

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trigger removal, and how to calculate the additional tax, interest, and penalty that may be imposed because land is withdrawn or removed from classification. When land is withdrawn or removed, additional tax and interest are due.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. RCW 84.34.108 and 84.34.070.

(2) **Other rules to reference.** Readers may want to refer to the following rules for additional information:

(a) WAC 458-30-295 Removal of classification.

(b) WAC 458-30-305 Due date of additional tax, interest, and penalty upon withdrawal or removal.

(c) WAC 458-30-325 Transfers between classifications—Application for reclassification.

(3) **Definitions.** For purposes of this rule, the definitions in WAC 458-30-200 apply.

(4) **Duties of assessor and treasurer.** After determining the land no longer qualifies for classification under chapter 84.34 RCW, the assessor must provide the owner a written notice regarding this determination and of his or her intent to remove the land from classification; e.g., the Notice of Intent to Remove Current Use Classification form.

(a) The owner must respond, in writing, to the assessor within thirty days of the postmark date of the notice regarding his or her intention of removing the classified land. 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.

(b) Within thirty days of removing land from classification, the assessor notifies the owner, in writing, about the reason(s) for the removal; e.g., the Notice of Removal of Current Use Classification and Additional Tax Calculation form. The assessor will compute the amount of additional tax, interest, and penalty, unless the removal is the result of one of the circumstances listed in subsection (7) of this rule. The removal notice must explain the steps the owner needs to follow if he or she wants to appeal the removal decision, including when a notice of appeal must be filed, where an appeal petition may be obtained, and how to contact 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 as of January 1st of the year of removal from classification and places the value on the assessment roll. The assessment roll lists both the assessed value of the land before and after the removal from classification. Taxes for the current tax year will be prorated to the portion of the year to which each assessed value applies; that is, the current use value and the 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 (7) of this rule.

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

(f) The treasurer mails the owner written notice about the amount of the additional tax, interest, and 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 due.

(5) **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 year of withdrawal or removal, and 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 sum of the additional tax and interest. A penalty is not imposed when the land has been classified for at least ten assessment years at the time it is withdrawn from classification and the owner submitted a request to withdraw classification to the assessor.

(d) If additional tax, interest, and penalty are not imposed because the removal meets an exception in subsection (7) of this rule, the assessor still calculates the prorated taxes from the date of removal through December 31st of the year the removal occurred.

(e) When land is withdrawn or removed from classification under chapter 84.34 RCW, the assessor must forward the notice of withdrawal or removal to the county recording authority. The county recording authority must record all notices of withdrawal or removal, and the owner is required to pay all recording fees for the notice.

(6) **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 or if the new owner signs the notice of continuance and the assessor determines the land does not continue to qualify in its classification. Additional tax, interest, and penalty will be imposed in accordance with RCW 84.34.108(4) and become due and payable by the seller or transferor at the time of sale or transfer.

A notice of continuance is not required when classified land is transferred by a transfer on death deed or transferred to a new owner who is the heir or devisee of a deceased owner and the new owner wishes to continue classified use. RCW 84.34.108 (1)(c). If the new owner elects not to continue classified use, the land will be removed from classification and additional tax, interest, and penalty are due.

(7) **Exceptions.** No additional tax, interest, or penalty will be imposed if the withdrawal or removal from classification resulted solely from any of the following:

(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, wildfire, 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 cur-

rent 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 penalty will be assessed upon the remainder of the land 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. Subsection (8) of this rule provides a listing of these agencies, organizations, and purposes. However, when the land is no longer used for one of the purposes described 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)(f) 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 residence or housing is located even if this portion of the land does not have 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. If the owner of such land subsequently 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 conservation easement of private forest lands within unconfined channel migration zones or containing critical habitat for threatened or endangered species 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 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. For example, an owner who holds at least a fifty percent interest in classified farm and agricultural land dies on March 1, 2012. The land was initially classified on January 1, 1989, and is still classified on the date of death of the owner. The heir (new owner) does not want to continue commercially farming the land and sells the land on January 20, 2014. At the time of sale, the buyer does not sign the notice of continuance because they will not be using the land for commercial farming. The assessor will remove the land at the time of sale and the removal would not be subject to additional tax, interest, and penalty;

(1) The assessor discovers that the land was classified under chapter 84.34 RCW in error through no fault of the owner;

(i) For purposes of this subsection, "fault" means a knowingly false or misleading statement, or other act or omission not in good faith, that contributed to the approval of the application for classification or the failure of the assessor to remove the land from classification;

(ii) This exception does not apply if an independent basis for removal exists. Examples of an independent basis for removal include the owner changing the use of the land or failing to meet any applicable income criteria required for classification; or

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

(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 timber land under RCW 84.34.020(3), farm and agricultural land under RCW 84.34.020(2), or open space land under RCW 84.34.020(1).

(8) 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:

(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;

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

(j) Federally recognized Indian tribe.

(9) Removal of classification from land that was previously designated forest land under chapter 84.33 RCW. Land that was previously designated as forest land under chapter 84.33 RCW may be reclassified under chapter 84.34 RCW at the owner's request within thirty days after removal of the land from designation. If such land is subsequently removed from classification under chapter 84.34 RCW before it 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 method in which these taxes are calculated.

(10) Termination of timber land classification. Designation of forest land under RCW 84.33.130(1) as a result of a merger pursuant to

RCW 84.34.400 terminating a county's timber land classification is not considered a withdrawal or removal under this chapter and is not subject to additional tax, interest, and penalty.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.34.141. WSR 18-02-109, § 458-30-300, filed 1/3/18, effective 2/3/18. Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.34.141, 84.34.360. WSR 15-03-017, § 458-30-300, filed 1/8/15, effective 2/8/15. Statutory Authority: RCW 84.08.070, 84.34.141, 84.36.865, 84.52.0502. WSR 09-19-010, § 458-30-300, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 84.33.140, 84.34.055, 84.34.108, 84.34.141, and 84.08.070. WSR 07-21-097, § 458-30-300, filed 10/18/07, effective 11/18/07. Statutory Authority: RCW 84.34.141. WSR 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. WSR 95-21-002, § 458-30-300, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. WSR 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. WSR 88-23-062 (Order PT 88-12), § 458-30-300, filed 11/15/88.]