(5) **Allocation of real and personal property values.** Allocation of value between real and personal property of the total value of appraised property for purposes of the ratio study will be determined using each assessor's method of classifying real and personal property.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-130, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 86-21-004 (Order PT 86-6), § 458-53-130, filed 10/2/86; 84-14-039 (Order PT 84-2), § 458-53-130, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-130, filed 10/11/79. Formerly WAC 458-52-070.]

WAC 458-53-135 Indicated real property ratio—Computation. (1) **Determination of ratio for assessed value strata.** For each real property stratum, average assessed value and average market value shall be determined from the results of selected sales and appraisal studies. The average assessed value of the samples for each stratum divided by the average market value of the samples determines the ratio for each assessed value stratum.

(2) **Determination of indicated market value.** The actual total assessed value for each stratum divided by the ratio for each assessed value stratum, as determined by using the calculation set forth in subsection (1) of this section, determines the indicated market value of each stratum for the county.

(3) **Addition of county assessed values for current use and forest land—Assessor's certification of values.** The county assessed values of current use land and improvements (chapter 84.34 RCW) and forest land (chapter 84.33 RCW) as indicated on the current certification provided by the assessor to the county board of equalization are added to the actual total assessed value for the county. Ratios for current use land and improvements and for forest land are applied to the county assessed values to determine indicated market values.

(a) A copy of the assessor's certification to the board of equalization shall be filed with the department by July 15th, or when the rolls for the current assessment year are completed, whichever is later. The certification form shall be properly completed with all required information.

(b) If a copy of the assessor's certification is not received from an assessor prior to September 1, the assessor's abstract of assessed values for the current year may be used, when available. If not available, the assessed values from the abstract of the previous year may be used.

(4) **Determination of county indicated ratio.** The sum total of the county assessed values is divided by the sum of the indicated market values to determine the county indicated real property ratio.

(5) **Example.** The following illustration, using simulated values and ratios, indicates simplified ratio study computation procedures for real property.

(5) **Example.** The following illustration, using simulated values and ratios, indicates simplified ratio study computation procedures for real property.

STEP 1
STRATUM AVERAGE VALUE & RATIO COMPUTATIONS

Type of Land Use	Stratum	Number of Samples	Average Assessed Value of Samples	Average Market Value of Samples	Stratum Ratio
SINGLE FAMILY RESIDENCE	0 - 75,000	400	\$ 35,000	\$ 45,000	77.8
	75,000 - 150,000	400	100,000	125,000	80.0
	150,000 - +	100	195,000	230,000	84.8
MULTIFAMILY RESIDENCE	0 - 125,000	40	50,000	60,000	83.3
	125,000 - +	15	225,000	265,000	84.9
COMMERCIAL/ MANUFACTURING	0 - 500,000	40	140,000	165,000	84.8
	500,000 - +	25	2,000,000	2,350,000	85.1
AGRICULTURAL	0 - 125,000	35	60,000	65,000	92.3
	125,000 - +	35	300,000	330,000	90.9
OTHER	0 - 100,000	75	30,000	36,000	84.0
	100,000 - +	40	250,000	290,000	86.2

STEP 2
APPLICATION OF STRATUM RATIOS TO ACTUAL COUNTY ASSESSED VALUES

Type of Land Use	Stratum	(1) Actual County Real Property Assessed Value	(2) Ratio	(3) County Market Value Related to Actual Assessed Value Col. 1 ÷ Col. 2
SINGLE FAMILY RESIDENCE	0 - 74,999	\$500,000,000	77.8	\$642,673,522
	75,000 - 149,999	250,000,000	80.0	312,500,000
	150,000 - +	250,000,000	84.8	294,811,321
MULTIFAMILY RESIDENCE	0 - 124,999	85,000,000	83.3	102,040,816
	125,000 - +	65,000,000	84.9	76,560,660
COMMERCIAL/ MANUFACTURING	0 - 499,999	245,000,000	84.8	288,915,094
	500,000 - +	200,000,000	85.1	235,017,626
AGRICULTURAL	0 - 124,999	110,000,000	92.3	119,176,598
	125,000 - +	95,000,000	90.9	104,510,451
OTHER	0 - 99,999	90,000,000	84.0	107,142,857
	100,000 - +	75,000,000	86.2	87,006,961
CURRENT USE LAND (CHAPTER 84.34 RCW)		125,500,000	95.2	131,827,731
CURRENT USE IMP (CHAPTER 84.34 RCW)		50,000,000	84.0	59,523,810
FORESTLAND (CHAPTER 84.33 RCW) AND TIMBERLAND (CHAPTER 84.34 RCW)		2,950,000	100.0	2,950,000
		<u>\$2,143,450,000</u>		<u>\$2,564,657,447</u> = 83.6

(6) **Department may consider general trends in property values.** The department may consider the relationship between the market value trends of real property and the assessed value increases or decreases made by the assessor during the year in each county as checks of the validity of the results of the sales and appraisal studies. The assistant director of the property tax division of the department may authorize modification of the results of the sales and appraisal study in any county where there is a demonstrable showing by an assessor to the assistant director that the sales and appraisal study is inconclusive or does not result in a reasonable and factual determination of the relationship of assessed values to market value such that a significant variation results

from the previous year not deemed by the assistant director to conform with general trends in property values.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-135, filed 2/8/96, effective 3/10/96.]

WAC 458-53-140 Personal property ratio study. (1) Introduction. This rule provides information about the personal property ratio study, including the basis for a county's personal property ratio, the determination of strata for each county, and the effect of the discovery of omitted property on the ratio study.

(2) **Basis for personal property ratio.** The basis for a county's personal property ratio will be valuation data with

respect to personal property from the three years preceding the current assessment year.

(3) **Stratification of rolls.** Determination of strata for each county will be made by the department to ensure the selection of a representative audit sample and will be reviewed periodically. After the strata have been determined, the department will notify the counties of the strata limits and each county must provide the department with the following, taken from the county's assessment rolls:

(a) A representative number of samples, as determined by the department, in each stratum, together with:

(i) The name and address of the taxpayer for each sample;

(ii) The assessed value for each sample; and

(iii) The actual number of samples;

(b) The total number of personal property accounts in each stratum; and

(c) The total assessed value in each stratum.

(4) **Omitted property.** If the department discovers omitted property in a county, the results of the department's audit will be included in the ratio study.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.48.075. 02-14-031, § 458-53-140, filed 6/24/02, effective 7/25/02; 96-05-002, § 458-53-140, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-140, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-140, filed 10/11/79. Formerly WAC 458-52-080.]

WAC 458-53-160 Indicated personal property ratio—Computation. (1) **Determination of ratio for assessed value strata.** For each personal property assessed value stratum, excluding properties identified in WAC 458-53-070 (4)(a), an average assessed value, and an average

market value shall be determined from the results of selected audit studies. The average assessed value for each stratum divided by the average market value determines the ratio for each assessed value stratum.

(2) **Determination of indicated market value.** The actual total assessed value of the county for each stratum divided by the ratio for each assessed value stratum, as determined by using the calculation set forth in subsection (1) of this section, determines the indicated market value of each stratum for the county.

(3) **Additional categories.**

(a) The actual county total assessed values of properties identified in WAC 458-53-070 (4)(a) are added as a separate category to the total county assessed value. A ratio determined for these properties is applied against the total assessed value for the category to determine the indicated total market value for the category.

(b) If ten percent or more of the total personal property assessed value of a county consists of publicly owned timber sold by competitive bid to private purchasers, the assessed value of the timber is added as a separate category to the total county assessed value. A ratio determined for this property is applied against the total assessed value for this category to determine the indicated total market value for this category.

(4) **Determination of county indicated ratio.** The sum of the actual total county assessed values is divided by the sum of the indicated market values to determine the county indicated personal property ratio.

(5) **Example.** The following illustration, using simulated values and ratios, indicates the ratio computation procedures for personal property.

STEP 1 - STRATUM AVERAGE VALUE AND RATIO COMPUTATIONS

	(1)	(2)	(3)	(4)
Stratum	Number of Samples	Average Assessed Value of Samples	Average Market Value of Samples	Stratum Ratio (Col. 2 ÷ Col. 3)
\$ 0 - 74,999	25	\$ 17,000	\$ 22,000	.773
75,000 - 249,999	15	124,000	235,000	.528
Over - 250,000	10	850,000	960,000	.885

STEP 2 - APPLICATION OF STRATUM RATIOS TO ACTUAL COUNTY ASSESSED VALUES

Stratum	(1)	(2)	(3)
	Actual County Personal Property Assessed Values	Ratio	County Market Value Related to Actual Assessed Value (Col. 1 ÷ Col. 2)
\$ 0 - 74,999	\$21,500,000	.773	\$ 27,813,713
75,000 - 249,999	23,000,000	.528	43,560,606
Over - 250,000	50,000,000	.885	56,497,175
WAC 458-53-070 (4)(a) Properties	0		0
Totals	\$94,500,000		÷ \$127,871,499 = 73.9
County Indicated Personal Property Ratio			73.9%

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-160, filed 2/8/96, effective 3/10/96; 94-05-064, § 458-53-160, filed 2/11/94, effective 3/14/94. Statutory Authority: RCW 84.48.075. 87-12-029 (Order PT 87-5), § 458-53-160, filed 5/29/87; 86-21-004 (Order PT 86-6), § 458-53-160, filed 10/2/86; 84-14-039 (Order PT 84-2), § 458-53-160, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-160, filed 10/11/79. Formerly WAC 458-52-100.]

WAC 458-53-200 Certification of county preliminary and indicated ratios—Review. (1) **Preliminary ratio certified to assessor.** The department shall annually determine the real property and personal property preliminary ratios for each county and shall certify these ratios to the county assessor on or before the first Monday in September.

(2) **Request for review.** Upon request of the assessor, a landowner, or an owner of an intercounty public utility or private car company, the department shall review the county's preliminary ratio with the requesting party and may make any changes indicated by such review. This review shall take place between the first and third Mondays of September. If the department does not certify the preliminary ratios as required by subsection (1) of this section, the review period shall extend for two weeks from the date of certification.

(3) **Certification of indicated ratios.** Prior to equalization of assessments pursuant to RCW 84.48.080 and after the third Monday of September, the department shall certify to each county assessor the indicated real and personal property ratios for that county.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-200, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-200, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-200, filed 10/11/79. Formerly WAC 458-52-140.]

WAC 458-53-210 Appeals. If an assessor, landowner, or owner of an intercounty utility or private car company has reviewed the ratio study as provided in WAC 458-53-200, that person or company may appeal the department's indicated ratio determination, as certified for that county, to the state board of tax appeals pursuant to RCW 82.03.130(5). The appeal to the state board of tax appeals must be filed not later than fifteen days after the date of mailing of the certification.

[Statutory Authority: RCW 84.08.010, 84.08.070 and 84.48.075. 96-05-002, § 458-53-210, filed 2/8/96, effective 3/10/96. Statutory Authority: RCW 84.48.075. 84-14-039 (Order PT 84-2), § 458-53-210, filed 6/29/84; 79-11-029 (Order PT 79-3), § 458-53-210, filed 10/11/79. Formerly WAC 458-52-150.]

Chapter 458-57 WAC

STATE OF WASHINGTON ESTATE AND TRANSFER TAX REFORM ACT RULES

WAC

458-57-005	Nature of estate tax, definitions.
458-57-015	Valuation of property, property subject to estate tax, how to calculate the tax.
458-57-017	Property subject to generation-skipping transfer tax, how to calculate the tax, allocation of generation-skipping transfer exemption.
458-57-025	Determining the tax liability of nonresidents.
458-57-035	Washington estate tax return to be filed—Penalty for late filing—Interest on late payments—Waiver or cancellation of penalty—Application of payment.
458-57-045	Administration of the tax—Releases, amended returns, refunds, heirs of escheat estates.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

458-57-010	Scope of rules. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-010, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100. Later promulgation, see WAC 458-57-510.
458-57-020	Nature of inheritance tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-020, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100. Later promulgation, see WAC 458-57-520.
458-57-030	Property subject to inheritance tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-030, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100. Later promulgation, see WAC 458-57-530.
458-57-040	Jurisdiction—Domicile of decedent. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-040, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-050	Status and character of assets. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-050, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-060	Valuation. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-060, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-070	Valuation—Real estate. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-070, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-080	Valuation—Gold and silver bullion. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-080, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-090	Valuation—Securities. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-090, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-100	Closely held securities—Partnerships—Sole proprietorships. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-100, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-110	Valuation of certain life insurance and annuity contracts—Valuation of shares in an open-end investment company. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-110, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-120	Notes—Other intangibles. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-120, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-130	Real estate contracts. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-130, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-140	Cash on hand or on deposit. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-140, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-150	Tangible personal property, household and personal effects. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-

	03-048 (Order IT 80-1), § 458-57-150, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.		Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-160	Valuation of annuities, life estates, terms for years, remainders, and reversions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-160, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-310	Computation formula—Property previously taxed—Portion of net second estate to class other than A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-310, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-170	Tables for valuation of annuities, life estates, terms for years, remainders, and reversions for estates of decedents dying on and after May 30, 1979. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-170, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-320	Computation formula—Property previously taxed—Specific bequest second estate to class other than A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-320, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-180	Transfers prior to death—Computation of time—Valuation—Contemplation. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-180, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-330	Computation formula—Property previously taxed—Specific bequest and portion of net second estate to class other than A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-330, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-190	Deductions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-190, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-340	Federal credit for death taxes. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-340, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-200	Non-deductible items. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-200, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-350	Payment of tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-350, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-210	Exempt entities. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-210, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-360	Payment of tax from residue—Tax on tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-360, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-220	Classes of beneficiaries—Heirs. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-220, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-370	Deferral of tax—Power of appointment—Minimum and maximum tax—Secured tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-370, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-230	Exemptions—Class A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-230, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-380	Interest—Penalties. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-380, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-240	Exemptions—Classes B and C. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-240, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-390	Interest on unpaid tax. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-390, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-250	Exemptions—Aliens. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-250, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-400	Refunds. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-400, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-260	Insurance—Exemptions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-260, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-410	Escheat estates—Heirs—How located and proof. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-410, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100. Later promulgation, see WAC 458-57-640.
458-57-270	Prorating of exemptions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-270, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-420	Preliminary statement. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-420, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-280	Prorating costs and fees. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-280, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-430	Inventory and appraisal—Inventory of assets. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-430, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
458-57-290	Credit for property previously taxed. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-290, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.	458-57-440	Inheritance tax returns—Duty to keep records and render statements—Filing of returns—Contents of returns. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-440, filed 2/21/80.] Repealed by 83-
458-57-300	Computation formula—Property previously taxed—Class A. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-300, filed 2/21/80.]		

- 17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
- 458-57-450 Payment of inheritance tax—Extension of time—Basis for—Reasonable cause—Undue hardship. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-450, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
- 458-57-460 Inheritance tax—Extension of time for payment—Failure to pay on time. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-460, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
- 458-57-470 Inheritance tax—Extension of time for payment—Security. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-470, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
- 458-57-480 Closely held businesses—What constitutes. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-480, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
- 458-57-490 Qualified or special use—Application of statutory and regulatory provisions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-490, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
- 458-57-500 Miscellaneous provisions. [Statutory Authority: RCW 82.01.060, 83.36.005, and chapters 83.01 through 83.52 RCW. 80-03-048 (Order IT 80-1), § 458-57-500, filed 2/21/80.] Repealed by 83-17-033 (Order IT 83-2), filed 8/11/83. Statutory Authority: RCW 83.100.100.
- 458-57-510 Scope of rules. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-510, filed 8/11/83. Formerly WAC 458-57-010.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-520 Nature of estate tax. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-520, filed 8/11/83. Formerly WAC 458-57-020.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-530 Property subject to estate tax. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-530, filed 8/11/83. Formerly WAC 458-57-030.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-540 Residents—Tax imposed. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-540, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-550 Valuation. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-550, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-560 Imposition of tax. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-560, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-570 Tax returns to be filed. [Statutory Authority: RCW 83.100.100. 86-12-024 (Order 86-1), § 458-57-570, filed 5/28/86; 83-17-033 (Order IT 83-2), § 458-57-570, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-575 Waiver or cancellation of penalties. [Statutory Authority: RCW 82.32.300 and 83.100.070. 99-03-010, § 458-57-575, filed 1/8/99, effective 2/8/99.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-580 Formula. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-580, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-590 Property "located in" Washington. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-590, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-600 Reciprocity exemption. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-600, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-610 Releases. [Statutory Authority: RCW 83.100.100. 86-12-024 (Order 86-1), § 458-57-610, filed 5/28/86; 83-17-033 (Order IT 83-2), § 458-57-610, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-620 Amended returns—Final determination. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-620, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-630 Administration—Rules. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-630, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-640 Escheat estates—Heirs—How located and proof. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-640, filed 8/11/83. Formerly WAC 458-57-410.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-650 Interest and penalties. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-650, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.
- 458-57-660 Refunds. [Statutory Authority: RCW 83.100.100. 83-17-033 (Order IT 83-2), § 458-57-660, filed 8/11/83.] Repealed by 99-15-095, filed 7/21/99, effective 8/21/99. Statutory Authority: RCW 83.100.200.

WAC 458-57-005 Nature of estate tax, definitions. (1)

Introduction. This rule describes the nature of Washington state's estate tax as it is imposed by chapter 83.100 RCW (Estate and Transfer Tax Act). It also defines terms that will be used throughout chapter 458-57 WAC (Washington Estate and Transfer Tax Reform Act Rules).

(2) **Nature of Washington's estate tax.** The estate tax is neither a property tax nor an inheritance tax. It is a tax imposed on the transfer of the entire taxable estate and not upon any particular legacy, devise, or distributive share.

(a) The state of Washington operates under RCW 83.100.020, which references the Internal Revenue Code (IRC) as it existed **January 1, 2001**. Federal estate tax law changes enacted after January 1, 2001, do not apply to the reporting requirements of Washington's estate tax. For deaths occurring January 1, 2002, and after, Washington has different estate tax reporting requirements than those of the federal government. There will be estates that must file an estate tax return with the state of Washington, even though they are not required to file with the federal government. Washington will continue to collect 100% of the available state death tax credit under the 2001 IRC for all estates that must file a Washington return. The Washington State Estate and Transfer Tax Return and the instructions for completing the return can be found on the department's website at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be obtained by calling the estate tax section at 360-753-5547 or 360-753-7518 or by writing to the following address:

State of Washington
Department of Revenue
Special Programs Division

P.O. Box 448
Olympia, WA 98507-0448

(b) The estate tax does not apply to completed absolute lifetime transfers. Section 2035(d) of the 2001 Internal Revenue Code generally exempts such transfers. To the extent permitted by this provision, lifetime transfers are not subject to Washington estate tax. The state of Washington does not have a gift tax.

(3) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Decedent" means a deceased individual;

(b) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;

(c) "Escheat" of an estate means that whenever any person dies, whether a resident of this state or not, leaving property in an estate subject to the jurisdiction of this state and without being survived by any person entitled to that same property under the laws of this state, such estate property shall be designated escheat property and shall be subject to the provisions of RCW 11.08.140 through 11.08.280.

(d) "Federal credit" means the maximum amount of the credit for state taxes allowed by section 2011 of the 2001 Internal Revenue Code. This credit is calculated using an "adjusted taxable estate" figure, which is simply the taxable estate, less sixty thousand dollars. However, when the term "federal credit" is used in reference to a generation-skipping transfer (GST), it means the maximum amount of the credit for state taxes allowed by section 2604 of the 2001 Internal Revenue Code;

(e) "Federal return" means any tax return required by chapter 11 (Estate tax) or chapter 13 (Tax on generation-skipping transfers) of the 2001 Internal Revenue Code;

(f) "Federal tax" means tax under chapter 11 (Estate tax) of the 2001 Internal Revenue Code. However, when used in reference to a GST, "federal tax" means the tax under chapter 13 (Tax on generation skipping transfers) of the 2001 Internal Revenue Code;

(g) "Generation-skipping transfer" or "GST" means a "generation-skipping transfer" as defined and used in section 2611 of the 2001 Internal Revenue Code;

(h) "Gross estate" means "gross estate" as defined and used in section 2031 of the 2001 Internal Revenue Code;

(i) "Internal Revenue Code" or "IRC" means the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, 2001;

(j) "Nonresident" means a decedent who was domiciled outside Washington at the time of death;

(k) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

(l) "Person required to file the federal return" means any person required to file a return required by chapter 11 or 13 of the 2001 Internal Revenue Code, such as the personal representative of an estate, a transferor, trustee, or beneficiary of a generation-skipping transfer, or a qualified heir with respect

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to qualified real property, as defined and used in section 2032A(c) of the 2001 Internal Revenue Code;

(m) "Person responsible," means the person responsible for filing the federal and state returns and is the same person described in subsection (l) above;

(n) "Property," when used in reference to an estate tax transfer, means property included in the gross estate. However, when used in reference to a generation-skipping transfer, "property" means all real and personal property subject to the federal tax;

(o) "Resident" means a decedent who was domiciled in Washington at time of death;

(p) "State return" means the Washington Estate Tax Return required by RCW 83.100.050;

(q) "Transfer" means "transfer" as used in section 2001 of the 2001 Internal Revenue Code, or a disposition or cessation of qualified use as defined and used in section 2032A of the 2001 Internal Revenue Code; and

(r) "Trust" means "trust" under Washington law and any arrangement described in section 2652 of the 2001 Internal Revenue Code.

[Statutory Authority: RCW 83.100.200. 02-18-078, § 458-57-005, filed 8/30/02, effective 9/30/02; 99-15-095, § 458-57-005, filed 7/21/99, effective 8/21/99.]

WAC 458-57-015 Valuation of property, property subject to estate tax, how to calculate the tax. (1) **Introduction.** This rule is intended to help taxpayers determine and pay the correct amount of estate tax with their state return. It explains the necessary steps for determining the tax, and provides examples of how the federal estate tax unified credit relates to the amount that must be reported on the state return. (If a nonresident decedent has property located within Washington at the time of death refer to WAC 458-57-025 to determine the amount of tax payable to Washington.)

(2) **Valuation.** The value of every item of property in a decedent's gross estate is its fair market value. However, the personal representative may elect to use the alternate valuation method under section 2032 of the 2001 Internal Revenue Code (IRC), and in that case the value is the fair market value at that date, including the adjustments prescribed in that section of the IRC.

The valuation of certain farm property and closely held business property, properly made for federal estate tax purposes pursuant to an election authorized by section 2032A of the 2001 IRC, is binding for state estate tax purposes.

(3) **Property subject to estate tax.** The estate tax is imposed on transfers of the taxable estate, as defined in section 2051 of the 2001 IRC.

(a) The first step in determining the value of the decedent's taxable estate is to determine the total value of the gross estate. The value of the gross estate includes the value of all the decedent's tangible and intangible property at the time of death. In addition, the gross estate may include property in which the decedent did not have an interest at the time of death. A decedent's gross estate for federal estate tax purposes may therefore be different from the same decedent's estate for local probate purposes. Sections 2031 through 2046 of the 2001 IRC provide a detailed explanation of how to determine the value of the gross estate. The following are

examples of items that may be included in a decedent's gross estate and not in the probate estate:

- (i) Certain property transferred by the decedent during the decedent's lifetime without adequate consideration;
- (ii) Property held jointly by the decedent and others;
- (iii) Property over which the decedent had a general power of appointment;
- (iv) Proceeds of certain policies of insurance on the decedent's life annuities; and
- (v) Dower and curtesy of a surviving spouse or a statutory estate in lieu thereof.

(b) The value of the taxable estate is determined by subtracting the authorized exemption and deductions from the value of the gross estate. Under various conditions and limitations, deductions are allowable for expenses, indebtedness, taxes, losses, charitable transfers, and transfers to a surviving spouse. Sections 2051 through 2056A of the 2001 IRC provide a detailed explanation of how to determine the value of the taxable estate.

(4) **Imposition of Washington's estate tax.** A tax in an amount equal to the federal credit is imposed by RCW 83.100.030 upon the taxable estate of every decedent. Washington's estate tax is due in every case in which the gross estate tax exceeds the unified credit as specified in section 2010 of the 2001 IRC, and there is credit available to be taken, with the exception that all applicable federal estate tax credits are to be applied to the estate's tax liability before the state estate tax liability is computed.

(a) The following tables are taken from the 2001 IRC. They show the maximum amount of federal credit available for state death taxes. The amount of federal credit computed is also the amount of Washington estate tax due.

(i)

Worksheet

Adjusted Taxable Estate

1. Taxable estate (from Tax Computation, WA Form REV 85-0046, Line 3) \$
2. Adjustment \$60,000
3. Adjusted taxable estate. Subtract line 2 from line 1. Use this amount to compute maximum credit for state death taxes in Table (ii).

(ii)

(A)—Taxable estate, equal to or more than...	(B)—and, Taxable estate, less than...	(C)—Base credit on amount in column (A)	(D)—Rate of credit on excess over amount in column (A) (AS A PER-CENT)
\$ 0	\$ 40,000	\$ 0	0.0
\$ 40,000	\$ 90,000	\$ 0	0.8
\$ 90,000	\$ 140,000	\$ 400	1.6
\$ 140,000	\$ 240,000	\$ 1,200	2.4
\$ 240,000	\$ 440,000	\$ 3,600	3.2
\$ 440,000	\$ 640,000	\$ 10,000	4.0
\$ 640,000	\$ 840,000	\$ 18,000	4.8
\$ 840,000	\$ 1,040,000	\$ 27,600	5.6
\$ 1,040,000	\$ 1,540,000	\$ 38,800	6.4
\$ 1,540,000	\$ 2,040,000	\$ 70,800	7.2
\$ 2,040,000	\$ 2,540,000	\$ 106,800	8.0
\$ 2,540,000	\$ 3,040,000	\$ 146,800	8.8
\$ 3,040,000	\$ 3,540,000	\$ 190,800	9.6
\$ 3,540,000	\$ 4,040,000	\$ 238,800	10.4
\$ 4,040,000	\$ 5,040,000	\$ 290,800	11.2
\$ 5,040,000	\$ 6,040,000	\$ 402,800	12.0

(A)—Taxable estate, equal to or more than...	(B)—and, Taxable estate, less than...	(C)—Base credit on amount in column (A)	(D)—Rate of credit on excess over amount in column (A) (AS A PER-CENT)
\$ 6,040,000	\$ 7,040,000	\$ 522,800	12.8
\$ 7,040,000	\$ 8,040,000	\$ 650,800	13.6
\$ 8,040,000	\$ 9,040,000	\$ 786,800	14.4
\$ 9,040,000	\$ 10,040,000	\$ 930,800	15.2
\$ 10,040,000	\$ 1,082,800	16.0

(b) The following are examples of how the estate tax is applied. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

(i) A married woman dies in the year 2002, leaving her husband and children surviving. Her taxable estate, computed after allowance of the marital deduction, is \$900,000. The adjusted taxable estate is \$840,000 (\$900,000 - \$60,000). The Washington state estate tax due is \$27,600 (the base credit shown in column (C) on the first \$840,000).

(ii) A married man dies with all of his property passing to his wife, outright under a community property agreement. His marital deduction under section 2056 of the 2001 IRC reduces his federal taxable estate below the applicable exclusion amount. Because his taxable estate is below the applicable exclusion amount, no Washington estate tax is due.

(iii) The federal taxable estate of a decedent is \$100,000 (before gifts are added, which place the estate into a taxable category). The adjusted taxable estate is \$40,000 for state estate tax purposes (\$100,000 - \$60,000). No Washington estate tax is due because section 2011 of the 2001 IRC provides for no credit unless the adjusted taxable estate exceeds \$40,000. *Gifts can push an estate into a taxable category.

(iv) A widow dies in 2003, leaving a taxable estate of \$725,000. The amount of tax payable to the state of Washington is computed as follows: Taxable estate of \$725,000 less \$60,000 equals an adjusted taxable estate of \$665,000. The state death tax credit (2001 IRC section 2011) on the first \$640,000 is \$18,000. The state death tax credit for the \$25,000 increment (\$665,000 - \$640,000) is \$1,200 (4.8% of \$25,000). The total Washington estate tax liability is \$19,200 (\$18,000 + \$1,200) however, the state estate tax cannot exceed the adjusted gross estate tax (line 14) which in this case would be \$9,250. Therefore, the state estate tax would be \$9,250 because it is the lower of the two. This occurs in a small window over the applicable exemption threshold amount.

[Statutory Authority: RCW 83.100.200. 02-18-078, § 458-57-015, filed 8/30/02, effective 9/30/02; 99-15-095, § 458-57-015, filed 7/21/99, effective 8/21/99.]

WAC 458-57-017 Property subject to generation-skipping transfer tax, how to calculate the tax, allocation of generation-skipping transfer exemption. (1) **Introduction.** This rule is intended to help taxpayers determine and pay the correct amount of generation-skipping transfer (GST) tax with their state return. It explains what property is subject to the tax, the calculation of the tax, and the allocation of the generation-skipping transfer exemption.

(2) **Property subject to generation-skipping transfer tax.** If real or tangible personal property subject to federal

GST tax, as defined and used in section 2611 of the 2001 IRC, is located in this state or if the trust has its principal place of administration in this state at the time of the generation-skipping transfer, a tax in an amount equal to the federal credit provided by section 2604 of the 2001 IRC is imposed on every generation-skipping transfer.

(3) **Calculation of the tax.** The allowable Washington credit equals the federal GST tax on the transfer multiplied by 5% (.05). If state GST tax credit was paid to another state(s), the taxpayer must attach evidence of the credit paid to the Washington return. The Washington State Estate and Transfer Tax Return and the instructions for calculating the GST tax can be found on the department's website at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be obtained by calling the estate tax section at 360-753-5547 or 360-753-7518 or by writing to the following address:

State of Washington
Department of Revenue
Special Programs Division
P.O. Box 448
Olympia, WA 98507-0448

(4) **Allocation of generation-skipping transfer exemption.** The allocation(s) of the GST exemption for Washington purposes will be the same as the allocation(s) made for federal GST exemption purposes up to the amount allowed by section 2631 of the 2001 IRC.

[Statutory Authority: RCW 83.100.200. 02-18-078, § 458-57-017, filed 8/30/02, effective 9/30/02.]

WAC 458-57-025 Determining the tax liability of nonresidents. (1) **Introduction.** This rule discusses how property of nonresident decedents is taxed if that property is located within Washington at the time of death.

(2) **Nonresident decedents and Washington's estate tax.** If any decedent has tangible personal property and/or real property located in Washington state at the time of death, that property is subject to Washington's estate tax.

(a) **The reciprocity exemption.** A nonresident decedent's estate is exempt from Washington's estate tax if the nonresident's state of domicile exempts the property of Washington residents from estate, inheritance, or other death taxes normally imposed by the domicile state. The nonresident decedent must have been a citizen and resident of the United States at the time of death. Also, at the time of death the laws of the domicile state must have made specific reference to this state, or must have contained a reciprocal provision under which nonresidents of the domicile state were exempted from applicable death taxes with respect to property or transfers otherwise subject to the jurisdiction of that state.

In those instances where application of this provision results in loss of available federal credit which would otherwise be allowed for federal tax purposes, Washington will absorb that proportional share which is applicable to property within the jurisdiction of this state. Application of this provision will not act to increase the total tax obligation of the estate.

(b) **Property of a nonresident's estate which is located in Washington.** A nonresident decedent's estate may have

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either real property or tangible personal property located in Washington at the time of death.

(i) All real property physically situated in this state, with the exception of federal trust lands, and all interests in such property, are deemed "located in" Washington. Such interests include, but are not limited to:

- (A) Leasehold interests;
- (B) Mineral interests;
- (C) The vendee's (but not the vendor's) interest in an executory contract for the purchase of real property;
- (D) Trusts (beneficial interest in trusts of realty); and
- (E) Decedent's interest in jointly owned property (e.g., tenants in common, joint with right of survivorship).

(ii) Tangible personal property of a nonresident decedent shall be deemed located in Washington only if:

(A) At the time of death the property is situated in Washington; and

(B) It is present for a purpose other than transiting the state.

(iii) For example, consider a nonresident decedent who was a construction contractor doing business as a sole proprietor. The decedent was constructing a large building in Washington. At the time of death, any of the decedent's equipment that was located at the job site in Washington, such as tools, earthmovers, bulldozers, trucks, etc., would be deemed located in Washington for estate tax purposes. Also, the decedent had negotiated and signed a purchase contract for speculative property in another part of Washington. For estate tax purposes, that real property should also be considered a part of the decedents' estate located in Washington.

(c) **Formula to calculate Washington's estate tax for nonresident decedents.** The amount of tax payable to Washington for a nonresident decedent equals the amount of federal credit multiplied by a fraction, the numerator of which is the value of the property located in Washington, and the denominator of which is the value of the decedent's gross estate. Restated: $\text{Federal Credit} \times (\text{Gross Value of Property in Washington} / \text{Decedent's Gross Estate}) = \text{Amount of Washington Estate Tax Due}$. This formula uses the gross value determined for estate tax purposes of any property located in Washington. No reduction will be allowed for any mortgages, liens, or other encumbrances or debts associated with such property except to the extent allowable in computing the gross estate for estate tax purposes.

[Statutory Authority: RCW 83.100.200. 02-18-078, § 458-57-025, filed 8/30/02, effective 9/30/02; 99-15-095, § 458-57-025, filed 7/21/99, effective 8/21/99.]

WAC 458-57-035 Washington estate tax return to be filed—Penalty for late filing—Interest on late payments—Waiver or cancellation of penalty—Application of payment. (1) **Introduction.** This rule discusses the due date for filing of Washington's estate tax return and payment of the tax due. It explains that a penalty is imposed on the taxes due with the state return when the return is not filed on or before the due date, and that interest is imposed when the tax due is not paid by the due date. The rule also discusses the limited circumstances under which the law allows the department of revenue to cancel or waive the penalty, and the procedure for requesting that cancellation or waiver. The Washington State Estate and Transfer Tax Return and the instruc-

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tions for completing return can be found on the department's website at <http://www.dor.wa.gov/> under the heading titled forms. The return and instructions can also be obtained by calling the estate tax section at 360-753-5547 or 360-753-7518 or by writing to the following address:

State of Washington
 Department of Revenue
 Special Programs Division
 P.O. Box 448
 Olympia, WA 98507-0448

(2) Filing the state return—Payment of the tax due.

The Washington estate tax return (state return) referred to in RCW 83.100.050 and a copy of the federal estate tax return (federal return), if one must be filed, is due nine months from the date of the decedent's death. The tax due with the state return must be paid on or before the due date.

(a) Section 6075 of the 2001 Internal Revenue Code (IRC) requires that the federal return be filed within nine months after the date of the decedent's death. In the case of any estate for which a federal return must be filed under the current IRC, a state return must be filed with the Washington state department of revenue (department) on or before the date on which the federal return is required to be filed. (This may include a federally granted extension of time for filing. See subsection (2)(b).)

(b) Extensions to file or extensions for payment of tax for estates that must file a federal estate tax return.

(i) Section 6081 of the 2001 IRC permits the granting of a reasonable extension of time for filing the federal return, generally not to exceed six months from the original due date. If a federal extension of the time to file is granted, the personal representative is required to file a true copy of that extension with the department on or before the original due date, or within thirty days of the issuance of the federal extension, whichever is later. RCW 83.100.050(2). If the personal representative fails to do so, the department may require the personal representative to file the state return on the date that the federal return would have been due had the federal extension not been granted.

(ii) When the personal representative obtains an extension of time for payment of the federal tax, or elects to pay that tax in installments, the personal representative may choose to pay the state estate tax over the same time period and in the same manner as the federal tax. The personal representative is required to file a true copy of that extension with the department on or before the original due date, or within thirty days of the issuance of the federal extension, whichever is later. RCW 83.100.060(2). If the personal representative fails to do so, the department may require the personal representative to pay the state tax on the date that the federal tax would have been due had the federal extension not been granted.

(c) Extensions to file for estates that are not required to file a federal estate tax return. For those estates that are not required to file a federal return, the personal representative may request a one-time automatic six-month extension to file. The request must be in writing and acknowledge that interest will begin to accrue from the original due date of the state return. The written request for the extension must be made prior to the date the state return is due.

(d) Extension to pay tax owed for estates that are not required to file a federal estate tax return. For those estates that are not required to file a federal return, the personal representative may request an extension of time for paying the tax owed when payment of the tax would cause an undue hardship upon the estate or for a payment plan for closely held businesses. The granting of an extension of time to pay the tax owed or for a payment plan for closely held business will not operate to prevent the running of interest. RCW 83.100.070.

(i) Hardship extensions to pay.

(A) In any case in which the department finds that payment, on the due date prescribed, or any part of a deficiency would impose undue hardship upon the estate, the department may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed four years from the original due date of payment.

(B) The extension will not be granted upon a general statement of hardship. The term "undue hardship" means more than an inconvenience to the estate. It must appear that a substantial financial loss, for example, due to the sale of property at a sacrifice price, will result to the estate from making payment of the tax owed at the date payment is due. If a market exists, a sale of property at the current market price is not ordinarily considered as resulting in an undue hardship. No extension will be granted if the deficiency is due to negligence or intentional disregard of rules and regulations or to fraud with intent to evade the tax.

(C) An application for such an extension must be in writing and must contain, or be supported by, information in a written statement declaring that it is made under penalties of perjury showing the undue hardship that would result to the estate if the extension were refused. The application, with the supporting information, must be filed with the department. When received, it will be examined, and, if possible, within thirty days will be denied, granted, or tentatively granted subject to certain conditions of which the personal representative will be notified. The department will not consider an application for such an extension unless it is applied for on or before the due date for payment. If the personal representative desires to obtain an additional extension, it must be applied for on or before the date of the expiration of the previous extension.

(D) The amount of tax owed for which an extension is granted, along with interest as determined by RCW 83.100.-070, shall be paid on or before the expiration of the period of extension without the necessity of notice and demand from the department.

(ii) Payment plans for closely held businesses. The department will abide by the provisions of section 6166 of the 2001 IRC for the granting of payment plans for closely held businesses.

(e) The department shall issue a release when Washington's estate tax has been paid. Upon issuance of a release, all property subject to the tax shall be free of any claim for the tax by the state. RCW 83.100.080.

(3) The late filing penalty. If the state return is not filed by the due date, or any extension of the state return's due date, the person required to file the return may be subject to a late filing penalty.

(a) **When does the penalty apply?** This penalty applies if the person required to file the return has not timely filed the state return with the department prior to being notified by the department, in writing, of the necessity to file the state return. The late payment penalty is equal to five percent of the tax due for each month during which the state return has not been filed, not to exceed the lesser of twenty-five percent of the tax or one thousand five hundred dollars. RCW 83.100.070.

(b) **How is the penalty computed?** The penalty is the equivalent of five percent for each month, but is accrued on a daily basis for those periods less than a month. For any portion of a month, it is calculated by taking the five percent monthly rate and dividing it by the number of days from the beginning of the month through the date the return is filed, including the filing date.

For example, assume a state return is due on February 3rd but is not filed until April 20th of the same year. The state return is delinquent starting with February 4th. The amount of tax due with the state return is \$10,000.

(i) The penalty should be computed as follows:

Feb 4-Mar 3	\$10,000 tax at 5% per month	\$500.00
Mar 4-Apr 3	\$10,000 tax at 5% per month	\$500.00
Apr 4-Apr 20	\$10,000 tax at .1667% x 17 days	\$283.39
Total delinquent penalty due on April 20th filing date		\$1,283.39

(ii) In this example, the first two calendar months are complete and incur the full five percent penalty. The last portion of a month is a total of seventeen days, including both April 4th and April 20th. Since April has thirty days total, the five percent monthly rate is divided by the thirty days in April to arrive at a daily rate of .001667 (or .1667 percent). The daily rate is then multiplied by the seventeen days of penalty accrual to arrive at the total percentage of penalty due for that portion of a month (.001667 x 17 days = .028339 or 2.8339 percent).

(4) **Interest is imposed on late payment.** The department is required by law to impose interest on the tax due with the state return if payment of the tax is not made on or before the due date. RCW 83.100.070. Interest applies to the delinquent tax only, and is calculated from the due date until the date of payment. Interest imposed for periods after December 31, 1996, will be computed at the annual variable interest rate described in RCW 82.32.050(2). Interest imposed for periods prior to January 1, 1997, will be computed at the rate of twelve percent per annum.

(5) **Waiver or cancellation of penalties.** RCW 83.100.070(3) authorizes the department to waive or cancel the penalty for late filing of the state return under limited circumstances.

(a) **Claiming the waiver.** A request for a waiver or cancellation of penalties should contain all pertinent facts and be accompanied by such proof as may be available. The request must be made in the form of a letter and submitted to the department's special programs division. The person responsible bears the burden of establishing that the circumstances were beyond the responsible person's control and directly caused the late filing. The department will cancel or waive the late filing penalty imposed on the state return when the delinquent filing is the result of circumstances beyond the

control of the person responsible for filing of the state return. The person responsible for filing the state return is the same person who is responsible for filing the federal return.

(b) **Circumstances eligible for waiver.** In order to qualify for a waiver of penalty the circumstances beyond the control of the person responsible for filing the state return must directly cause the late filing of the return. These circumstances are generally immediate, unexpected, or in the nature of an emergency. Such circumstances result in the person responsible not having reasonable time or opportunity to obtain an extension of their due date (see subsection (2)(b)) or to otherwise timely file the state return. Circumstances beyond the control of the responsible person include, but are not necessarily limited to, the following:

(i) The delinquency was caused by the death or serious illness of the person responsible for filing the state return or a member of the responsible person's immediate family. In order to qualify for penalty waiver, the death or serious illness must directly prevent the person responsible from having reasonable time or opportunity to arrange for timely filing of the state return. Generally, the death or serious illness must have occurred within sixty days prior to the due date, provided that a valid state return is filed within sixty days of the due date.

(ii) The delinquency was caused by an unexpected and unavoidable absence of the person responsible. Generally, this absence must be within sixty days prior to the due date, provided that a valid state return is filed within sixty days of the due date. "Unavoidable absence of the person responsible" does not include absences because of business trips, vacations, personnel turnover, or personnel terminations.

(iii) The delinquency was caused by the destruction by fire or other casualty of estate records necessary for completion of the state return.

(iv) An estate tax return was timely filed, but was filed incorrectly with another state due to an issue of the decedent's domicile.

(v) A Washington estate tax return was properly prepared and timely filed, but was sent to the location for filing of the federal estate tax return.

(6) **Waiver or cancellation of interest.** Title 83 RCW (Estate Taxation) does not provide any circumstances that allow for waiver of the interest, even though penalty may be waived under limited circumstances (see subsection (5)).

(7) **Application of payment towards liability.** The department will apply taxpayer payments first to interest, next to penalties, and then to the tax, without regard to any direction of the taxpayer.

[Statutory Authority: RCW 83.100.200, 02-18-078, § 458-57-035, filed 8/30/02, effective 9/30/02; 00-19-012, § 458-57-035, filed 9/7/00, effective 10/8/00; 99-15-095, § 458-57-035, filed 7/21/99, effective 8/21/99.]

WAC 458-57-045 Administration of the tax—Releases, amended returns, refunds, heirs of escheat estates. (1) Introduction. This rule contains information on releases issued by the department for state estate taxes paid. It explains how and when an amended state return should be filed. The rule also gives several requirements for notification to the department when a claimed heir to an escheat estate is located.

(2) **Releases.** When the state estate taxes have been paid in full, the department will issue a release to the personal representative upon request. The request will include a completed state return and a copy of the completed federal return, if one was filed. The final determination of the amount of taxes due from the estates that have filed federal returns is contingent on receipt of a copy of the final closing letter issued by the Internal Revenue Service (IRS). The department may require additional information to substantiate information provided by those estates that are not required to file federal returns. The release issued by the department will not bind or estop the department in the event of a misrepresentation of facts.

(3) **Amended returns.** An amended state return must be filed with the department within five days after any amended federal return is filed with the IRS and must be accompanied by a copy of the amended federal return. For those estates that are not required to file a federal return, an amended estate tax return must be received within three years from the date the original estate tax return was filed or within two years of paying the tax, whichever is later.

(a) Any time that the amount of federal tax due is adjusted or when there is a final determination of the federal tax due the person responsible must give written notification to the department. This notification must include copies of any final examination report, any compromise agreement, the state tax closing letter, and any other available evidence of the final determination.

(b) If any amendment, adjustment or final determination results in additional state estate tax due, interest will be calculated on the additional tax due at the annual variable interest rate described in RCW 82.32.050(2).

(4) **Refunds.** Only the personal representative or the personal representative's retained counsel may make a claim for a refund of overpaid tax. If the application for refund, with supporting documents, is filed within four months after an adjustment or final determination of tax liability, the department shall pay interest until the date the refund is mailed. If the application for refund, with supporting documents, is filed after four months after the adjustment or final determination, the department shall pay interest only until the end of the four-month period. Any refund issued by the department will include interest at the existing statutory rate defined in RCW 82.32.050(2), computed from the date the overpayment was received by the department until the date it is mailed to the estate's representative. RCW 83.100.130(2).

(5) **Heirs of escheat estates.** Heirs to an estate may be located after the estate escheats to Washington. The personal representative of an escheat estate or a claimed heir must provide the department with all information and documentary evidence available that supports the heir's claim. All supporting documents must be in the English language when submitted to the department. The English translation of any foreign document shall be authenticated as reasonably required by the department.

(a) In all cases where there is a court hearing or the taking of a deposition on the question of a claimed heir, the personal representative shall give the department twenty days' written notice of such hearing or matter.

(b) The personal representative must give the department at least twenty days' written notice of the hearing on the final account and petition for distribution.

(c) The department has no statutory authority to pay interest on escheat refunds.

[Statutory Authority: RCW 83.100.200, 02-18-078, § 458-57-045, filed 8/30/02, effective 9/30/02; 00-19-012, § 458-57-045, filed 9/7/00, effective 10/8/00; 99-15-095, § 458-57-045, filed 7/21/99, effective 8/21/99.]

Chapter 458-61 WAC REAL ESTATE EXCISE TAX

WAC

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DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER

458-61-010	Authority. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-010, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-460	Inheritance. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-460, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-020	General provisions pursuant to chapter 82.32 RCW. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-020, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-490	Joint tenancy. [Statutory Authority: RCW 82.45.120 and 82.45.150. 87-03-036 (Order PT 87-1), § 458-61-490, filed 1/16/87; 82-15-070 (Order PT 82-5), § 458-61-490, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-040	Tax imposed. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-040, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-500	Leasehold interest. [Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-500, filed 8/6/86; 82-15-070 (Order PT 82-5), § 458-61-500, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-110	Tax appeals. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-110, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-530	Mining claims. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-530, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-140	Compliance. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-140, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-560	Partnership—Family. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-560, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-240	Care, comfort and support. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-240, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-570	Partnership—Nonfamily. [Statutory Authority: RCW 82.45.120 and 82.45.150. 87-03-036 (Order PT 87-1), § 458-61-570, filed 1/16/87; 82-15-070 (Order PT 82-5), § 458-61-570, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-270	Community property—To establish or separate. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-270, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-620	Sales made before imposition of tax. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-620, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-280	Condemnation. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-280, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-630	Security documents. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-630, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-310	Corporation—Family. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-310, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-680	Trust. [Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-680, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-680, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-320	Corporation—Nonfamily. [Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-320, filed 8/6/86; 84-17-002 (Order PT 84-3), § 458-61-320, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-320, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.	458-61-690	Trustee sale pursuant to deed of trust (nonjudicial). [Statutory Authority: RCW 82.45.120 and 82.45.150. 83-02-022 (Order PT 82-10), § 458-61-690, filed 12/28/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.
458-61-350	Earnest money receipts. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-350, filed 7/21/82.] Repealed by 83-02-022 (Order PT 82-10), filed 12/28/82. Statutory Authority: RCW 82.45.120 and 82.45.150.		
458-61-360	Easement, sale of. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-360, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.		
458-61-380	Federal housing agencies. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-380, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.		
458-61-390	Foreclosure of mortgage, deed in lieu of. [Statutory Authority: RCW 82.45.120 and 82.45.150. 83-02-022 (Order PT 82-10), § 458-61-390, filed 12/28/82; 82-15-070 (Order PT 82-5), § 458-61-390, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25.		
458-61-440	Improvements sold to be removed from the land. [Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-440, filed 7/21/82.] Repealed by 94-04-088, filed 2/1/94, effective 3/4/94.		

WAC 458-61-015 General information. (1) Background. Chapter 82.45 RCW imposes an excise tax on every sale of real estate in this state at the rate of one and twenty-eight one-hundredths percent of the selling price. Unless otherwise specifically exempt from tax, all sales of real property are subject to the real estate excise tax. Chapter 82.46 RCW authorizes counties, cities and towns to impose additional taxes on sales of real property based on the same incidences, collection and reporting methods, as applicable under chapter 82.45 RCW. The taxes imposed are due at the time the sale occurs and are to be collected by the county treasurer upon presentation of the documents of sale for recording in the public records, or by the department in the case of a transfer of a controlling interest in an entity which owns real property located in this state. This chapter provides applicable definitions, describes tax payment, collection and reporting procedures, explains the imposition of penalties and interest on late payment, describes available exemptions from tax, and pro-

vides procedures for refunds of overpaid taxes and appeals from assessments of tax.

(2) **References.** The general provisions for the administration of the state's excise taxes contained in chapter 82.32 RCW apply to the real estate excise tax, except for the following: RCW 82.32.030, 82.32.040, 82.32.050, 82.32.140 and 82.32.270, and the penalties and limitations imposed by RCW 82.32.090.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-015, filed 2/1/94, effective 3/4/94.]

WAC 458-61-025 Taxability of the transfer or acquisition of the controlling interest of an entity with an interest in real property located in this state. (1) **Introduction.** Chapter 25, Laws of 1993 1st ex. sess., effective July 1, 1993, enacted a provision where the transfer of the controlling interest in an entity which has an interest in real property in this state is considered a taxable sale of the entity's real property for purposes of the real estate excise tax. This tax was enacted to equalize the excise tax burdens between other sales of real property and transfers of entity ownership essentially equivalent to sales of real property by extending the real estate excise tax to transfers of a controlling interest in an entity which has an interest in real property located in this state. This section explains the application of those provisions.

(2) **Definitions.**

(a) "Transfer of a controlling interest in an entity" means the transfer or acquisition for a valuable consideration within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state. For purposes of this subsection, all acquisitions of persons acting in concert shall be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place.

(b) "Controlling interest" means:

(i) In the case of a corporation, either fifty percent or more of the total combined voting power of all classes of stock of the corporation entitled to vote, or fifty percent of the capital, profits, or beneficial interest in the voting stock of the corporation; and

(ii) In the case of a partnership, association, trust, or other entity, fifty percent or more of the capital, profits, or beneficial interest in such partnership, association, trust, or other entity.

(iii) Example 1. A and B each own 40% of the voting shares of a corporation. C, D, E and F each own 5% voting shares. C acquires B's 40% interest, and D's and E's 5% interests. This is a taxable acquisition because a controlling interest (50% or more) was acquired by C (40% from B plus 5% from D and 5% from E). However, if C, D and E were to transfer their shares (totaling 15%) to A, those transfers would not be taxable. Although A would own 55% of the corporation, only a 15% interest was transferred and acquired, so the acquisition by A is not taxable.

(iv) Example 2. Consider a limited partnership consisting of a general partner and three limited partners, each possessing a 25% interest. Even though the general partner controls the management and day to day operations, a 25% interest is not a controlling interest. Here, only if someone were to acquire at least a 50% interest from at least two of the part-

ners would the taxable acquisition of a controlling interest occur. If one partner acquires an additional 25% interest from another partner for a total of a 50% interest, no transfer or acquisition of a controlling interest occurs because less than 50% is transferred and acquired.

(v) Example 3. A, B, C and D each own 25% of the voting shares of a corporation. The corporation redeems the shares of B, C and D. A now owns all the outstanding shares of the corporation. A taxable transfer occurred when the corporation redeemed the shares of B, C and D. The measure of the tax is the value of the property owned by the corporation. B, C and D are liable for payment of the real estate excise tax.

(vi) Example 4. A owns 75% of the voting shares of a corporation. A transfers 25% portions of the shares in three separate and unrelated transactions to B, C and D, who are not acting in concert. A taxable transfer of a controlling interest occurs when A transfers 75% of the voting shares of the corporation, even though no one has subsequently acquired a controlling interest. The taxable event occurs upon the transfer of the controlling interest.

(vii) Example 5. Corporation XRAY has 2 stockholders, A and B. A owns 90 shares of stock (90%) and B owns 10 shares of stock (10%). XRAY owns 60% of the stock of Corporation YANKEE, which owns real property. A, by virtue of owning 90% of the XRAY's stock, has a 54% interest in YANKEE (90% interest in XRAY multiplied by the 60% interest XRAY has in YANKEE equals the 54% interest A has in YANKEE). A sells his 90 shares of stock in XRAY to B. A, by selling his 90 shares of XRAY stock, has transferred a controlling interest (54%) in an entity that owns real property (YANKEE). This transfer is subject to the real estate excise tax. The real estate excise tax due is computed on the true and fair value of the real property owned by YANKEE.

(viii) Example 6. Assume the same facts as in Example 3 in (b)(v) of this subsection, except that XRAY owns only 50% of YANKEE's stock. Since A has not transferred and B has not acquired a controlling interest in YANKEE (90% X 50% = 45%), the real estate excise tax does not apply. If, however, XRAY had transferred its 50% interest in YANKEE, that would have been the transfer of a controlling interest and would be subject to the real estate excise tax.

(c) The terms "person" or "company" mean any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state of Washington or any political subdivision thereof, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise and the United States or any agency or instrumentality thereof.

(d) "True and fair value" means market value, which is the amount of money which a willing, but unobliged, buyer would pay a willing, but unobligated, owner for real property, taking into consideration all reasonable, possible uses of the property.

(e) "Twelve-month period" is any period of twelve consecutive months and may span two calendar years.

(f) "Acting in concert" occurs:

(i) When one or more persons have a relationship with each other such that one person influences or controls the actions of another through common ownership. For example,

if a parent corporation and a wholly-owned subsidiary each purchase a 25% interest in an entity, the two corporations have acted in concert and acquired a controlling (i.e., at least 50%) interest in the entity.

(ii) Where individuals or entities are not commonly controlled or owned but the unity of purpose with which purchasers have negotiated and will consummate the acquisition of ownership interests indicates that they are acting together. For example, three separate individuals who decide together to acquire control of a company jointly through separate purchases of 20% interests in the company act in concert when they acquire the interests.

(3) **In general.** In order for the tax to apply when the controlling interest in an entity which has an interest in real property in this state has been transferred, the following must have occurred:

(a) The transfer or acquisition of the controlling interest occurred within a twelve-month period;

(b) The controlling interest was acquired in a single transaction or series of transactions by a single person or a group of persons acting in concert;

(c) The entity has an interest in real property located in this state;

(d) The transfer is not otherwise exempt under chapter 82.45 RCW and chapter 458-61 WAC; and

(e) The transfer was made for valuable consideration.

(4) **Measure of the tax.** The measure of the tax is the selling price of the real property in this state owned by the entity whose controlling interest has been acquired. See WAC 458-61-030(10) for a definition of selling price.

(a) If the price paid does not accurately reflect the true and fair value of the property, one of the following methods may be used to determine the true and fair value:

(i) A fair market value appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made pursuant to section 1060 of the Internal Revenue Code of 1986, as amended.

(b) If the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained on the county property tax rolls at the time of the sale shall be used as the selling price.

(5) **Persons acting in concert.** This tax applies to acquisitions, but not transfers, made by persons acting in concert, as defined in subsection (2)(f) of this section.

(a) Where persons are not commonly controlled or influenced, factors that each indicate whether persons are acting in concert include:

(i) A close relation in time of the transfers or acquisitions;

(ii) Small number of purchasers;

(iii) Mutual terms contained in the contracts of sale; and

(iv) Additional agreements to the sales contract which bind the purchasers to a course of action with respect to the transfer or acquisition.

(b) If the acquisitions are completely independent, with each purchaser buying without regard to the identity of the other purchasers, then the acquisitions shall be considered separate acquisitions.

(c) Example 1. A owns 100% of Corporation, which owns real property. As a group, B, C, D, and E negotiate to acquire all of A's interest in Corporation. B, C, D, and E each acquire 25% of A's interest. The contracts of B, C, D, and E are identical and the purchases occur simultaneously. B, C, D, and E also negotiated an agreement binding themselves to a course of action with respect to the acquisition of Corporation and the terms of the shareholders agreement which will govern their relationship as owners of Corporation. B, C, D, and E are acting in concert and their acquisitions from A are treated as a single acquisition of a controlling interest which is subject to the real estate excise tax.

(d) Example 2. A partnership owns real property and consists of two partners, A and B. Each has a 50% partnership interest. In August of 1993, A and B decide together to transfer a percentage of their partnership interests. On August 20, 1993, A and B each transfer 12 1/2 percent of their respective partnership interests to C (who thereby acquires a 25% partnership interest). On June 27, 1994, A and B each transfer a 15% partnership interest to D (who thereby acquires a 30% partnership interest). Although A and B have acted in concert, they are the transferors of the interest. Only the activities of those persons acquiring the interest are aggregated. Because C and D did not act in concert, their acquisitions cannot be aggregated, and because neither C nor D individually acquired a controlling interest as a result of the transfers, the transfers are not subject to the real estate excise tax.

(6) **Date of sale.** When the controlling interest is acquired in one transaction, the actual date control is transferred shall be considered the date of sale. Examples of when an interest in an entity is transferred include when payment is received by the seller and the shares of stock are delivered to the buyer, or, when payment is received by the seller and partnership documents are signed, etc.

(a) When the acquisition of a controlling interest involves the aggregation of interests of persons acting in concert, the selling price of each transfer or acquisition shall be determined as of the actual date of that transfer or acquisition. The actual date control is transferred, not the date of the contract arranging the transfer, determines whether the transaction falls within the twelve-month period. However, if it can be shown that the sole reason for the delay in transferring control is the avoidance of the tax, then the date of the contract arranging the transfer may determine if the transaction falls within the twelve-month period.

(b) Example 1. A acquires a 10% interest in an entity which owns an apartment building under construction worth \$500,000 from X on January 30. On July 30, A acquires a 30% interest in the same entity from Y, but the building is now worth \$900,000. On September 30, A acquires a 10% interest in the same entity from Z, but the building is now worth \$1,000,000. The final transfer allows A to acquire, within twelve months, a controlling interest in an entity which owns real property. September 30 is the date of sale.

(i) To determine the sellers' proportional tax liability in the example above, view the series of transactions as a whole. Note both the individual and the total interests transferred. Here, X and Z each conveyed 10% interests, while Y conveyed a 30% interest, with a total of a 50% interest being conveyed. To determine the liability percentage for each seller,

divide the interest each conveyed by the total interest conveyed (Here, X and Z: $10/50 = 20\%$; Y: $30/50 = 60\%$). This results in tax liability percentages here for X and Z of 20% each and for Y, 60%.

(ii) To determine the amount of tax owed, apply the percentage to the value of the property at the time of conveyance. In the example above, the value of the property to which the percentage applies is dependent on the time of each transfer (i.e., X's 20% on the \$500,000; Y's 60% on the \$900,000; Z's 20% on the \$1,000,000).

(7) **Tax liability.** When there is a transfer or acquisition of a controlling interest in an entity that has an interest in real property, on or after July 1, 1993, the seller of the interest is generally liable for the tax.

(a) When the seller has not paid the tax by the due date and neither the buyer nor the seller has notified the department of the sale within thirty days of the sale, the buyer is also liable for the tax.

(b) When the buyer has notified the department of the sale within thirty days of the sale, the buyer is absolved from liability for any tax due.

(c) When a controlling interest is transferred by a series of sales, each seller is liable for its proportional share of tax based on the value of the property on the date of sale as provided in subsection (6)(b) of this section.

(8) **Filing of returns.** The transfer of a beneficial interest in real property shall be reported to the department when no instrument is recorded in the official real property records of the county in which the property is located. If the transfer is not taxable due to an exemption, that exemption should be stated on the affidavit.

(a) The sale shall be reported by the seller to the department within five days from the date of the sale on the department of revenue affidavit form, DOR Form 84-0001B. The affidavit form shall be signed by both the seller and the buyer and shall be accompanied by payment of the tax due.

(b) The affidavit form may also be used to disclose the sale, in which case:

(i) It shall be signed by the person making the disclosure; and

(ii) It shall be accompanied by payment of the tax due only when submitted by a seller reporting a taxable sale.

(c) Any person who intentionally makes a false statement on any return or form required to be filed with the department under this chapter shall be guilty of perjury.

(9) **Due date, interest and penalties.** The tax imposed is due and payable immediately on the date of sale. If not paid within thirty days of the date of sale, it shall bear interest at the rate of one percent per month from the date of sale until the date of payment.

(a) In addition to the interest, if the payment of any tax is not received by the department:

(i) Within thirty days of the date due, there shall be assessed a total penalty of five percent of the amount of the tax;

(ii) Within sixty days of the date due, there shall be assessed a total penalty of ten percent of the amount of the tax; and

(iii) Within ninety days of the date due, there shall be assessed a total penalty of twenty percent of the amount of the tax.

(b) The payment of the penalty described in this subsection shall be collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(10) **Transfers after tax has been paid.** When there is a transfer or acquisition of a controlling interest in an entity on or after July 1, 1993, and the real estate excise tax is paid on the transfer and there is a subsequent acquisition of an additional interest in the same entity within the same twelve-month period by a person acting in concert with the previous buyer(s), the subsequent seller is liable for its proportional portion of the tax. After payment by the subsequent seller of its proportional share, the person(s) who previously paid the tax may apply to the department for a refund of the amount overpaid because of the new proportional amount paid as a result of the subsequent transfer or acquisition.

(11) **Exemptions.** As the transfer and acquisition of a controlling interest in an entity which owns real estate in this state is statutorily defined as a "sale" of the real property owned by the entity, the exemptions of chapter 82.45 RCW also apply to the sale of a controlling interest.

(a) Example 1. The merger of a wholly owned subsidiary containing real property located in this state with another subsidiary wholly owned by the same parent is a transfer of a controlling interest. However, this transfer is exempt from taxation on two grounds. First, it is exempt because it is a mere change in form or identity (see WAC 458-61-375). Second, it is exempt because it qualifies under the nonrecognition of gain or loss provisions of the Internal Revenue Code for entity formation, liquidation and dissolution, and reorganization (see WAC 458-61-376).

(b) Example 2. X owns 100% of a corporation. X wants child, C, and corporate manager, M, to be co-owners with X in the corporation. X gives 50% of the voting stock to C and sells 33 1/3% to M. While a controlling interest in the corporation has been transferred to and acquired by C, it is not taxed because generally a gift is an exempt transfer not to be counted for purposes of determining whether a controlling interest has transferred. The sale of the 33 1/3% to M is not a sufficient interest to transfer control, and is not taxed.

(c) Example 3. D owns 75% of the voting stock of a corporation which owns real estate located in this state. D pledges all of its corporate stock to secure a loan with a bank. When D defaults on the loan and the bank forecloses on D's stock in the corporation, the transfer and acquisition of control of the entity is not a taxable transaction because foreclosures of mortgages and other security devices are exempt transfers.

(12) **Transition rules.** Transactions occurring prior to July 1, 1993, are exempt from inclusion in any determination of whether a transfer or acquisition of a controlling interest occurred within a twelve-month period. Only transactions occurring on July 1, 1993, or later, may be used to determine whether a transfer or acquisition of a controlling interest occurred within a twelve-month period.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-025, filed 2/1/94, effective 3/4/94.]

WAC 458-61-030 Definitions. (1) This section defines terms for the purposes of chapter 458-61 WAC, unless otherwise required by the context.

(2) "Affidavit" means the real estate excise tax affidavit, DOR Form 84-0001A, which the department shall prescribe and furnish to the county treasurers for use by taxpayers in reporting transfers of real property. Both the grantor and grantee or agents of each shall sign the affidavit under penalty of perjury. See WAC 458-61-080 for further information. See WAC 458-61-025(8) for filing requirements pertaining to the transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(3) "Consideration" means money or anything of value, either tangible or intangible, paid or delivered, or contracted to be paid or delivered, or services performed or contracted to be performed in return for the sale and includes the amount of any lien, mortgage, contract indebtedness, or other encumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale.

(a) "Consideration" includes the issuance of an ownership interest in any entity in exchange for a transfer of real property to the entity. In the case of partnerships, consideration includes the increase in the capital account of the partner made as a result of the partner's transfer of real property to the partnership, but notwithstanding the presence of consideration, such a transfer may not be taxable if it is specifically exempt under WAC 458-61-375 or 458-61-376.

(b) "Consideration" does not include the amount of any outstanding lien or encumbrance in favor of the United States, the state, or a municipal corporation for taxes, special benefits, or improvements.

(4) "Department" means the Washington state department of revenue.

(5) "Mortgage" has its ordinary meaning and shall include a "deed of trust" for the purposes of these rules, unless the context clearly indicates otherwise.

(6) "Real estate" or "real property" means any interest, estate or beneficial interest in land or anything affixed to land, including the ownership interest or beneficial interest in any entity which itself owns land or anything affixed to land. The term also includes used mobile homes and used floating homes and improvements constructed upon leased land. (RCW 82.45.032)

(7) "Real estate contract" or "contract" means any written agreement for the sale of real property in which legal title to the property is retained by the seller as security for the payment of the purchase price. The terms "real estate contract" or "contract" do not include earnest money agreements or options to purchase real property.

(8) "Sale" has its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, exchange, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration.

(a) "Sale" also includes any contract for such conveyance, grant, assignment, quitclaim, exchange, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person at the purchaser's direction, and title to the property is retained by the vendor as security for the payment of the purchase price. (RCW 82.45.010)

(b) "Sale" also includes the grant, assignment, quitclaim, sale, or transfer of improvements constructed upon leased land.

(c) "Sale" also includes the transfer or acquisition within any twelve-month period of a controlling interest in any entity with an interest in real property located in this state for valuable consideration. For purposes of this chapter, all acquisitions of persons acting in concert shall be aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place.

(d) "Sale" does not include those real property transfers which are excluded from the definition of "sale" and exempted from the real estate excise tax by RCW 82.45.010 and this chapter, including transfers where no valuable consideration is present. See also WAC 458-61-225, Assumption of debt, and WAC 458-61-374, Exemption—Transfers "subject to."

(9) "Seller" means any individual, receiver, assignee, trustee for a deed of trust, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, limited liability company, business trust, municipal corporation, quasi municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; but it shall not include the United States or the state of Washington or any political subdivision thereof, or a municipal corporation of this state. The term "grantor" is used interchangeably with the term "seller" in this chapter and has the same meaning provided in this subsection for purposes of the real estate excise tax. (RCW 82.45.020)

(10) "Selling price" means the true and fair value of the property conveyed. A rebuttable presumption exists that the true and fair value is equal to the total consideration paid or contracted to be paid to the transferor or to another for the transferor's benefit.

(a) When the price paid does not accurately reflect the true and fair value of the property, one of the following methods may be used to determine the true and fair value:

(i) A fair market value appraisal of the property; or

(ii) An allocation of assets by the seller and the buyer made pursuant to section 1060 of the Internal Revenue Code of 1986, as amended.

(b) When the true and fair value of the property to be valued at the time of the sale cannot reasonably be determined by either of the methods in (a) of this subsection, the market value assessment for the property maintained on the county property tax rolls at the time of the sale shall be used as the selling price. (RCW 82.45.030)

(c) When the sale is that of a fractional interest in real property, the principal balance of any such debt remaining unpaid at the time of sale shall be multiplied by that same fraction and the result added as a component of the total sales price.

(11) "Date of transfer," "date of sale," "conveyance date" and "transaction date" all have the same meaning and may be used interchangeably in this chapter. These terms refer to the date (normally shown on the instrument of conveyance or sale) when ownership of or title to real property, or control of the controlling interest in an entity which has a beneficial interest in real property, is delivered to the transferee in

exchange for valuable consideration. This is the date on which the real estate excise tax is due.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-030, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 87-12-016 (Order PT 87-4), § 458-61-030, filed 5/27/87; 87-03-036 (Order PT 87-1), § 458-61-030, filed 1/16/87; 86-16-080 (Order PT 86-3), § 458-61-030, filed 8/6/86; 84-17-002 (Order PT 84-3), § 458-61-030, filed 8/2/84; 83-02-022 (Order PT 82-10), § 458-61-030, filed 12/28/82; 82-15-070 (Order PT 82-5), § 458-61-030, filed 7/21/82. Formerly chapter 458-60 WAC.]

GENERAL PROVISIONS

WAC 458-61-050 Payment of tax—County treasurer as agent for the state. (1) This section applies only to sales of real property which are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of the ownership of or title to real property. See WAC 458-61-025 for procedures pertaining to the transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) The real estate excise tax is to be paid to and collected by the treasurer of the county where the real property is located. The law requires the county treasurer to act as the department's agent in carrying out the provisions of chapter 82.45 RCW and these rules.

(3) The tax is computed by multiplying the combined state and local tax rates in effect at the time of sale by the selling price.

(4) The county treasurer shall stamp the instrument of sale or conveyance, or the real estate excise tax affidavit in the case of used mobile home sales, prior to its recording as evidence of the payment of the tax imposed or entitlement to exemption. However, a stamp indicating payment of tax or entitlement to exemption will not be conclusive as to the taxpayer's liability and will be subject to audit by the department. The stamp shall refer to the affidavit number, date and amount of the payment and shall be initialed by the person stamping the instrument or affidavit. The county treasurer shall not stamp the instrument of sale or conveyance unless one of the following criteria is met:

(a) Continuance of use has been approved by the county assessor under chapter 84.33 or 84.34 RCW;

(b) Compensating or additional taxes have been collected as required by RCW 84.33.120 (5)(b) and (e), 84.33.140 (1)(c), 84.34.108 (1)(c), 84.36.812, or 84.26.080; or

(c) The transfer is not subject to the compensating or additional taxes referred to in (b) of this subsection.

(5) Delay in either securing the approval of continuance of use or payment of the compensating tax will not prevent the imposition of interest or penalties for delinquent payment imposed by RCW 82.45.100. However, payment of the real estate excise tax will stop the accrual of additional delinquent interest and penalties.

(6) A receipt issued by the county treasurer for the payment of the tax shall be evidence of the satisfaction of the lien imposed under RCW 82.45.070 and may be recorded in the manner prescribed for recording the satisfaction of mortgages.

(7) No instrument evidencing a sale subject to the tax shall be accepted by the county auditor for filing or recording

until the tax has been paid and the stamp has been affixed as provided in this section.

(a) When no tax is due on the transfer, the instrument shall not be accepted until suitable notation of such fact has been made on the instrument by the county treasurer.

(b) In addition, unless the compensating or additional tax has been paid, or the new owner has signed a notice of continuance which is stated on or attached to the excise tax affidavit, no instrument of conveyance shall be filed or recorded by the county auditor or recorder if such property is:

(i) Classified or designated as forest land under chapter 84.33 RCW;

(ii) Classified as open space land, farm and agricultural land, or timber land under chapter 84.34 RCW; or

(iii) Receiving a special valuation as historic property under chapter 84.26 RCW.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-050, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 87-03-036 (Order PT 87-1), § 458-61-050, filed 1/16/87; 86-16-080 (Order PT 86-3), § 458-61-050, filed 8/6/86; 82-15-070 (Order PT 82-5), § 458-61-050, filed 7/21/82.]

WAC 458-61-060 Disposition of proceeds. (1) The county treasurer shall place one percent of the proceeds of the tax imposed by chapter 82.45 RCW exclusive of any delinquent interest and/or penalties in the county current expense fund to defray costs of collection and shall pay over to the state treasurer and account to the department for the remainder of the proceeds at the same time the county treasurer remits funds to the state under RCW 84.56.280. (RCW 82.45.180)

(2) Any requests from county treasurers for adjustments to the funds which have been distributed to the state treasurer must be sent to the department for approval or denial. The department will forward all such requests which it approves to the state treasurer and return the requests it denies to the county treasurers along with an explanation for such denial.

(3) Tax payments made directly to the department shall be remitted to the state treasurer who shall deposit the proceeds of any state tax in the general fund for the support of the common schools. The state treasurer shall deposit the proceeds of any local taxes imposed under chapter 82.46 RCW in the local real estate excise tax account. Monthly the state treasurer shall make distribution from the local real estate excise tax account to the counties, cities, and towns the amount of tax collected on behalf of each taxing authority.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-060, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-060, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-060, filed 7/21/82.]

WAC 458-61-070 Affidavit batch transmittal. (1) By the fifth business day following the close of the month in which the tax was received, the county treasurers shall send to the department the department's copies of the real estate excise tax affidavits for the entire month. This affidavit batch shall include all affidavits receipted during the month, plus copies of any documents related to refunds made by the county treasurers.

(2) County treasurers will complete the affidavit batch transmittal form, supplied by the department, and send one copy with the affidavit batch to the department. The county

treasurer will send a second copy of the affidavit batch transmittal with the monthly cash receipts journal summary to the state treasurer's office as documentation for the remittance of the real estate excise tax deposit. County treasurers shall use the adjustment area provided on the batch transmittal form to reflect any refunds made during the month and shall attach all refund documentation to the batch transmittal form that accompanies the affidavit batch.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-070, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-070, filed 7/21/82.]

WAC 458-61-080 Affidavit requirements. (1) This section applies only to sales of real property which are evidenced by conveyance, deed, grant, assignment, quitclaim, or transfer of the ownership of or title to real property. See WAC 458-61-025(8) for filing requirements pertaining to the transfers and acquisitions of a controlling interest in an entity owning real property in the state of Washington.

(2) The law requires the department to prescribe a form of real estate excise tax affidavit to be completed by taxpayers and filed with the county treasurer of the county where the transferred property is located. Affidavit forms will be furnished by the department to the county treasurers for this purpose.

(a) Each county shall use the affidavit form prescribed and furnished by the department.

(b) The affidavit shall be signed by both the grantor and the grantee, or the agent of either, under oath attesting to all required information.

(3) When affidavit is required. Except for the transfers listed under subsection (4) of this section, the real estate excise tax affidavit is required for all transfers of real property including, but not limited to, the following:

(a) Conveyance from one spouse to the other as a result of a decree of divorce or dissolution of a marriage, or in fulfillment of a settlement agreement incident to a divorce;

(b) Conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding or for the execution of a judgment;

(c) Conveyance made pursuant to the provisions of a deed of trust;

(d) Conveyance of an easement which is taxable;

(e) A deed in lieu of foreclosure of mortgage;

(f) A deed in lieu of forfeiture of a real estate contract;

(g) Conveyance to the heirs in the settlement of an estate;

(h) Conveyance to or from the United States, the state of Washington, or any political subdivision or municipal corporation of this state;

(i) A declaration of forfeiture of a real estate contract;

(j) Conveyance of development rights, water rights, or air rights;

(k) A lease of real property that transfers lessee-owned improvements;

(l) A boundary line adjustment; and

(m) A rerecording of a document.

(4) When affidavit is not required. The real estate excise tax affidavit is not required for the following and county treasurers shall not take affidavits for these specific types of transactions:

(a) Conveyance of cemetery lots or graves;

(b) Conveyance for security purposes only and the instrument states on the face of it:

(i) For security only;

(ii) To secure a debt;

(iii) Assignment of a debt;

(iv) For collateral purposes only;

(v) Release of collateral; or

(vi) To release security;

(c) A lease of real property that does not transfer lessee-owned improvements;

(d) A mortgage or deed of trust or a satisfaction of mortgage or reconveyance of a deed of trust;

(e) Conveyance of an easement which is not taxable (see WAC 458-61-335);

(f) A seller's assignment of deed and contract;

(g) A fulfillment deed pursuant to a real estate contract;

(h) A community property agreement under RCW 26.16.120;

(i) Options to purchase; and

(j) An earnest money agreement.

(5) Claims of exemption from the real estate excise tax must be specific. All affidavits which state claims for tax exemption must show:

(a) Current assessed values of parcels involved as of the date of sale; and

(b) Complete reasons for exemptions, including reference to the specific tax exemption in this chapter, citing the specific WAC section and subsection providing the exemption as well as a brief description of the exemption.

(i) Example 1. A quitclaim deed is a conveyance instrument. It is not, in itself, a reason for tax exemption. A valid tax exemption must be shown on the affidavit. Consider a developer who deeds a street in the development to the homeowners association upon the completion of the development. The developer gives the development a quitclaim deed to the street in order to clear title. WAC 458-61-255 (3)(b) should be cited as the exemption, which could be briefly described as "clearing title." An explanatory narrative, as provided for in that section, should be attached to the affidavit.

(ii) Example 2. A corporation transfers its interest in real property to a wholly owned subsidiary. WAC 458-61-375 (2)(c) should be cited as the exemption, which could be briefly described as "no beneficial ownership change."

(6) When the transfer of property is to two or more grantees, the affidavit must clearly state the relationship between them such as joint tenants, tenants in common, partners, etc., and the form and proportion of interest that they are each acquiring.

(7) In the case of a used mobile home that is sold with the land upon which it is located, the county treasurer may require the completion of either two affidavits, both real and mobile home, or a single real property affidavit. At the county treasurer's option, a separate mobile home affidavit may not be required if the real property affidavit lists the make, model, year, size and serial number of the unit. Such information should be contained as a separate item within the legal description portion of the affidavit.

(8) County treasurers shall not accept incomplete affidavits. Taxpayers must furnish complete and accurate informa-

tion on affidavits as well as complete documentation for claimed tax exemptions.

(a) The county treasurers have the responsibility to require that taxpayers or their agents furnish proper documentation.

(b) An affidavit is incomplete if any required information is omitted or obviously incorrect, such as the use of a nominal selling price. A nominal selling price is an amount stated on the affidavit which is so low in comparison with the fair market value assessment stated on the property tax rolls so as to cause disbelief by a reasonable person. In the case of a nominal selling price, the county assessed value shall be used as the selling price.

(9) To accommodate the requirement that the affidavit be signed by both the grantor and grantee or agents of each, identical affidavits may be submitted for a transaction, one bearing the grantor's signature or that of their agent and one bearing the grantee's signature or that of their agent. Both affidavits must be complete and have identical information. The county treasurer will receipt the affidavit signed by the taxpayer (grantor or grantee) and the other affidavit will not be receipted but will become an attachment to the first.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-080, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 87-03-036 (Order PT 87-1), § 458-61-080, filed 1/16/87; 86-16-080 (Order PT 86-3), § 458-61-080, filed 8/6/86; 84-17-002 (Order PT 84-3), § 458-61-080, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-080, filed 7/21/82.]

WAC 458-61-090 Date of sale—Interest and penalty.

(1) **Introduction.** The tax imposed under chapter 82.45 RCW (Excise tax on real estate sales) is due and payable to the county treasurer as of the date of sale. This rule explains how to determine the date of sale. It also explains the application of interest and penalties when the tax liability is not paid within one month of the date of sale.

(2) **Date of sale.** The tax imposed under chapter 82.45 RCW is due and payable to the county treasurer as of the date of sale, whether or not the contract of sale or instrument of conveyance is recorded at that time.

(a) When a contract of sale or instrument of conveyance is signed and delivered by the grantor to an escrow agent licensed under chapter 18.44 RCW (Escrow Agent Registration Act), a title company, a title insurance company, or an attorney at law acting as an escrow agent, with instructions to deliver the instrument to the grantee upon the fulfillment of one or more conditions, the date of sale will be presumed to be the date that the instrument is presented for recording, subject to the following:

(i) A statement, as provided by WAC 458-61-150, signed by the escrow agent, the title company agent, the title insurance company agent, or attorney, is attached to the affidavit indicating that the instrument was delivered to such person in the capacity of an escrow agent; and

(ii) The date shown on the instrument is not more than ninety days prior to the date the affidavit is presented to the county treasurer for filing.

(b) In all other cases the date of sale will be presumed to be the date shown on the instrument. A taxpayer alleging a date of sale other than the instrument date has the burden of

proving that delivery of title or ownership of the property in exchange for consideration occurred on the date alleged.

(3) **Interest.** If the tax is paid within one month of the date of sale, interest will not be imposed. If the tax is not paid within one month of the date of sale, interest will be imposed on the total amount of the unpaid tax (both the state and local components) from the date of sale to the date of full payment. RCW 82.45.100(1) and 82.46.010(5). This interest is calculated on a monthly basis with a full month's interest accruing at the beginning of each month. Even if the full payment is not made at the end of a month, any portion of a month existing at the time of full payment will accrue a full month of interest. (See subsection (2)(b)(i) and (ii) and (c)(i) of this rule for examples of how interest is calculated and what day of each month interest accrues.)

(a) Interest imposed before January 1, 1999, is computed at the rate of one percent per month or portion of a month.

(b) Effective January 1, 1999, as a result of interest rate changes introduced in chapter 157, Laws of 1997, interest is computed per month or portion of a month at an annual variable interest rate determined as per RCW 82.32.050(2). This interest rate is adjusted on the first day of each January. The rate applied to any given month or portion of a month is the annual variable interest rate in effect at the beginning of that month, divided by twelve. Any interest imposed for a month or portion of a month that starts in December will be imposed at the interest rate effective in December, even though the interest rate may change on January 1st. The department of revenue will provide written notification to the county treasurers of the variable rate on or before December 1st of the year preceding the calendar year in which the variable interest rate applies. Other persons interested in the annual variable interest rate may contact the department of revenue special programs division directly.

(i) For example, assume a taxable real estate transaction with a November 20, 1998, date of sale. The original tax due is one thousand dollars and full payment is received on March 15, 1999. Interest begins on November 21st (the day after the date of sale). Prior to January 1, 1999, the interest rate for real estate excise tax is one percent per month. For this example only, assume that an annual variable interest rate of nine percent is effective on January 1, 1999, which is a monthly rate of seventy-five hundredths of a percent (nine percent annual variable interest rate divided by twelve months). Four months of interest is due and is computed as follows:

Nov 21 to Dec 20, 1998	\$1,000 tax at 1% per month	\$10.00
Dec 21 to Jan 20, 1999	\$1,000 tax at 1% per month	\$10.00
Jan 21 to Feb 20, 1999	\$1,000 tax at .75% per month	\$ 7.50
Feb 21 to Mar 15, 1999	\$1,000 tax at .75% per month	\$ 7.50
Total additional interest due with March 15, 1999, payment		\$35.00

In this example, note that a full month's interest applies effective February 21st even though the period of February 21st through March 15th is only a partial month.

(ii) As an additional example, assume a taxable real estate transaction with a February 1, 1999, date of sale. The original tax due is one thousand dollars and full payment is received on April 15, 1999. Interest begins on February 2nd (the day after the date of sale). For this example, assume that an annual variable interest rate of nine percent is effective on

January 1, 1999. Three months of interest is due and is computed as follows:

Feb 2 to Mar 1, 1999	\$1,000 tax at .75% per month	\$ 7.50
Mar 2 to Apr 1, 1999	\$1,000 tax at .75% per month	\$ 7.50
Apr 2 to Apr 15, 1999	\$1,000 tax at .75% per month	\$ 7.50
Total additional interest due with April 15, 1999, payment		\$22.50

(c) When interest must be calculated in a shorter month that does not have a day corresponding to the original date of sale, interest is computed on the first day of the following calendar month.

For example, assume a real estate transaction with a January 30th date of sale and a payment date of May 10th. Since February has only twenty-eight days (assuming it is not a leap year), the 28th of February most closely corresponds to the January 30th date of sale. If the tax liability is not paid on or before the last day of February (within one month of the date of sale), the liability is delinquent and the first two months of interest will be added on March 1st (the first day of the following calendar month). Interest begins on January 31st (the day after the date of sale). By the time the May 10th payment is made, four months of additional interest are due. For this example, assume that the original tax due is one thousand dollars and the annual variable interest rate is nine percent. The interest is computed as follows:

Jan 31 to Feb 28, 1999	\$1,000 tax at .75% per month	\$ 7.50
Mar 1 to Mar 30, 1999	\$1,000 tax at .75% per month	\$ 7.50
Mar 31 to Apr 30, 1999	\$1,000 tax at .75% per month	\$ 7.50
May 1 to May 10, 1999	\$1,000 tax at .75% per month	\$ 7.50
Total additional interest due with May 10, 1999, payment		\$30.00

(4) **Penalty.** In addition to the interest described in subsection (3) of this section, if the payment of any tax is not received by the county treasurer within one month of the date of sale a delinquent penalty applies. This penalty is imposed on the total amount of the unpaid tax (both state and local components). RCW 82.45.100(2) and 82.46.010(5).

(a) If tax is not paid:

(i) Within one month of the date of sale, a penalty of five percent of the amount of the tax will be added to the tax due;

(ii) Within two months of the date of sale, a total penalty of ten percent shall be added to the tax due; and

(iii) Within three months of the date of sale, a total penalty of twenty percent will be added to the tax due.

(b) Penalties will be assessed only against the grantor and will not be included in the lien arising under RCW 82.45.070.

[Statutory Authority: RCW 82.45.150 and 82.32.300. 99-14-053, § 458-61-090, filed 6/30/99, effective 7/31/99. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-090, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-090, filed 7/21/82.]

WAC 458-61-100 Refunds of tax paid. (1) **Introduction.** Taxpayers who have paid the real estate excise tax or who have received a notice of assessment of tax and who wish to contest the application of the real estate excise tax to a particular transfer may file a petition for refund or correction of assessment as provided in this section. Only the taxpayer or the taxpayer's authorized agent may petition for a refund of tax.

(2005 Ed.)

(2) **Petitioning for a refund.** Any person who has overpaid any tax, interest, or penalty, may apply for a refund within four years from the date of sale by petitioning in writing for a refund of the amount overpaid. Claims for refund are to be made on forms prescribed by the department and made available at the county treasurers' offices and at the department.

(a) The taxpayer shall submit the completed form and all documentation supporting the claim for refund to the county treasurer's office in the county where the tax was originally paid.

(b) If the taxpayer originally paid the tax directly to the department or wants to petition for the correction of an assessment, the form and supporting documentation shall be submitted to the department in accordance with the requirements of WAC 458-20-100, appeal procedures.

(3) **County treasurer's responsibilities—Petition received prior to sending affidavit to department.** If the taxpayer submits the petition for refund before the county treasurer has sent to the department the copy of the affidavit which receipted the tax payment now in question, the county treasurer is authorized to void the receipted affidavit copies, based upon the criteria listed in subsection (5) of this section, and issue the refund. If the county treasurer authorizes and issues such refund, the voided copy of the affidavit, with a copy of the refund petition attached, must be included in the monthly affidavit batch sent to the department. If the county treasurer does not authorize such refund, the treasurer shall send the petition for refund, along with a copy of the affidavit and all supporting records, to the department. The procedure for petitions sent to the department shall follow subsection (4) of this section.

(4) **County treasurer's responsibilities—Petition received after sending affidavit to department.** If the taxpayer submits the petition for refund after the county treasurer has sent to the department the copy of the affidavit which receipted the payment now in question, the county treasurer shall verify the information on the petition and forward it to the department with a copy of the affidavit and any other supporting records furnished by the taxpayer. The department shall approve or deny the refund. The taxpayer may then appeal the imposition of the tax under the appeal procedures. See WAC 458-20-100, appeals procedures. If such petition is denied, the department will return to the petitioner all supporting documents which are submitted with the petition for refund.

(5) **Circumstances under which a refund of tax is authorized.** The authority to issue tax refunds under this chapter is limited to:

(a) The conveyance back to the grantor for transactions that are completely rescinded as defined in WAC 458-61-590;

(b) The conveyance back to the grantor for sales rescinded by court order. In such case a copy of the court decision must be attached to the department's affidavit copy by the county treasurer (see also WAC 458-61-330: Foreclosure—Deeds in lieu of foreclosure);

(c) The initial conveyance recorded in error by an escrow agent before the closing date, provided the property is conveyed back to the grantor;

(d) The conveyance back to the grantor in (c) above;

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(e) The initial conveyance recorded before a purchaser assumes an outstanding loan that represents the only consideration to be paid for the property, provided (i) the purchaser is unable to assume the loan and (ii) the property is conveyed back to the grantor. The refund is allowed because the transaction lacked valuable consideration;

(f) The conveyance back to the grantor in (e) above;

(g) Double payment of the tax;

(h) Overpayment of the tax through error of computation; and

(i) Failure of a taxpayer to claim tax exemption for a transfer which was properly exempt.

[Statutory Authority: RCW 82.45.150, 82.32.300, and 82.01.060(2). 03-18-023, § 458-61-100, filed 8/25/03, effective 9/25/03. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-100, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-100, filed 8/6/86; 84-17-002 (Order PT 84-3), § 458-61-100, filed 8/2/84; 83-02-022 (Order PT 82-10), § 458-61-100, filed 12/28/82; 82-15-070 (Order PT 82-5), § 458-61-100, filed 7/21/82.]

WAC 458-61-120 Evasion penalty. (1) The department shall apply a penalty of fifty percent of the proper tax due, or remaining due after insufficient payment, to taxable real estate transfers involving an intent to evade the payment of tax. For this purpose, intent to evade means knowingly making false statements or taking actions so as to intentionally fail to pay the proper real estate excise tax due.

(2) Intent to evade the tax is illustrated by, but not limited to, the following examples:

(a) Knowingly stating a false selling price;

(b) Knowingly stating a sale as a gift; or

(c) Knowingly claiming a false reason for tax exemption.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-120, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-120, filed 7/21/82.]

WAC 458-61-130 Department audit responsibility.

(1) The department shall conduct audits of transactions and determine any underpayment of tax. If the department discovers an underpayment, it shall notify taxpayers and assess the additional tax due as well as all applicable interest and penalties. Deficiency notices will inform taxpayers of the amount owing and set forth reasons for the assessment.

(2) If the taxpayer receiving a notice of deficiency has not answered it within thirty days after the department mailed it, the department shall enforce the collection of the deficient tax through the administrative provisions in chapter 82.32 RCW.

(3) Any person may request from the department a predetermination of real estate excise tax liability pertaining to any proposed transfer of real property or to any proposed transfer or acquisition of the controlling interest of an entity with an interest in real property. Requests for predetermination of liability should be accompanied by sufficient facts to enable the department to ascertain the proper tax liability. The department shall advise the taxpayer in writing of its opinion. The opinion shall be binding upon both the taxpayer and the department under the facts presented in accordance with WAC 458-20-100(9), appeals, small claims and settlements. Address predetermination requests to:

Department of Revenue
Taxpayer Information & Education
P.O. Box 47478
Olympia, WA 98504-7478

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-130, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-130, filed 7/21/82.]

WAC 458-61-150 Supplemental statements. (1) The department shall provide the county treasurer offices with a uniform multiuse supplemental statement form for use in meeting the requirements of the following sections of this chapter:

(a) WAC 458-61-090(5), Interest and penalties—Date of sale

(b) WAC 458-61-410 (3)(a), Gifts

(c) WAC 458-61-375 (2)(g)(iii), Exemption—Mere change in identity or form—Family corporations and partnerships (cited subsection only)

(d) WAC 458-61-480, IRS "tax deferred" exchange

(e) WAC 458-61-550, Nominee

(2) The supplemental statements shall be completed as required by the instructions contained on the form and by each of the sections listed in subsections (1)(a) through (e) of this section.

(3) The county treasurer shall distribute the supplemental statement as follows:

(a) Original attached to original of affidavit;

(b) First copy attached to the department's copy of the affidavit;

(c) Second copy attached to the assessor's copy of the affidavit; and

(d) Third copy attached to the taxpayer's copy of the affidavit.

(4) Except for the notary requirements of WAC 458-61-375 (2)(g) and 458-61-550, supplemental statements are to be unsworn written statements which meet the requirements set forth in RCW 9A.72.085.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-150, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 87-03-036 (Order PT 87-1), § 458-61-150, filed 1/16/87; 86-16-080 (Order PT 86-3), § 458-61-150, filed 8/6/86.]

TAXABILITY OF TRANSFERS

WAC 458-61-200 Apartments. The real estate excise tax applies to the sales of individual apartments by the owner of an apartment building which entitles the grantee to a warranty deed upon completion of payments.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-200, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-200, filed 7/21/82.]

WAC 458-61-210 Assignments—Purchasers. (1) The real estate excise tax does not apply to assignments of a purchaser's interest in an earnest money agreement when neither the earnest money agreement nor its assignment effect a present transfer of the title to or ownership of real property.

(2) The real estate excise tax applies to transfers when the purchaser of real property under a real estate contract

assigns the purchaser's interest in the contract and receives valuable consideration for that interest.

(3) The taxable value is all consideration paid or contracted to be paid to the grantor of such assignment, including any unpaid principal balance due on the assigned real estate contract.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-210, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 87-03-036 (Order PT 87-1), § 458-61-210, filed 1/16/87; 86-16-080 (Order PT 86-3), § 458-61-210, filed 8/6/86; 84-17-002 (Order PT 84-3), § 458-61-210, filed 8/2/84; 83-02-022 (Order PT 82-10), § 458-61-210, filed 12/28/82; 82-15-070 (Order PT 82-5), § 458-61-210, filed 7/21/82.]

WAC 458-61-220 Assignments—Sellers. (1) The real estate excise tax does not apply when a seller of real property under a real estate contract assigns any interest in the contract to a third party. The real estate excise tax affidavit is not required.

(2) The instrument of assignment must be stamped by the county treasurer as required by WAC 458-61-050. The stamp shall cross-reference the number of the affidavit relating to the contract being assigned.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-220, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-220, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-220, filed 7/21/82.]

WAC 458-61-225 Assumption of debt. (1) In addition to other circumstances where valuable consideration passes between the parties, the real estate excise tax applies to transfers of real property when an underlying debt on the property is assumed by the grantee.

(2) The measure of the tax is the combined amount of the debt and any other additional consideration.

(3) See WAC 458-61-374 for the transfers made when the grantor has no personal liability for the underlying debt.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-225, filed 2/1/94, effective 3/4/94.]

WAC 458-61-230 Bankruptcy. (1) The real estate excise tax does not apply to conveyances of real property by a trustee in bankruptcy or debtor in possession made under either a chapter 11 plan or chapter 12 plan after the bankruptcy plan is confirmed.

(2) The date when the bankruptcy plan was confirmed, the court case cause number, and the bankruptcy chapter number must be cited on the affidavit when claiming this exemption.

[Statutory Authority: RCW 82.32.300, 84.45.150, 11 U.S.C. sec. 1146(c) and 12 U.S.C. sec. 1231(c). 00-09-002, § 458-61-230, filed 4/5/00, effective 5/6/00. Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-230, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 90-01-003, § 458-61-230, filed 12/7/89, effective 1/7/90; 86-16-080 (Order PT 86-3), § 458-61-230, filed 8/6/86; 84-17-002 (Order PT 84-3), § 458-61-230, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-230, filed 7/21/82.]

WAC 458-61-235 Boundary line adjustments. (1) The real estate excise tax does not apply to a boundary line adjustment between contiguous parcels of real property if no substantial amount of property is exchanged and no other consid-

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eration, other than resolution of the actual or potential boundary dispute, is given for the transfer.

(2) The real estate excise tax applies if a substantial amount of property is exchanged. See WAC 458-61-370, Exchanges—Trades.

(3) An affidavit is required for any transfer evidenced by a conveyance instrument whether or not consideration is present.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-235, filed 2/1/94, effective 3/4/94.]

WAC 458-61-250 Cemetery lots or graves. The real estate excise tax does not apply to the sale of lots or graves in an established cemetery. An established cemetery is one which meets the requirements for ad valorem property tax exemption under RCW 84.36.020.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-250, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-250, filed 7/21/82.]

WAC 458-61-255 Clearing title. (1) **In general.** The real estate excise tax does not apply to quitclaim deeds given for the purpose of clearing title only when no consideration passes otherwise. When any consideration is given for the clearance of title, the real estate excise tax applies to the transaction. A deed given to add a person to title for any purpose does not qualify for treatment under this section.

(2) **Documentation.** A narrative which explains the nature of the clearance of title must be signed by both grantor and grantee, or agents of either, and attached to the real estate excise tax affidavit. The original narrative will be retained with the original affidavit at the county treasurer's office and a copy of the narrative will be attached to the department's affidavit copy.

(3) **Examples.** Real estate excise tax would not apply in the following situations:

(a) An exiting minority partner gives the partnership a quitclaim deed for the purpose of removing any presumptive interest; or

(b) A developer deeds greenbelts, streets or common areas in a development to the homeowners association upon completion of the development and under the terms and covenants of the development.

(c) Parents, who have been on title as co-signors for their child's loan, are now issuing a quitclaim deed to exit title. The narrative accompanying the affidavit for this transfer must state that the co-signor was not a co-purchaser of the property and did not make payments toward the repayment of the loan.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-255, filed 2/1/94, effective 3/4/94.]

WAC 458-61-290 Contract. An owner of real property is subject to payment of the real estate excise tax upon the entry of each successive contract for the sale of the same piece of real property. Each such contract constitutes a "sale" of real property subject to the tax. (See also WAC 458-61-100: Refunds of tax paid.)

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-290, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW

82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-290, filed 8/6/86; 82-15-070 (Order PT 82-5), § 458-61-290, filed 7/21/82.]

WAC 458-61-300 Contractor. (1) If land is deeded to a contractor with an agreement to reconvey the property after construction of an improvement, the real estate excise tax does not apply to either the first conveyance or to the reconveyance when:

(a) The land is deeded for the sole purpose of enabling the contractor to obtain financing for the construction of the improvement on the property conveyed; and

(b) The agreement to reconvey is contained in a written statement made prior to the original conveyance.

(2) When the requirements of subsection (1) of this section have been met, the deed to the contractor, although absolute on its face, will be treated as creating a security interest only. However, the sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW (see Excise Tax Bulletin 275.08.170). Real estate excise tax affidavits are required for both the original conveyance and the reconveyance. The affidavit must contain wording to the effect that the purpose of the transfers is for construction and security purposes only. The affidavit for reconveyance must refer to the date and number of the original affidavit.

(3) If a contractor, acting under the terms of a contract, purchases land on behalf of a customer for the purposes of constructing an improvement, the later conveyance of the property to the customer is not subject to the real estate excise tax provided the requirements of WAC 458-61-550, Nominee, are met. The sales price of the improvement is subject to retail sales tax under chapter 82.08 RCW and business and occupation tax under chapter 82.04 RCW.

(4) When the owner of a lot contracts to have an improvement built upon the lot and retains title to the land, or when a lessee contracts to have an improvement built upon the lot and retains the leasehold interest, the real estate excise tax does not apply to the purchase of the improvement.

(5) When a speculative builder owns a lot and builds an improvement upon it, the subsequent sale of land and improvement is subject to the real estate excise tax. When a speculative builder sells a parcel of property with a partially constructed improvement on the understanding that the builder will complete the improvement, the real estate excise tax applies to the percentage of the project complete at the time of transfer. The retail sales tax applies to that portion of the selling price representing the construction to be completed after transfer.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-300, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-300, filed 7/21/82.]

WAC 458-61-330 Foreclosure—Deeds in lieu of foreclosure. (1) The real estate excise tax does not apply to any transfer or conveyance made pursuant to an order of sale by a court in any mortgage or lien foreclosure proceeding or upon execution of a judgment. This exemption includes a court ordered sale of real property by a trustee under the terms of a deed of trust. Real estate excise tax affidavits which state claims for this tax exemption must cite the cause number of

the foreclosure proceeding on the affidavit and the conveyance document. A copy of the court decision must be attached to the department's affidavit copy by the county treasurer.

(2) The real estate excise tax does not apply to the following transfers where no additional consideration passes:

(a) A transfer of real estate by deed from a mortgagor to the mortgagee in lieu of foreclosure; or

(b) A transfer from a contract purchaser to the contract holder in lieu of forfeiture of a contract of sale upon default of the underlying obligation; or

(c) A transfer occurring through the cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, such as a declaration of forfeiture made under the provisions of RCW 61.30.070.

(3) The real estate excise tax does not apply to the foreclosure sale of real property by the trustee under the terms of a deed of trust, whether to the beneficiary listed on that deed or to a third party.

(4) A copy of the recorded original mortgage, deed of trust or contract of sale must be attached to the real estate excise tax affidavit provided to the department.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-330, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-330, filed 7/21/82.]

WAC 458-61-335 Easements, development rights, water rights and air rights. (1) The real estate excise tax applies to the conveyance of an easement for the use of real property in return for valuable consideration. A taxable sale has not occurred if valuable consideration does not pass, if the easement is transferred to a governmental entity under the threat of exercise of eminent domain, or if any other exemption applicable under this chapter applies. An affidavit is required only if the transfer is taxable. No affidavit is required when the transfer is exempted from the tax.

(2) The real estate excise tax applies to the sale of development rights, water rights and air rights. The real estate excise tax affidavit must be completed for the transfer of development rights, water rights and air rights whether or not a taxable sale has occurred.

(3) "Development rights" means transferable rights to the unused development on a parcel of land measured by the difference between the existing development density on the parcel and the density allowed by applicable zoning laws.

(4) "Water rights" means transferable rights to the diversion, extraction or use of water arising by virtue of the ownership of land located contiguous to surface water or the issuance of a water permit by the department of ecology.

(5) "Air rights" means the exclusive undisturbed use and control of a designated air space within the perimeter of a stated land area and within stated elevations.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-335, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 87-03-036 (Order PT 87-1), § 458-61-335, filed 1/16/87.]

WAC 458-61-340 Community property—Dissolution of marriage/divorce. (1) Transfers from one spouse to the other which either establish or separate community property are not subject to the real estate excise tax.

(2) The real estate excise tax does not apply to any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in fulfillment of a settlement agreement incident to a divorce. (RCW 82.45.010)

(3) The real estate excise tax applies to a sale of real property by either one or both spouses to a third party regardless of whether the sale is in accordance with the terms of a decree of divorce or settlement agreement.

(4) The real estate excise tax applies to transfers between ex-spouses which are independent of any settlement agreement incident to a divorce.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-340, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-340, filed 7/21/82.]

WAC 458-61-370 Exchanges—Trades. (1) The real estate excise tax applies when real property is exchanged for other real property or any other valuable property, either tangible or intangible. When real property is exchanged for other real property, the transfer of each property is individually subject to the tax.

(2) The gross taxable value of each property is the fair market value of each property at the time of transfer - not the equity that each owner has vested in the properties. When the true and fair value of a parcel of property is not reasonably ascertainable, the assessed value of the property on the assessment rolls of the county assessor may be used.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-370, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-370, filed 7/21/82.]

WAC 458-61-374 Exemption—Transfers made "subject to." (1) A transfer of real property subject to an underlying debt when the grantor is not personally liable for the debt and when no other consideration is given for the transfer is exempt from the real estate excise tax.

(a) Example 1. Y purchases Oakacre with funds obtained from YES Corporation and secured only by Oakacre. Y has no personal liability for this debt. If Y fails to make payments on the debt, YES may foreclose on Oakacre, but it may not obtain any judgment against Y because Y has no personal liability for the debt. Y transfers Oakacre to Z subject to the underlying debt owed by Y to YES. Z gives no other consideration for Oakacre. Z takes Oakacre subject to the underlying debt but has no personal liability for the debt. If Z fails to make payments, YES may foreclose on Oakacre, but it may not obtain a judgment against Z (who, like Y before, has no personal liability for the debt). Because Y is not personally liable for the debt, Z's payments on the underlying debt to YES do not relieve Y of any liability for the debt. The real estate excise tax does not apply to this transfer.

(b) Example 2. Y transfers Oakacre to Z subject to an underlying mortgage owed to Bank. Y is personally liable for the mortgage to Bank. If the mortgage payments are not made, Bank may foreclose on Oakacre and obtain a judgment against Y if the value of the property is insufficient to pay the

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mortgage. Z gives no other consideration for Oakacre, but Z agrees with Y to make all future payments on the underlying mortgage. The real estate excise tax applies to this transfer for two reasons: First, Y remains personally liable for the mortgage. Second, Z's payments on the underlying mortgage relieve Y's debt obligation each time a payment is made. Note that even if Z were to assume the loan, the real estate excise tax would apply because an assumption of debt is included in the definition of consideration (see subsection (3) of this section) and a transfer for consideration is subject to the real estate excise tax (see WAC 458-61-225).

(2) A copy of the debt instrument verifying the debt's character and the absence of any personal liability of the grantor shall be provided by the taxpayer as an attachment to the department's copy of the real estate affidavit.

(3) See WAC 458-61-225 for transfers when the grantor does have personal liability for the underlying debt on the property transferred.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-374, filed 2/1/94, effective 3/4/94.]

WAC 458-61-375 Exemption—Mere change in identity or form—Family corporations and partnerships. (1) **Introduction.** Any transfer of real property is exempt from the real estate excise tax if it consists of a mere change in identity or form of ownership of an entity. This exemption is not limited to transfers involving corporations and partnerships and includes transfers of trusts, estates, associations and other entities. Except as provided in subsection (3) of this section, this exemption is limited to those transfers where no change in beneficial ownership interest is made.

(2) **Exempt transactions.** A mere change in form or identity where no change in beneficial ownership has occurred includes, but is not limited to:

(a) The transfer by tenants-in-common of their interest in real property to a partnership or a corporation with the partnership or corporation interests received being in the same pro rata shares as the tenants-in-common held prior to the transfer. (See also: WAC 458-61-376, Exemption—Transfers where gain is not recognized under the Internal Revenue Code.)

(b) The transfer by a corporation of its interest in real property to its shareholders who will hold the real property either as individuals or as tenants-in-common in the same pro rata share as they owned the corporation.

(c) The transfer by a corporation of its interest in real property to its wholly owned subsidiary, the transfer of real property from a wholly owned subsidiary to its parent, or the transfer of real property from one wholly owned subsidiary to another.

(d) The transfer by a corporation of its interest in real property to its sole owner or the transfer by a sole incorporator of the incorporator's interest in real property to the incorporator's corporation.

(e) A transfer of real property to a corporation or a partnership in exchange for stock in the corporation or a partnership interest would qualify under this section and WAC 458-61-376, Exemption—Transfers where gain is not recognized under the Internal Revenue Code, if the transferor received all of the stock in the corporation or a pro rata partnership interest. However, if a nonfamily member receives 5% or

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more of the stock in the corporation, or, if the transferor does not receive a pro rata partnership interest, the transfer may continue to qualify under WAC 458-61-376, but would not qualify under this section because a change in beneficial ownership has been made.

(f) Corporate mergers and consolidations which are accomplished by transfers of stock or membership, and, mergers between corporations and limited partnerships as provided in chapters 25.10 and 24.03 RCW.

(g) A transfer of real property to a newly-formed, beneficiary corporation from an incorporator to the newly-formed corporation, subject to the following:

(i) The proper real estate excise tax was paid on the original transfer to the incorporator;

(ii) It was documented on or before the original transfer that the incorporator was receiving title to the property on behalf of that corporation during its formation process; and

(iii) A notarized statement, as provided in WAC 458-61-150, is attached to the affidavit for the second transaction. This tax exemption does not apply where a real property owner had acquired title in his or her own name and later transferred title to the corporation upon formation.

(h) The distribution of partnership real property to the partners so long as the property distributed vests in each of the partners in proportion to the partner's interest in the partnership. The tax will apply to the extent a distribution of any real property is disproportionate to the interest in the partnership of a grantee partner.

(i) A transfer into any revocable trust. The tax does not apply to a conveyance from a trustee of a revocable trust to the original grantor because there is no change in the beneficial ownership. The tax does not apply to a conveyance from a trustee of a revocable trust to a beneficiary where no valuable consideration passes or the gift or inheritance exemption applies. The real estate excise tax applies to the sale of real property by the trustee to a third party or a beneficiary for valuable consideration. For transfers to irrevocable trusts, see WAC 458-61-411, Irrevocable trusts.

(3) **Family corporations and partnerships.** Notwithstanding a change in beneficial ownership, the exemption includes transfers to a corporation or partnership which is wholly owned by the transferor and/or the transferor's spouse or children: Provided, That if thereafter such transferee corporation or partnership voluntarily transfers such real property, or such transferor, spouse, or children voluntarily transfer stock in the transferee corporation or interest in the transferee partnership capital, as the case may be, to other than:

(a) The transferor and/or the transferor's spouse or children;

(b) A trust having the transferor and/or the transferor's spouse or children as the only beneficiaries at the time of the transfer to the trust; or

(c) A corporation or partnership wholly owned by the original transferor and/or the transferor's spouse or children, within three years of the original transfer to which this exemption applies, and the tax on the subsequent transfer has not been paid within sixty days of becoming due, excise taxes shall become due and payable on the original transfer as otherwise provided by law.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-375, filed 2/1/94, effective 3/4/94.]

WAC 458-61-376 Exemption—Transfers where gain is not recognized under the Internal Revenue Code. (1)

Introduction. An exemption from the real estate excise tax is allowed for a transfer that for federal income tax purposes does not involve the recognition of gain or loss for entity formation, liquidation or dissolution, and reorganization, including but not limited to nonrecognition of gain or loss because of application of section 332, 337, 351, 368 (a)(1), 721, or 731 of the Internal Revenue Code of 1986, as amended.

(2) **Internal Revenue Code sections.**

(a) Section 332 - Corporate liquidations - Complete liquidations of subsidiaries.

(b) Section 337 - Corporate liquidations - Nonrecognition for property distributed to parent in complete liquidation of subsidiary.

(c) Section 351 - Corporate organizations and reorganizations - Transfer to corporation.

(d) Section 368 (a)(1) - Corporate organizations and reorganization - Definitions relating to corporate reorganizations - Reorganizations - In general.

(e) Section 721 - Partners and Partnerships - Nonrecognition of gain or loss on contribution.

(f) Section 731 - Partners and Partnerships - Extent of recognition of gain or loss on distribution.

(3) **Extent of exemption.** The exemption applies only to transfers which qualify as nonrecognition of gain or loss transactions under the Internal Revenue Code for entity formation, liquidation or dissolution, and reorganization.

(a) The exemption does not apply to transactions under Internal Revenue Code section 1031 - Exchange of property held for productive use or investment. This Internal Revenue Code section does not deal with entity formation, liquidation or dissolution, or reorganization. (See: WAC 458-61-480, IRS "tax deferred" exchanges.)

(b) The exemption does not apply to sales under Internal Revenue Code section 1034 - Rollover of gain on sale of principal residence. This Internal Revenue Code section does not deal with entity formation, liquidation or dissolution, or reorganization.

(4) **Treatment when gain is partially recognized in an otherwise exempt transaction.** In the event a transaction qualifies for the exemption under this section as a nonrecognition of gain or loss transaction for entity formation, liquidation or dissolution, or reorganization, but gain is partially recognized under the Internal Revenue Code provisions, the real estate excise tax applies to the amount of the transaction for which gain is recognized.

(a) Example 1. In an otherwise nontaxable Internal Revenue Code section 351 transaction, A transfers to ZULU Corporation real property which has a true and fair value of \$100,000 (in which A has a basis of \$50,000 for federal income tax purposes). A receives, in exchange, ZULU stock worth \$80,000, cash of \$10,000 and a promissory note from ZULU to pay A \$10,000, payable monthly, starting at closing, for 36 months at 6% interest. The \$10,000 cash received and the \$10,000 promissory note constitute "boot" under the provisions of Sec. 351 and gain is recognized to the extent of the "boot." For real estate excise tax purposes, the nonexempt portion is 20% (\$20,000/\$100,000) and the real estate excise tax applies to 20% of the true and fair value of the real

property transferred, \$20,000, with 80% or \$80,000 of the true and fair value of the property being exempt.

(b) Example 2. In an otherwise nontaxable Internal Revenue Code section 351 transaction, B transfers real property with a true and fair value of \$50,000, machinery worth \$250,000, to ECHO Corporation. In exchange, B receives ECHO stock worth \$275,000 and cash of \$25,000. The cash received constitutes "boot" and gain is recognized. For real estate excise tax purposes, the nonexempt portion of the transaction is 8.3% (\$25,000/\$300,000). The nonexempt percentage (8.3%) is applied to the true and fair value of the real property (\$50,000) to arrive at the amount (\$4,167) to which the real estate excise tax is applied.

(c) Example 3. A and B are partners in LIMA Partnership. In a nontaxable Internal Revenue Code section 721 transaction, C transfers real property to LIMA Partnership in exchange for a partnership interest in LIMA partnership. No consideration, other than the partnership interest in LIMA partnership, is given to C in exchange for C's transfer of real property. Because the transfer is exempt under Code section 721, the real estate excise tax does not apply to C's transfer of real property to LIMA partnership.

(d) Example 4. A and B are partners in GOLF Partnership. In a nontaxable Internal Revenue Code Section 721 transaction, C contributes cash to GOLF Partnership in exchange for a 60% partnership interest in GOLF Partnership. The cash is used by the Partnership to develop real property owned by the GOLF Partnership. Because the transfer is exempt under Internal Revenue Code Section 721, the real estate excise tax does not apply to C's acquisition of a partnership interest in GOLF Partnership.

(5) **Rules of construction.** In determining whether a transfer qualifies as an exemption under this section, the law, regulations, bulletins, technical memoranda, letter rulings, etc., of the Internal Revenue Code and the Internal Revenue Service, as interpreted by the courts, shall be considered by the department. If a transfer has been determined under this chapter and the same transfer is examined and determined for federal tax purposes with the determination becoming fixed under federal law either by agreement with the taxpayer or through final determination in the federal court, then the determination as fixed under this chapter shall be the same as the final federal tax determination.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-376, filed 2/1/94, effective 3/4/94.]

WAC 458-61-400 Creation, assignment and release of security interests. (1) A mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment of the security interest, is not a taxable transaction and completion of the affidavit is not necessary.

(2) A deed given to a purchaser under a real estate contract upon fulfillment of the terms of the contract is not subject to the real estate excise tax, provided that the proper tax was paid on the original transaction. Similarly, the real estate excise tax is not due upon the delivery of a release of security interest, satisfaction of mortgage, or reconveyance under the terms of a mortgage or deed of trust. The real estate excise tax affidavit is not required for any of the preceding transfers. The fulfillment deed must be stamped by the county treasurer as required by WAC 458-61-050. In the case of a fulfillment

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deed, the stamp shall show the affidavit number of the sale which the deed is fulfilling.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-400, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-400, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-400, filed 7/21/82.]

WAC 458-61-410 Gifts. (1) In general. Transfers of real property as gifts are not subject to the real estate excise tax provided that the transfer is without consideration or that love and affection is the only consideration.

(2) **Consideration.** When any consideration other than love and affection is present in the transfer, the transaction is taxable to the extent of the consideration present. Consideration includes the indebtedness balance of any real property transferred which is encumbered by a lien securing an indebtedness. See WAC 458-61-030(3) for the full definition of "consideration."

(a) Examples. Mother, A, conveys lakefront cabin valued at \$200,000 to daughter, B. The tax consequences will vary dependent on whether B tenders consideration and the amount and the extent of A's equity. Consider:

(i) Example 1. No consideration given by B and A owns property outright. This is a gift by A to B of \$200,000 and exempt from the real estate excise tax.

(ii) Example 2. No payment given to A by B. A has \$175,000 equity and an underlying mortgage of \$25,000. The \$175,000 in equity is a gift, but the real estate excise tax applies to the \$25,000 owing on the mortgage.

(iii) Example 3. No consideration is given by B. A has \$175,000 equity and an underlying mortgage of \$25,000, on which A continues to make the payments. This is a gift by A to B of the \$175,000 and the payments on the underlying debt. It is exempt from the real estate excise tax.

(iv) Example 4. B gives A \$10,000 and A owns property outright. A has made a gift of \$190,000 in equity and real estate excise tax applies only to the \$10,000 paid by B for the property.

(v) Example 5. B gives A \$10,000 and A has \$175,000 in equity and an underlying mortgage of \$25,000. A has made a gift of \$165,000 in equity, but the real estate excise tax applies only to \$35,000: The \$10,000 paid by B to A for the property and the \$25,000 remaining on the mortgage.

(3) **Documentation.** Completion of the real estate excise tax affidavit is required for transfers by gift.

(a) A supplemental statement (see WAC 458-61-150) shall be signed by both grantor and grantee and attached to the real estate excise tax affidavit. The statement shall attest to the existence or absence of underlying debt on the property transfers made by gift.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-410, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-410, filed 8/6/86; 83-02-022 (Order PT 82-10), § 458-61-410, filed 12/28/82; 82-15-070 (Order PT 82-5), § 458-61-410, filed 7/21/82.]

WAC 458-61-411 Exemption—Irrevocable trusts.

(1) **Introduction.** The real estate excise tax applies to the transfer of real property to an irrevocable trust when the transfer results in a change in beneficial interest and not a mere change in identity or form and valuable consideration is present in the transfer.

(a) Example 1. Husband and wife as grantors transfer real property having a true and fair value of \$500,000 with a deed of trust indebtedness of \$300,000 to an irrevocable trust. The trustee is required to pay all the income annually to the grantors or the surviving grantor should one die. Upon the death of both grantors, the property is to be divided equally between the grantors' children. The real estate excise tax does not apply to the transfer to the irrevocable trust, even if the trust pays the indebtedness, because the transfer has no present change in beneficial interest, and the grantors have not received consideration in the form of a relief of the liability.

(b) Example 2. Upon the death of a spouse, the deceased spouse's 1/2 interest in real property is transferred to a testamentary trust. The trustee has the sole discretion to either accumulate income or pay the income to the surviving spouse and/or children and/or grandchildren. Real estate excise tax does not apply to this transfer. Assume the surviving spouse makes a gift of the remaining 1/2 interest in the real property, valued at \$150,000 with a \$30,000 indebtedness for which the surviving spouse is personally liable, to the testamentary trust of the deceased spouse, and the trust pays or is obligated to pay the indebtedness. The real estate excise tax applies to this transfer because a present change in beneficial interest in the property has occurred and the surviving spouse has received consideration in the form of the relief of liability from the payment of the indebtedness. \$30,000 is the taxable value for real estate excise tax purposes. Note that when the property transferred by the surviving spouse has no underlying debt for which the surviving spouse has a personal liability, the real estate excise tax would not apply because no consideration for the transfer would be received. Instead, the transfer would be a gift and exempt from the real estate excise tax as explained in WAC 458-61-410, Gifts.

(2) The real estate excise tax does not apply to the distribution of real property to the beneficiaries of an irrevocable trust when no valuable consideration is given and the distribution is made according to the trust instrument.

(3) **Documentation.** A copy of the trust instrument must be attached to the real estate excise tax affidavit provided to the department if an exemption from the real estate excise tax is claimed.

(4) **Revocable trusts.** For the taxability of transfers into a revocable trust, see WAC 458-61-375 (2)(i), Exemption—Mere change in identity or form—Family corporations and partnerships.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-411, filed 2/1/94, effective 3/4/94.]

WAC 458-61-412 Exemption—Inheritances. (1) **Introduction.** Transfers of real property by inheritance are not subject to the real estate excise tax.

(2) **Nonpro rata distributions.** A nonpro rata distribution by a personal representative of a probate estate or by the trustee of a trust is not taxable so long as the transfer is authorized under the nonintervention powers of a personal representative pursuant to RCW 11.68.090 or under the nonpro rata distribution powers of a trustee pursuant to RCW 11.98.070(15), and no consideration passes between the grantee beneficiary and the personal representative or trustee.

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(3) **Consideration.** If consideration is given by the grantee beneficiary, the transfer will be taxable to the extent of the consideration. For purposes of this subsection, consideration shall not include the indebtedness balance of any real property transferred which is encumbered by a lien securing an indebtedness.

(4) **Documentation.** Completion of the real estate excise tax affidavit is required for transfers by inheritance.

A copy of the trust instrument, will, or court order must be attached to the real estate excise tax affidavit provided to the department if an exemption from the real estate excise tax is claimed.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-412, filed 2/1/94, effective 3/4/94.]

WAC 458-61-420 Government transfers. (1) The real estate excise tax does not apply to transfers of real property from the United States, any agency or instrumentality thereof, the state of Washington, any political subdivision thereof, or municipal corporation of this state. Furthermore, the tax does not apply to:

(a) Transfers to the federal housing administration or veteran's administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veteran's administration.

(b) Transfers for a public use in connection with the development of real property by a developer when such transfer is required for plat approval and when made to: The United States, the state of Washington or any political subdivision thereof, or a municipal corporation.

(c) Transfers to the United States, the state of Washington or any political subdivision thereof, or a municipal corporation, either under threat of the exercise of eminent domain or as a result of the actual exercise of eminent domain.

(i) The threat of exercise of eminent domain by a government or political subdivision must be imminent in order to exempt a transfer from the real estate excise tax. To be imminent, the power must not only be available for immediate use, but the appropriate situation to allow for its use must also be in place. If the government or political subdivision does not yet have the authority to exercise eminent domain at the time of the transfer, the transfer cannot be exempt under the threat of eminent domain.

(ii) Example 1. A school district wishes to purchase land for a new school. The election has been held to authorize the use of public funds for the purchase and the general area has been chosen. The district has been granted authority to use eminent domain to obtain the land if required. So long as the land transferred to the district is in the authorized area and will be used for building the school, the transfer will be exempt from the real estate excise tax because it was made "under threat of eminent domain."

(iii) Example 2. A state agency is authorized by statute to use powers of eminent domain as required to obtain oceanfront property to build parks. It may not simply condemn all oceanfront property under its powers. The state must act in accordance with a plan or other documentation outlining the reasons for acquiring specific areas in order to exempt a transfer made to the agency from real estate excise tax as having been made under the threat of exercise of eminent

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domain. The plan shall be made available to the department upon request.

(2) The tax applies to sales of real property to governmental entities from nongovernmental entities except as provided in subsections (1)(a) through (c) of this section. (RCW 82.45.010)

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-420, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-425, filed 7/21/82.]

WAC 458-61-425 Growing crops. The real estate excise tax applies to the value of growing crops when sold with the land upon which they are growing. The value of the growing crops is not a deduction from the sales price of the real property.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-425, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-425, filed 8/6/86.]

WAC 458-61-430 Sale of improvements to land. (1) The sale of an improvement constructed on real property is subject to the real estate excise tax if the contract of sale does not require that the improvements be removed at the time of sale.

(2) The transfer of a lessee's interest in a leasehold for a valuable consideration is taxable to the extent the transfer includes any improvement constructed on leased land.

(3) If the selling price of an improvement is not separately stated, or cannot otherwise be reasonably determined, the assessed value of the improvement as entered on the assessment rolls of the county assessor will be used. See WAC 458-61-030(2).

(4) The real estate excise tax does not apply to the sale of improvements if the terms of the sales contract require that the improvements be removed from the land. In this case the improvements are considered personal property and their use by the purchaser is subject to the use tax under chapter 82.12 RCW.

(5) Completion of the affidavit is required for all of the above transfers except a transfer described in subsection (4) of this section in which case the purchaser must file a use tax return with the department.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-430, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-430, filed 7/21/82.]

WAC 458-61-450 Indian (American), transfers to or from. (1) The real estate excise tax does not apply to transfers to or from individual Indians or Indian tribes when the United States government acts as trustee on behalf of that individual Indian or tribe. Because the United States government is acting as grantor or grantee (as trustee) no affidavit is required for such transaction.

(2) The tax exemption in subsection (1) of this section does not apply to transfers where enrolled Indians, whether as individuals, groups, or tribes, grant or receive real property without the United States government acting as trustee on their behalf and the property is on the reservation.

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(3) The real estate excise tax does not apply to sales of timber made by Indians holding trust allotments where, after the execution of the contracts, the Indians have received fee patents to their lands.

[Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-450, filed 7/21/82.]

WAC 458-61-470 Irrigation equipment. (1) Any part of a center pivot irrigation system, or any part of an irrigation system that is underground, is considered real property and its sale is subject to the real estate excise tax.

(2) Any irrigation equipment that is above ground, other than a center pivot irrigation system, is considered personal property and its sale is not subject to the real estate excise tax, but is subject to the use tax.

(3) The transfer of irrigation equipment constituting personal property which accompanies a sale of real property should be listed separately as personal property on the real estate excise tax affidavit.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-470, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-470, filed 7/21/82.]

WAC 458-61-480 IRS "tax deferred" exchange. (1) The real estate excise tax applies to the transfer or exchange of real property whether or not federal income tax or capital gains tax is "deferred" or "exempted" under Internal Revenue Code section 1031. The real estate excise tax applies to each property transferred in a section 1031 exchange, see WAC 458-61-370, Exchanges—Trades).

(2) Acquisition of property by an exchange facilitator in connection with a section 1031 tax deferred exchange is subject to the real estate excise tax. The later transfer of the property by the facilitator in completion of the exchange will also be subject to the real estate excise tax unless the following requirements are met:

(a) The proper tax was paid on the initial transaction;

(b) A supplemental statement signed by the exchange facilitator, as provided by WAC 458-61-150, is attached to the real estate excise tax affidavit indicating that the facilitator originally took title to the property for the sole purpose of effecting a section 1031 federal tax deferred exchange; and

(c) The funds used by the exchange facilitator to acquire the property were provided by the grantee and/or received from the proceeds of the sale of real property owned by the grantee. If the deeds for both transactions to and from the facilitator are being recorded at the same time, the proper tax can be paid on either the first or the second transaction at the discretion of the facilitator;

(3) A real estate excise tax affidavit is required for each transfer in a section 1031 exchange including the transfers to and from an exchange facilitator. The affidavit reflecting the claim for tax exemption must show the affidavit number and date of the tax payment, and have attached the supplemental statement as provided by WAC 458-61-150 and subsection (2)(b) of this section.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-480, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 83-02-022 (Order PT 82-10), § 458-61-480, filed 12/28/82; 82-15-070 (Order PT 82-5), § 458-61-480, filed 7/21/82.]

WAC 458-61-510 Leases. (1) The real estate excise tax applies to a lease with option to purchase at the time the purchase option is exercised and the property is transferred.

The measure of the tax is the true and fair value of the property conveyed at the time the option is exercised.

(2) The real estate excise tax does not apply to the assignment of the lessee's interest in the leasehold except to the extent that the assignment includes the grant, assignment, quitclaim, sale or transfer of improvements constructed upon leased land. See WAC 458-61-430.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-510, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 84-17-002 (Order PT 84-3), § 458-61-510, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-510, filed 7/21/82.]

WAC 458-61-520 Mineral rights and mining claims.

(1) The real estate excise tax applies to the sale of mineral rights in private property. "Mining property" is property containing or believed to contain metallic or nonmetallic minerals and sold or leased under terms which require the grantee or lessee to conduct exploration or mining work thereon and for no other use. (RCW 82.45.035)

(2) A conditional sale of mining property in which the grantee has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-grantee has the right to terminate the lease and option at any time, shall be taxable at the time of execution only on the consideration received by the grantor or lessor for execution of such contract. The tax due on any additional consideration paid by the grantee and received by the grantor shall be paid to the county treasurer at the first time any event below occurs:

(a) The time of termination;

(b) The time that all of the consideration due to the grantee has been paid and the transaction is completed except for the delivery of the deed to the grantee; or

(c) The time when the grantee unequivocally exercises an option to purchase the property.

(3) A mining lease which grants the lessee the right to conduct mining exploration upon or under the surface of real property and to remove minerals from the property in exchange for a royalty is not subject to the real estate excise tax when the lease does not transfer ownership of the minerals to the lessee prior to severance from the real property.

(4) Patented mining claims are real property and their sale is subject to the real estate excise tax.

(5) Unpatented mining claims are intangible personal property and therefore not subject to the real estate excise tax.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-520, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-520, filed 7/21/82.]

WAC 458-61-540 Mobile and floating home sales. (1)

The application of the real estate excise tax versus retail sale or use tax upon the transfer of a mobile home is dependent on the characteristics of the transfer, not the classification of a mobile home as real or personal property on the assessment rolls. "Mobile home" means a mobile home as defined by RCW 46.04.302.

(2) The real estate excise tax applies to transfers of used mobile homes. Used mobile homes are mobile homes that:

(a) Have become affixed to land by being placed upon a foundation (post or blocks) with fixed pipe connections with sewer, water, and other utilities;

(b) The mobile home's removal from the land is not a condition of sale; and

(c) The retail sales or use tax has been paid on a previous sale or use of the home.

(3) The retail sales or use tax applies to any of the following mobile home sales:

(a) Initial retail sale;

(b) Sale from a dealer's lot of either a new or used unit;

(c) Sale conditional on removal of the unit from its fixture to land; or

(d) Sale of a unit that is not affixed to land by virtue of its placement upon a foundation (posts or blocks) with fixed pipe connections with sewer, water, and other utilities.

(4) The sale of a new or used mobile home is subject either to the real estate excise tax as set forth in subsection (2) of this section, or to the retail sales or use tax as set forth in subsection (3) of this section. A single sale of a mobile home is not subject to both taxes.

(5) Floating homes. The real estate excise tax applies to sales of used floating homes. A used floating home is a building which is:

(a) Constructed on a float used in whole or in part for human habitation as a single-family dwelling;

(b) Not designed for self propulsion by mechanical means or for propulsion by means of wind; and

(c) Listed on the real property tax rolls of the county in which it is located and in respect to which tax has been paid under chapter 82.08 or 82.12 RCW.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-540, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-540, filed 8/6/86; 82-15-070 (Order PT 82-5), § 458-61-540, filed 7/21/82.]

WAC 458-61-545 Mortgage insurers. (1) The real estate excise tax does not apply to the conveyance of real property from the mortgage lender to the veterans administration or the federal housing authority as a mortgage insurer or guarantor.

(2) The tax does apply to the conveyance of real property from the mortgage lender to any other mortgage insurer or guarantor in settlement of the insurance claim.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-545, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-545, filed 8/6/86.]

WAC 458-61-550 Nominee. (1) This section describes the operation of the real estate excise tax in transfers involving a nominee. A "nominee" is a person who acts as an agent on behalf of another person in the purchase of real property.

(2) When a nominee has received title to or interest in real property on behalf of a third-party principal, the real estate excise tax does not apply to the subsequent transfer of the property from the nominee to the third party, provided that:

(a) The proper tax was paid on the initial transaction;

(b) A notarized statement, as provided in WAC 458-61-150, is attached to the affidavit for the second transaction

(such notarized statement must be dated on or prior to the first transaction);

(c) The third-party principal was in legal existence at the time of the initial transaction;

(d) The funds used by the nominee to initially acquire the property were provided by the third-party principal; and

(e) The subsequent transfer from the nominee to the third-party principal is not for a greater consideration than that of the initial acquisition, or, in the case where the nominee is a licensed contractor and the subsequent transfer to the principal (customer) reflects the completed construction contract, the retail sales tax is collected on the construction contract and remitted to the department. See also WAC 458-61-300.

(3) If property is transferred from the nominee to the third-party principal and one or more of the requirements in subsection (2) of this section are not met, the transaction is not exempt and is taxable to the extent of the entire selling price.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-550, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-550, filed 8/6/86; 83-02-022 (Order PT 82-10), § 458-61-550, filed 12/28/82; 82-15-070 (Order PT 82-5), § 458-61-550, filed 7/21/82.]

WAC 458-61-553 Nonprofit organizations. Transfers to or from an organization exempt from ad valorem property taxes under chapter 84.36 RCW, or from federal income tax, by virtue of the organization's nonprofit or charitable status are nevertheless subject to the real estate excise tax unless specifically exempt under chapter 82.45 RCW or these rules.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-553, filed 2/1/94, effective 3/4/94.]

WAC 458-61-555 Option to purchase. (1) The real estate excise tax applies to a conveyance of real property upon the exercise of an option to purchase.

(2) The tax does not apply to the grant of the option and the real estate excise tax affidavit is not required.

(3) Example 1. J takes out options at a cost of \$1000 to purchase ten parcels of land for \$10,000. As individual parcels, these plots of land are uneconomical to develop. J "packages" the land, making it economically feasible to develop by either obtaining sufficient acreage or required studies. Buildup, a real estate development and construction company, purchases J's options on the property for \$10,000 and subsequently exercises the options, paying \$10,000 for the land. The real estate excise tax does not apply to the transfer of the options. However, the real estate excise tax does apply to the exercise of the options. The measure of the tax is the \$10,000 purchase price.

(4) Example 2. Consider the same initial facts as in the example in subsection (3) of this section, but instead, J exercises the options, then sells the land to Buildup. The real estate excise tax applies to both the transfer to J and the subsequent transfer from J to Buildup.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-555, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 87-12-016 (Order PT 87-4), § 458-61-555, filed 5/27/87; 86-16-080 (Order PT 86-3), § 458-61-555, filed 8/6/86.]

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WAC 458-61-590 Rescission of sale. (1) The real estate excise tax does not apply to a reconveyance of property pursuant to a rescission.

(2) In order to qualify for exemption under this section, all consideration paid toward the selling price must be returned by the grantor to the grantee.

(a) A grantor may retain interest paid by the grantee without disqualifying the rescission.

(b) The payment of a reasonable reimbursement for site improvements will not disqualify the rescission.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-590, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-590, filed 8/6/86; 84-17-002 (Order PT 84-3), § 458-61-590, filed 8/2/84; 82-15-070 (Order PT 82-5), § 458-61-590, filed 7/21/82.]

WAC 458-61-600 Relocation service. (1) The real estate excise tax applies to a deed naming no grantee which is given to a purchaser for a consideration and which vests equitable title in the purchaser.

(2) Subsequent delivery of the deed by such purchaser to a third person named as grantee in the deed for consideration is also a taxable sale.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-600, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-600, filed 7/21/82.]

WAC 458-61-610 Rerecord. (1) The real estate excise tax does not apply to the rerecording of documents to correct legal description, change of contract terms, or spelling of name of party to the transaction.

(2) An affidavit is required for the rerecording and must refer to the prior affidavit number and the recorded document number for the prior transaction and a complete explanation of why such rerecording is necessary must be attached to the affidavit.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-610, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-610, filed 7/21/82.]

WAC 458-61-640 Sheriff's sale. (1) The real estate excise tax does not apply to any sale of real property made by a county sheriff pursuant to a court decree. A real estate excise tax affidavit must be filed with the county treasurer.

(2) The real estate excise tax applies to a subsequent sale or assignment of the right of redemption and the certificate of purchase that result from the sheriff's sale.

In the case of a subsequent sale or assignment of right of redemption, the taxable consideration includes any payment given or promised to be given. It also includes the amount of underlying encumbrance, the payment of which is necessary for the exercise of the right of redemption.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-640, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-640, filed 7/21/82.]

WAC 458-61-650 Tenants in common and joint tenants. (1) The real estate excise tax does not apply to the transfer of real property which results in the creation of a tenancy

in common when no consideration passes otherwise. Gifts are generally exempt from the real estate excise tax. Cite WAC 458-61-410, Gifts, on the real estate affidavit to claim an exemption from the real estate excise tax for such a transfer.

(a) Example 1. A owns a parcel of property outright. A creates a tenancy in common with B. B gives no consideration for the creation. A has given a gift of equity in the property to B and the real estate excise tax does not apply.

(b) Example 2. A owns a home with an underlying mortgage. A creates a tenancy in common with B. B gives no consideration for the creation, but agrees to and makes partial payments on the mortgage. A has given a gift of the equity owned, but has received a relief of debt from B to the extent B makes payments on the mortgage. Real estate excise tax applies to the relief of debt received by A. See also, WAC 458-61-410, Gifts.

(2) The partition of real property by tenants in common or joint tenants by agreement or as the result of a court decree is not a taxable transaction. A partition of property occurs upon the division of the property in proportion to the owners' interests. In order to qualify for this exemption, the partition must be in proportion to the tenants' interests in the property.

Example 1. A, B, and C own five riverfront parcels as tenants in common. One parcel is worth twice as much as any of the others, which are all equivalent in value. The property is partitioned. A receives the especially valuable parcel; B and C receive two parcels each. Because the parcels have been partitioned in accordance with their interests in the property (here, one-third), the real estate excise tax does not apply to the transfer.

(3) The real estate excise tax does not apply to the transfer of real property which results in the creation of a joint tenancy with right of survivorship when no consideration passes otherwise. Gifts are generally exempt from the real estate excise tax. Cite WAC 458-61-410, Gifts, on the real estate affidavit to claim an exemption from the real estate excise tax for such a transfer.

Example 1. Consider friends, G and H. G creates a joint tenancy with right of survivorship with H for estate planning purposes. H gives no consideration to G for the creation of the joint tenancy. The real estate excise tax does not apply to this transfer.

(4) The transfer of property upon the death of a joint tenant to the remaining joint tenants under a right of survivorship is not subject to the real estate excise tax. Transfers of real property by inheritance are not subject to the real estate excise tax. Cite WAC 458-61-412, Inheritances, on the real estate excise tax affidavit to claim an exemption from the real estate excise tax for such a transfer.

Example 1. Reconsider Example 1 in (3)(a) above. On G's death, H is the surviving joint tenant and now owns the property outright. The real estate excise tax does not apply to this transfer. See also WAC 458-61-412, Inheritances.

(5) The sale of the interest in real property from one or more joint tenants or tenants in common to remaining tenants or to a third party is a taxable transaction. The taxable amount of the sale is the total of the following:

(a) Any consideration given;

(b) Any consideration promised to be given including the amount of any debt remaining unpaid on the property at the

time of sale multiplied by that fraction of interest in the real property being sold.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-650, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 86-16-080 (Order PT 86-3), § 458-61-650, filed 8/6/86; 82-15-070 (Order PT 82-5), § 458-61-650, filed 7/21/82.]

WAC 458-61-660 Timber, standing. (1) The real estate excise tax applies to the sale of timber if the ownership of the timber is transferred while the timber is standing. The tax applies to the sale of standing timber whether the sale is accomplished by deed or by contract. See WAC 458-61-548, Native American, when the timber is standing within the borders of a Native American Reservation. See also chapter 84.33 RCW and chapter 458-40 WAC for specific regulations and rules regarding the taxation of timber and forest land.

(2) The grantor's irrevocable agreement to sell timber and pass ownership to it as it is cut is a taxable transaction if the total amount of the sale is specified in the original contract.

(3) A contract to transfer the ownership of timber after it has been cut and removed from land by the grantee is not a taxable transaction.

(4) A contract between a timber owner and a harvester when the harvester provides the service of cutting the timber and transporting it to the mill is not subject to the real estate excise tax if the timber owner retains ownership of the timber until it is delivered to and purchased by the mill.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25. 94-04-088, § 458-61-660, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150. 82-15-070 (Order PT 82-5), § 458-61-660, filed 7/21/82.]

WAC 458-61-670 Trade-in credit. (1) When a single family residential dwelling is being transferred as the entire or part consideration for the purchase of another single family residential dwelling and a licensed real estate broker or one of the parties to the transaction accepts transfer of said property, a credit for the amount of the tax paid at the time of the transfer to the broker or party shall be allowed toward the amount of the tax due upon a subsequent transfer of the same property by the broker or party.

(2) The subsequent transfer must be made within nine months of the original transfer for the credit to be allowed. If the tax which would be due on the subsequent transfer from the broker or party is greater than the tax paid for the prior transfer to said broker or party, the difference shall be paid, but if the tax initially paid is greater, no refund shall be allowed.

(3) The affidavit upon which the trade-in credit is claimed must show all of the following:

(a) The prior affidavit number where the tax was paid on the original (trade-in) transaction;

(b) The county auditor's recorded document number for the original transaction, if such was recorded;

(c) The transaction date of the original transaction; and

(d) The disclosure that both properties involved in the original trade-in transaction are single family dwellings.

(4) The trade-in credit is allowed toward the subsequent sale of the residence "brought in" on trade - not toward the tax liability of the sale of the residence for which it was traded.

[Statutory Authority: RCW 82.32.300 and 1993 sp.s. c 25, 94-04-088, § 458-61-670, filed 2/1/94, effective 3/4/94. Statutory Authority: RCW 82.45.120 and 82.45.150, 86-16-080 (Order PT 86-3), § 458-61-670, filed 8/6/86; 82-15-070 (Order PT 82-5), § 458-61-670, filed 7/21/82.]

Chapter 458-276 WAC
ACCESS TO PUBLIC RECORDS

WAC

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WAC 458-276-010 Declaration of purpose. This chapter is promulgated by the department of revenue in compliance with RCW 42.17.250 and to set out procedures by which public records of the department will be made available to the public for inspection and copying.

[Statutory Authority: RCW 42.17.250, 78-02-064 (Order GT 78-1), § 458-276-010, filed 1/23/78.]

WAC 458-276-020 Definitions. (1) Public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) Writing. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) Department of revenue. The department of revenue is an agency headed by a director appointed by the governor subject to conformation by the state senate. The powers and duties of the director are, inter alia, those prescribed by RCW 82.01.060. The department of revenue will hereinafter be referred to as the "department," and the director will hereinafter be referred to as the "director." Where appropriate, the term department also refers to the staff and employees of the department of revenue.

[Statutory Authority: RCW 42.17.250, 78-02-064 (Order GT 78-1), § 458-276-020, filed 1/23/78.]

WAC 458-276-030 Description of central and field organization of the department. The department of revenue administers state tax laws, acts as advisor on revenue matters

to the governor, the legislature, and other state and local agencies, and supervises and assists in the administration of property tax laws at state and local levels. The central administrative offices of the department and its staff are located at General Administration Building, Fourth Floor, Olympia, Washington 98504. Operating divisions of the department are: Field Operations, Interpretation and Appeals, Research and Information, Office Operations, Inheritance Tax, Property Tax, Administrative Services, and Forest Tax.

[Statutory Authority: RCW 42.17.250, 78-02-064 (Order GT 78-1), § 458-276-030, filed 1/23/78.]

WAC 458-276-040 Operations and procedures. Each of the major operating divisions of the department is the immediate responsibility of an assistant director of the department who is designated as director of that division.

(1) Field operations. The director of field operations directs employees engaged in field audits, enforcement, audit review and taxpayer assistance through 16 branch offices, 4 regional offices, and several out-of-state auditors.

(2) Interpretation and appeals. The director of interpretation and appeals and his hearing officers conduct tax hearings, publish excise tax bulletins and guidelines, issue formal and informal interpretations, and provide advice to the legislature on excise tax matters. The division administers rules published under the Washington Administrative Code, and makes written determinations on appeals involving disputed tax liability.

(3) Research and information. The director of research directs the preparation of revenue forecasts for state government and develops other statistical analyses used in the preparation of the governor's budget. The division is responsible for the analysis of proposed legislation, and advises both the executive and legislative branches of the fiscal impact of proposed tax measures.

The director of research also is in charge of informational services and the publication of official state and local statistical documents. His staff also provides supportive data, analyses, and advice to the other divisions.

(4) Office operations. The director of office operations supervises employees assigned to taxpayer registration, accounts receivable, taxpayer office audits and investigation, miscellaneous tax processing, and records maintenance.

(5) Inheritance tax. The director of inheritance tax administers the collection of gift and inheritance taxes and supervises escheats and unclaimed property.

(6) Property tax. The director of property taxes oversees the administration of property taxation at the state and local level, including the development of guidelines and regulations affecting the operation of assessors in the 39 counties. The division directly appraises the intercounty operating properties of railroad, power, gas, transportation, communications, and water companies.

Activities include assessment ratio studies used, in part, as a basis for allocating state funds to local taxing districts; tax mapping, coding, and appraisal assistance to the counties; appraisal manuals and tax reporting forms; motor vehicle excise tax valuations; statewide supervision of property tax exemptions and determination of eligibility for property tax exemptions for nonprofit organizations; rules for open space taxation; and supervision of county boards of equalization.

(7) Administrative services. The director of administrative services directs employees engaged in budget and fiscal controls, centralized word processing, office services, systems and procedures, and automated data processing.

(8) Forest tax. The director of forest tax is responsible for developing semi-annual timber stumpage value rates used in determining the tax liability for all timber harvested from private lands, and for the timely collection of the forest excise tax, and computation of the distribution of revenues to the state and local taxing districts. The division also develops forest land values annually to be used by the county assessors for the assessment of all classified and designated forest lands for property tax purposes. Field inspections of harvest sites, timber sales, and forest land sales are also performed by the division for audit, compliance, and valuation purposes.

(9) Director of personnel. The personnel officer coordinates departmental employment, personnel relations and labor relations, and also is in charge of personnel administration, employee development, employee benefits, services and safety, and affirmative action.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-040, filed 1/23/78.]

WAC 458-276-050 Public records available. All public records of the department, as defined in WAC 458-276-020(1) are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.17.310, 42.17.330, WAC 458-276-100, and other applicable laws.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-050, filed 1/23/78.]

WAC 458-276-060 Public records officer. The department's public records are in the charge of the public records officer designated by the director. The person so designated will be located in the central administrative office, research and information division, of the department. The public records officer is responsible for the following: The implementation of the department's rules and regulations regarding release of public records, coordinating the staff of the department in this regard, and generally ensuring compliance by the department with the public records disclosure requirements of chapter 42.17 RCW.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-060, filed 1/23/78.]

WAC 458-276-070 Hours for records inspection and copying. Public records maintained in the central administrative offices will be available for inspection and copying at the administrative office during the customary office hours of the department. For the purposes of this chapter, the customary office hours are 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. Specific records not available in the central administrative offices will be made available pursuant to the procedures described in WAC 458-276-080(3).

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-070, filed 1/23/78.]

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WAC 458-276-080 Requests for public records. (1) Chapter 42.17 RCW requires that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency. Accordingly, whenever the department believes these or other provisions of law would be violated by immediate disclosure of records, requests for inspection or copying by members of the public shall be in writing upon a form prescribed by the department which will be available at its administrative and all branch offices. The form shall be presented either to the public records officer at the central administrative offices of the department or to any tax service representative of the department at the administrative or any branch office of the department during customary office hours. Customary office hours at branch offices may vary from those of the department's administrative offices. If a tax service representative is not available at a branch office the request form may be completed and presented to the person in charge of the office at the time the request is made or mailed to the Public Records Officer, Research and Information Division, Department of Revenue, 414 General Administration Building, Olympia, Washington 98504. The request shall include the following information:

- (a) The name of the person requesting the record;
- (b) The time of day and calendar date on which the request is made;
- (c) The nature of the request;
- (d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;
- (e) If the requested matter is not identifiable by reference to the department's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it is the obligation of the public records officer, or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

(3) If the record is not maintained in the central administrative offices of the department, after approval of the request, the public records officer will retrieve the record and advise the person making the request by telephone or mail of the time and place the record will be available, which time will be as reasonably soon after the request is made as possible.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-080, filed 1/23/78.]

WAC 458-276-090 Copying. There is no fee for the inspection of public records. The department will charge a fee of twenty-five cents per page of copy for providing copies of public records and for use of the department's copy equipment. This charge is to reimburse the department for its costs incident to such copying.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-090, filed 1/23/78.]

WAC 458-276-100 Exemptions. (1) The department reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 458-276-

080 is exempt under the provisions of RCW 42.17.310, and other applicable laws.

(2) In addition, pursuant to RCW 42.17.260, the department reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of privacy protected by chapter 42.17 RCW. The public records officer will fully justify such deletion in writing.

(3) All denials of written requests for public records will be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

(4) The department reserves the right provided by RCW 42.17.330 to move the various superior courts to enjoin the examination of any specific public record when it believes such examination would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-100, filed 1/23/78.]

WAC 458-276-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request will refer it to the director. The petition will be reviewed promptly and the action of the public records officer approved or disapproved. Such approval or disapproval shall constitute final department action for purposes of judicial review under RCW 42.17.340.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-110, filed 1/23/78.]

WAC 458-276-120 Limitations on disclosure. The department will give due regard in considering requests for public records to RCW 82.32.330, 83.36.020, and other applicable limitations on disclosure.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-120, filed 1/23/78.]

WAC 458-276-130 Records index. The department will maintain and make available for public inspection and copying an appropriate index or indices in accordance with RCW 42.17.260.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-130, filed 1/23/78.]

WAC 458-276-140 Administrative offices. All communications with the department regarding administration or enforcement of chapter 42.17 RCW and these rules, and requests for copies of the department's decisions and other matters, shall be addressed as follows: Public Records

(2005 Ed.)

Officer, Research and Information Division, Department of Revenue, 414 General Administration Building, Olympia, Washington 98504.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-140, filed 1/23/78.]

WAC 458-276-150 Adoption of form. The department hereby adopts for use by all persons making written request for inspection and/or copying or copies of its records under WAC 458-276-080, the Form S.F. 276 as it exists or may hereafter be revised.

[Statutory Authority: RCW 42.17.250. 78-02-064 (Order GT 78-1), § 458-276-150, filed 1/23/78.]