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DEPARTMENT OF REVENUE

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Chapter 458-52
PROPERTY TAX ANNUAL RATIO STUDY

458-52-010 Declaration of purpose. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-010, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-010.

458-52-020 Definitions. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-020, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-020.

458-52-030 Stratification of assessment rolls—Real property. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-030, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-030.

458-52-040 Land use code—Abstract report. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-040, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-050.

458-52-050 Stratification—Personal property. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-050, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-060.

458-52-060 Sales studies. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-060, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-070.

458-52-070 Real property appraisal studies. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-070, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-130.

458-52-080 Personal property audit studies. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-080, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-140.

458-52-090 Indicated real property ratio—Computation. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-090, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-150.

458-52-100 Indicated personal property ratio—Computation. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-100, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-160.

458-52-110 Final indicated ratio—Computation. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-110, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-170.

458-52-120 Use of indicated ratios. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-120, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-180.

458-52-130 County assessor's review. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-130, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-190.

458-52-140 Certification of county indicated ratios. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-140, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-200.

458-52-150 Assessor's appeal. [Statutory Authority: RCW 84.48.075. 78-02-052 (Order PT 78-1), § 458-52-150, filed 1/19/78.] Repealed by 79-11-029 (Order PT 79-3), filed 10/11/79. Statutory Authority: RCW 84.48.075. Later promulgation, see WAC 458-53-210.

Chapter 458-12 WAC
PROPERTY TAX DIVISION——RULES FOR ASSESSORS

WAC

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458-12-145 Listing of property——Exemptions——Generally——Rules of construction. [Order PT 73-7, § 458-12-145, filed 1/16/74; Order PT 68-6, § 458-12-145, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-100.

458-12-146 Listing of property——Applications——Who must file, annual filing requirement, application forms, what covered, filing fee, financial statement, extensions of time, evidence of timely filing. [Order PT 73-7, § 458-12-146, filed 1/16/74.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-110.

458-12-147 Listing of property——Determination——Notification——Appeals. [Order PT 73-7, § 458-12-147, filed 1/16/74.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-120.

458-12-148 Listing of property——Properties sold or acquired by organizations deemed to be exempt. [Order PT 73-7, § 458-12-148, filed 1/16/74.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-130.

458-12-150 Listing of property——Proof of exemption. [Order PT 73-7, § 458-12-150, filed 1/16/74; Order PT 68-6, § 458-12-150, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-140.

458-12-151 Listing of property——Cessation of use——Taxes collectible. [Order PT 73-7, § 458-12-151, filed 1/16/74; Order 73-2, § 458-12-151, filed 5/9/73.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-150.

458-12-152 Listing of property——Inaccurate information——What constitutes. [Order PT 73-7, § 458-12-152, filed 1/16/74.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-160.

458-12-153 Listing of property——Rental or lease of property deemed to be exempt. [Order PT 73-7, § 458-12-153, filed 1/16/74.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-170.

458-12-190 Listing of property——Cemeteries. [Order PT 73-7, § 458-12-190, filed 1/16/74; Order PT 68-6, § 458-12-190, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-180.

458-12-195 Listing of property——Churches, parsonages and convents. [Order PT 73-7, § 458-12-195, filed 1/16/74; Order PT 68-6, § 458-12-195, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-190.

458-12-200 Listing of property——Grounds upon which a church or parsonage shall be built. [Order PT 73-7, § 458-12-200, filed 1/16/74; Order PT 68-6, § 458-12-200, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-200.

458-12-205 Listing of property——Nonprofit, nonsectarian organizations. [Order PT 73-7, § 458-12-205, filed 1/16/74; Order PT 68-6, § 458-12-205, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-210.

458-12-206 Listing of property——Church camps. [Order PT 73-7, § 458-12-206, filed 1/16/74.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-220.

458-12-210 Listing of property——Character building organizations. [Order PT 73-7, § 458-12-210, filed 1/16/74; Order PT 68-6, § 458-12-210, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-230.

458-12-215 Listing of property——Veterans organizations. [Order PT 73-7, § 458-12-215, filed 1/16/74; Order PT 68-6, § 458-12-215, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-240.

458-12-220 Listing of property——Relief organizations. [Order PT 73-7, § 458-12-220, filed 1/16/74; Order PT 68-6, § 458-12-220, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-250.

458-12-225 Listing of property——Day care centers, libraries, orphanages, homes for the aged, homes for the sick or infirm, hospitals. [Order PT 73-7, § 458-12-225, filed 1/16/74; Order PT 68-6, § 458-12-225, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-260.

458-12-230 Listing of property——Schools and colleges. [Order PT 73-7, § 458-12-230, filed 1/16/74; Order PT 68-6, § 458-12-230, filed 4/29/68.] Repealed by Order Pt 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-270.

458-12-235 Listing of property——Art, scientific and historical collections——Fire companies——Humane societies. [Order PT 73-7, § 458-12-235, filed 1/16/74; Order PT 68-6, § 458-12-235, filed 4/29/68.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-280.

458-12-236 Listing of property——Nature conservancy lands. [Order PT 73-7, § 458-12-236, filed 1/16/74.] Repealed by Order PT 76-2, filed 4/7/76. Later promulgation, see WAC 458-16-290.

458-12-238 Listing of property——Sheltered workshops for handicapped. [Order PT 73-7, § 458-12-238, filed 1/16/74.] Repealed by Order PT 76-2, filed 4/7/76.

458-12-325 Valuation of property——Leasehold interests. [Order PT 68-6, § 458-12-325, filed 4/29/68.] Repealed by Order PT 75-1, filed 2/13/75.

WAC 458-12-005 Definition——Property——Personal. The terms "personal property" and "real property" are defined in RCW 84.04.080 and RCW 84.04.090, respectively. These definitions should routinely be consulted in any case where it is at all doubtful whether a given piece of property is real or personal.

Personal property, as defined in RCW 84.04.080, falls into two categories; namely, *tangible* personal property, that is to say, things which have a physical existence, and *intangible* personal property which consists of rights and privileges having a legal but not a physical existence. The category of tangible personal property includes but is not limited to the following:

(1) Goods and Chattels. RCW 84.04.080. This category includes most tangible movables, such as

(a) inventories, AGO 57-58, No. 206 (1958);

(b) farm machinery, AGO 1909-1910, p. 51;

(c) livestock and poultry, RCW 84.44.060;

(d) logs and lumber, RCW 84.44.030;

(e) motor vehicles, RCW 84.44.050;

(f) books, *Booth & Henford Abstract Company v. Phelps*, 8 Wash. 549 (1894);

(g) coin collections and coin inventories of coin dealers, AGO 63-64, No. 116 (1964);

(h) tools.

(2) All standing timber held or owned separately from the ownership of the land on which it stands, RCW 84.04.080; *Leuthold v. Davis*, 56 Wn.2d 710 (1960).

(3) All fish traps, pound net, reef net, set net and drag seine fishing locations, RCW 84.04.080.

(4) All privately-owned improvements, including buildings and the like, upon publicly-owned lands which have *not* become part of the realty, RCW 84.04.080; *Pier 67, Inc. v. King County*, 71 W.D.2d 89 (1967); AGO 1935-1936, p. 167; AGO 3-25-52; TCR 6-17-1947.

(5) All gas and water mains and pipes laid in roads, streets or alleys, RCW 84.04.080.

(6) Water craft of all descriptions, RCW 84.04.080, *Black v. State*, 67 Wn.2d 97 (1965), provided they have acquired an actual situs in the taxing county pursuant to RCW 84.44.050.

(7) Foxes, mink, marten, fish, oysters and all other animals held or raised in captivity for business or commercial purposes, including livestock. RCW 16.72.050; AGO 4–16–1900; AGO 1927–1928, p. 88; TCR 1–6–36.

(8) The roads and bridges of plank roads, gravel roads, turnpike or bridge companies. RCW 84.44.040.

(9) Trade fixtures. This concept, which is peculiar to the landlord–tenant relationship, refers to the machinery or equipment of any commercial or industrial business which operates on leased land or in rented quarters. Such machinery or equipment is a trade fixture; i.e., the tenant's personal property, no matter how firmly it may be attached to the landlord's realty, unless it could not be removed without virtually destroying the building housing it, or otherwise seriously damaging the landlord's realty. Brown on *Personal Property* (2d Edition 1955), Sec. 144.

(10) All engines and machinery of every description used or designed to be used in any process of refining or manufacturing, unless such engines and machinery shall have been included as part of any parcel of real property as defined in WAC 458–12–010(3).

(11) All buildings and other permanent improvements constructed or placed upon the easements of public service corporations other than railroads.

(12) All surface leases, whether of public or privately–owned land, except leases for the life of the lessee. RCW 84.04.080; AGO 49–51, No. 476 (1951); TCR 8–8–41: *In Re Barclay's* Estate, 1 Wn. 2d 82 (1939). This category includes practically all leases to corporations because the legal life of a corporation is almost always longer than the term of any lease to it. *Pier 67, Inc., v. King County*, 71 W.D.2d 89 (1967).

Intangible personal property includes but is not necessarily limited to the following:

(1) Contract rights to cut timber on either public or privately–owned land under which title to the timber has not yet passed. AGO 53–55, No. 29 (1953); PTB 222 (1–13–53). A contract right to cut timber is a mere license, and all contractual licenses to use someone else's realty are personal property. See WAC 458–12–005 (5–Intangibles).

(2) All mining claims, whether patented or unpatented, which are located on public land. TCR 10–3–35; TCR 4–4–1950; AGO 55–57, No. 327 (1956); *American Smelting and Refining Company v. Whatcom County*, 13 Wn.2d 295 (1942).

(3) All mining or prospecting *leases*, whether on public or privately–owned land, except leases for the life of the lessee. RCW 84.04.080; TCR 4–22–36; *Walla Walla Oil, Gas & Pipe Line Company v. Vallentine*, 103 Wash. 359 (1918).

(4) All contractual licenses to use public or someone else's land for specified purposes, or to take something from public or someone else's land, which have a specified minimum term. Examples: timber contracts, AGO 53–55, No. 29, (1953); oil and gas prospecting permits, *Walla Walla Oil, Gas & Pipe Line Company v. Vallentine*, 103 Wash. 359 (1918); grazing permits; permits to take gravel or other minerals, TCR 4–22–1936. However, a license or permit which is revocable at the will of the landowner is not property at all because it gives the licensee no legally–protected right or interest whatsoever.

(5) All possessory rights in realty which are divorced from the title to the realty. TCR 10–3–35; AGO 1937–1938, p. 353. Such possessory rights are analogous to leases; hence they are personal property unless they are coextensive with the life of their holder. This category includes the possessory interest which an installment contract for the sale of public or privately–owned land creates in the vendee. See RCW 84.40.230.

(6) Public utility franchises owned by public service corporations. A public utility franchise is the right to use publicly–owned real estate for power lines, gas or water lines, sewers or some other public utility facility. *Commercial Electric Light and Power Company v. Judson*, 21 Wash. 49 (1899); *Chehalis Broom Company v. Chehalis County*, 24 Wash. 135 (1901). Such public utility franchises are very similar to public utility easements, which are personal property under Paragraph 8 thereof. However, a Washington corporation's primary franchise to exist and do business in corporate form is not taxable property. *Bank of Fairfield v. Spokane County*, 173 Wash. 145 (1933).

(7) Public utility easements owned by public service corporations other than railroads. RCW 84.20.010. [Order PT 68–6, § 458–12–005, filed 4/29/68.]

WAC 458–12–010 Definition——Property——Real. The term "real property" is defined in RCW 84-.04.090; this definition should be consulted as a matter of course in all doubtful cases. As there defined, "real property" includes but is not limited to the following:

(1) All land, whether platted or unplatted.

(2) All buildings, structures or permanent improvements built upon or attached to privately–owned land.

(3) Machinery, equipment or fixtures affixed to land or to a building, structure, or improvement on land.

(a) Such items shall be considered as affixed when they are owned by the owner of the real property and

(i) They are securely attached to the real property; or

(ii) Although not so attached, the item appears to be permanently situated in one location on real property and is adapted to use in the place it is located; for example a heavy piece of machinery or equipment set upon a foundation without being bolted thereto.

(b) Such items shall not be considered as affixed when they are owned separately from the real property unless the agreement specifically provides that such items are to be considered as part of the real property and are to be left with the real property when the occupant vacates the premises.

(c) Whenever the taxable property status of engines, machinery, equipment and fixtures is questioned by the assessor, the taxpayer may be required to list such items in the manner provided by chapter 84.40 RCW and WAC 458–12–080. The assessor shall make the determination of whether such property is real, and shall amend the taxpayer's statement as provided by WAC 458–12–080(2).

The foregoing definitions will not answer the question whether an article is a fixture in all cases. In such cases the numerous decisions of the Washington Supreme Court digested in 6 Wash. Digest Ann., "Fixtures" will have to be consulted.

(4) Privately–owned easements and easement–like privileges, irrespective of whether the servient estate is public or privately–owned land. However, easements of public service corporations other than railroads are personal property by reason of RCW 84.20.010.

(5) Leases and leasehold interests having a term coextensive with the life of the tenant.

(6) Title to minerals in place which belongs to someone other than the surface owner. Such a title to minerals in place is often called "mineral rights" but must be distinguished from mineral leases and permits, which do not give title to minerals in place and which are intangible *personal* property. Mineral rights, as defined herein, are realty regardless of whether they were created by grant or reservation.

(7) Standing timber growing on land which belongs to the same person as the timber.

(8) Water rights, whether riparian, appropriative, or in the nature of an easement.

(9) Buildings and similar permanent improvements erected or made by a tenant on land which he does not own, and title to which is not reserved in the tenant by the lease or some other landlord–tenant agreement. Such buildings and improvements become the landlord's real property.

(10) All life estates in real property, whether created by grant or a reservation. A person has such a life estate when he has a right to the possession, occupation and use of a piece of realty, and to the crops, rents and profits produced by it, during his or her natural life.

(11) All possessory rights in realty which are coextensive with the natural life of their holder. Such possessory rights are analogous to leases, and since leases for life are realty, possessory rights for life are also realty. [Order PT 69–1, § 458–12–010, filed 4/14/69; Order PT 68–6, § 458–12–010, filed 4/29/68.]

WAC 458–12–015 Definition——Interstate commerce. Interstate commerce includes, but is not limited to, that commerce, commercial intercourse, traffic or trade which involves the purchase, sale or exchange of property and its transportation, or the transportation of persons, from one state or territory of the United States to another. (Rules relating to the Revenue Act of 1935, Washington State Tax Commission, p. 128)

The Federal Constitution grants to Congress the exclusive power to regulate interstate commerce. (Art. I, Section VIII, Clause III, United States Constitution) No state may impose an ad valorem tax which burdens, and thus indirectly regulates interstate commerce. (*Independent Warehouses, Inc. v. Scheele*, 331 U.S. 70 (1946)) Not all property which has travelled or will travel interstate in immune from taxation. (TCR 1–29–1948) Merchandise which loses its interstate character, and becomes a part of the general mass of property within a state, acquires situs for taxation purposes. (*Longview Tugboat Co. v. State*, 64 U.S. 323 (1964))

The essential inquiry in determining whether a state has the power to tax property moving in interstate commerce in continuity of transit. (*Carson Petroleum Co. v. Vial*, 279 U.S. 95 (1929), 73 L ed 626) Property is not taxable where the flow of transit within the state is unbroken, or where an interruption is occasioned by necessities of the journey or the need for safety and convenience in the course of movement. (*Minnesota v. Blasius*, 290 U.S. 9 (1933)) Property is taxable where the flow of transit terminates within the state, or where there is a cessation of transit for business or commercial purposes. (*Minnesota v. Blasius*, 290 U.S. 9 (1933))

Where the ultimate destination of property is not determinable, in that the owner may dispose of it within the state of ship it elsewhere, as his interest indicates, an ad valorem tax may properly be imposed, even though the merchandise later resumes its transit in interstate commerce. (*Independent Warehouses, Inc. v. Scheele*, 331 U.S. 70 (1946)). [Order PT 68–6, § 458–12–015, filed 4/29/68.]

WAC 458–12–020 Definition——Foreign commerce——Imports and exports. Foreign Commerce: Means that commerce, commercial intercourse, traffic or trade which involves the purchase, sale or exchange of property and its transportation, or the transportation of persons, or the transportation of communications or electrical energy, from a state or territory of the United States to a foreign country, or from a foreign country to a state or territory of the United States. It includes fish seafood or other products originating on the high seas beyond the territorial limits of the state. (Rules relating to the Revenue Act of 1935, Washington Tax Commission, p. 133)

Import: An import is an article which comes from a foreign country (not from a state, territory or possession of the United States) or originates on the high seas and is brought into the taxing jurisdiction of a state. (Rules relating to the Revenue Act of 1935, Washington Tax Commission, p. 133)

Export: An export is an article sent, taken or carried out (Black's Law Dictionary, fourth edition, p. 690) of a state destined to a foreign country. (Rules relating to the Revenue Act of 1935, Washington Tax Commission, p. 133). [Order PT 68–6, § 458–12–020, filed 4/29/68.]

WAC 458–12–025 Compensation for assistance by Department of Revenue at request of assessor. Whenever the Department of Revenue receives from any county assessor a request for special assistance in the valuation of property, it shall have the option of either entering into a statutory contract for special assistance, or providing such services on an informal basis. All requests for special assistance must be made in writing by the county assessor or the board of county commissioners. The written request shall state the extent of the work to be accomplished and shall be forwarded to the Director of the Department of Revenue.

The Department of Revenue shall consider the request and shall advise the assessor in writing within 30 days of receipt of the request that such request is either approved or rejected in whole or in part. The Department of Revenue is not obligated to provide services until accepting the request.

(1) **Contracts for special assistance** – If the Department of Revenue chooses to enter into the statutory contract it shall proceed to negotiate a written contract with the assessor and the board of county commissioners within 30 days after receipt of the request for assistance initiated by the county. The contract shall contain, but is not limited to the following provisions:

(a) It shall be in writing;

(b) It shall be signed by the Director of the Department of Revenue, the board of county commissioners, and the county assessor of the county in which the work is to be done;

(c) A description of the work to be done, beginning and completion dates of the work, total estimated cost of the work, a statement of the county's share of the estimated cost (no less than 50% of the total cost), and the method and term (not exceeding 3 years from date of expenditure) of payment.

(2) **Services on an informal basis** – If the Department of Revenue provides services on an informal basis, payment for such services shall be made by the board of county commissioners on completion of the work. Prior to providing services on an informal basis the Department and the county shall stipulate in writing the extent of the services to be performed and the amount, if any, to be reimbursed by the county in payment for such services.

(3) **"Inter-local cooperation act"** – Special projects performed on a cooperative basis for the mutual advantage of the Department of Revenue and one or more of the counties may be conducted under the provisions of chapter 239, Laws of 1967. Such projects may include, but are not limited to, development of appraisal methods and procedures, research, development of data processing systems, form design, and other projects where close cooperation of the state and county governments is desirable. [Order PT 68-6, § 458-12-025, filed 4/29/68.]

WAC 458-12-030 County appraisers' salary and classification plan. (1) If an assessor wishes to put into effect the appraisers' salary and classification plan established in accordance with section 7, chapter 146, Laws of 1967 ex. sess., he shall inform the Department of Revenue and the board of county commissioners of this intent in writing. Upon receipt of this notification from the assessor of his intent to implement the plan, the Department of Revenue and the county board of commissioners may thereupon designate their respective representatives. The designation of the Department's representative shall be made in writing by the Director, or by the Assistant Director, Property Tax, and shall be sent to the assessor and the chairman of the board of county commissioners. The designation by the board shall also be in writing, signed by a member of the board, and shall be sent to the Director and the assessor.

(2) Such designations shall be made within fifteen calendar days from receipt of the notification from the assessor, or within fifteen calendar days from the date of this regulation, whichever is later. If either the Department or the board fail to designate a representative, the committee may still be formed and may still act. However, if both the Department and the board fail to designate a representative, the committee shall not be considered as having been formed or empowered to act, the assessor alone being unable to act as the committee.

(3) The committee shall determine the total required number of certified appraiser positions. The committee shall also determine salaries to be paid by determining the number of positions to be established within each class of appraisers for each of the next four budget years. The committee may not, however, change the salary level established in the plan for each class. In determining the number of appraisers' positions within each class, the committee may, if it so desires, provide for different numbers for each year. The committee's determination should be based upon its judgment as to the number of positions within each class necessary to carry out the requirements relating to revaluation of property in chapter 84.41 RCW for each of the next four budget years. In the event of increases unanticipated by the committee in the workload of the assessor's office during this four-year period, because of unanticipated increases in taxable property, the county commissioners, acting under their statutory powers and independently of section 7, chapter 146, Laws of 1967 ex. sess., may increase the number of positions in each class from the minimum numbers established by the committee.

(4) The determination of the committee, made pursuant to Paragraph 3 shall be in writing, shall be certified as true and correct by all members of the committee, and shall be immediately transmitted to the board of county commissioners. Such determination must be by unanimous vote.

(5) In the event that the committee fails to reach a determination, classifications, qualifications, and salaries of appraisers shall be established independently of the provisions of section 7, chapter 146, Laws of 1967 ex. sess., and these rules. And in such event, nothing in these rules or in section 7 shall be construed to derogate from:

(a) the authority of the assessor with respect to setting qualifications for his personnel, or;

(b) the authority of the board of county commissioners with respect to determining the budget of the assessor's office. [Order PT 68-6, § 458-12-030, filed 4/29/68.]

WAC 458-12-035 Standard forms. All forms required to carry out the provisions of the statutes which are now used, or to be used in the future in connection with the assessment and collection of taxes, shall meet the standards as prescribed by the Department of Revenue. The forms now in use in the county assessors' and treasurers' offices shall be submitted to the Department of Revenue for review and approval upon request by the Department.

It will be the policy of the Department of Revenue to permit use of all forms presently in use if, in the Department's judgment, they adequately meet the standards and fulfill the statutory requirements. Once the Department has approved the forms used in an office, the forms may be used until, in the opinion of the Department, the forms need revision because of obsolescence caused by time or statutory change.

All forms shall be submitted in duplicate so that one copy of the approved form may be retained for the Department of Revenue.

After a complete review of all county and state forms, the State Department of Revenue will compile and adopt an Official Standard Forms list for each county. (Rule derived from RCW 84.08.020; 84.48.010; 84.56.050; TCR 10–30–1940). [Order PT 68–6, § 458–12–035, filed 4/29/68.]

WAC 458–12–040 Listing of property——Segregation of interests. The county assessor and the county treasurer shall comply with the provision of RCW 84-.56.340 whenever any person desires to pay taxes upon any part or parts of real property heretofore or hereafter assessed as one parcel or tract. (RCW 84.56.340)

Land assessed in one tract, or in gross, shall be segregated by the county assessor to permit payment by the separate owners of *current or delinquent taxes* on the segregated portions. (AGO 5–26–1943; TCR 4–24–1945)

Where either the county assessor or the county treasurer grouped lots or parcels and the same appear in groups on the treasurer's tax statement, the treasurer and/or the assessor must segregate any lots or parcels from such groups to permit the taxpayer to pay on the property so segregated; and any other property assessed in gross must be segregated for the same purpose. (TCR 4–17–1944)

Undivided interests in real property are separate estates, and should be listed separately on the assessment record and tax rolls by the county assessor in the same manner and under the same circumstances as he should separately list divided interests, when it appears that the owners thereof desire, or will desire to pay their taxes individually. (AGO 10–29–1947)

If the county treasurer receives a request for segregation of tax payments on real property, he shall show such segregation on the tax roll the same as a divided interest upon receipt of proper certification of the values from the assessor.

Real estate which has been plotted and sub–divided into smaller units which are in separate ownership (except for one unit owned by all tenants in common) may be listed and assessed by the county assessor against the unit owners separately both as to their individual units and as to their undivided interest in the unit owned in common. (AGO 61–62, No. 171, 9–27–62) [Order PT 68–6, § 458–12–040, filed 4/29/68.]

WAC 458–12–045 Listing of real property——Contracts for sale of public lands. Whenever any real property belonging to the United States of America, the State of Washington or any county or municipality is sold under an arrangement whereby title is reserved in the grantor and use and possession goes to the grantee, such property shall be listed as real property in the name of the grantee rather than the governmental instrumentality.

Any improvements existing on the property at the time the contract for sale is entered into or which are subsequently added after said contract shall likewise be listed as real property in the name of the grantee. (Rule derived from AGO 6–24–1947; PTB No. 167, 8–21–1947). [Order PT 68–6, § 458–12–045, filed 4/29/68.]

WAC 458–12–050 Listing of real property——Omitted property. Whenever any real property is omitted from the assessment rolls, the assessor shall have the right and duty to go back and separately value and list such property as omitted property. When improvements or land are omitted, the assessor shall check back for a period of three years and base his assessment on the value of the improvements as of the year or years omitted regardless of the reason why the improvements or land were omitted from the rolls. If it is found that a bona–fide purchaser (third party) had purchased or acquired any interest in the property prior to the time such improvements are assessed and without knowledge that the property is omitted, then there shall be no assessment made. (RCW 84.40.080) If any question arises as to whether or not the improvement has in fact been omitted, the burden of proof shall be on the assessor to show that it has. (TCR 3–17–1953) Under no circumstances, however, is this section to be used for the purpose of revaluation or reassessment. (*Wood Lbr. Company v. Whatcom County*, 5 Wn.2d 63 (1940))

Once the omitted improvement assessment is made the taxpayer shall have one year from the date the tax for the current year becomes due to pay the back taxes without penalty or interest. (RCW 84.40.080). [Order PT 68–6, § 458–12–050, filed 4/29/68.]

WAC 458–12–055 Taxable situs——Real property. The situs of real property is at the place where the property is located. The situs of a possessory interest in real property is at the place where the real property is situated.

Where a parcel of real property is located in more than one taxing district the portion lying within a particular district is assessable only in that district. [Order PT 68–6, § 458–12–055, filed 4/29/68.]

WAC 458–12–060 Listing of personalty——Burden on taxpayer to list. Every person, firm or corporation regardless of residency who owns or controls personal property not specifically exempted by law located in this state as of 12 noon on the first day of January shall be required to annually submit a personal property listing and statement. Such listing and statement shall be due regardless of whether or not the assessor has provided notice of such listing to the individual taxpayer. (RCW 84.40.190). [Order PT 68–6, § 458–12–060, filed 4/29/68.]

WAC 458-12-065 Listing personal property——Form and notice. The assessor shall compile and keep current an alphabetical list of all persons at their last known address to his knowledge in his county who are subject to assessment of personal property. On or before January 1st of each year he shall send a notice and personal property listing form to all persons to his knowledge who own taxable personal property at their last known address, Such notice and listing form shall be in accordance with the forms prescribed by the Department of Revenue.

For the years 1968 and 1969 the assessor shall send a second notice on or before March 15th of that year to those taxpayers who have not, as of the date of the notice, sent in their listing. In the years following 1969 the assessor shall provide notice through appropriate news media with county-wide coverage.

A copy of the taxpayer's previous year's list shall be made available to the taxpayer whenever he may request it. (RCW 84.40.040) Further, if the assessor considers it practicable, the notice to be sent to each taxpayer each year shall include the statement and list of personal property of the taxpayer for the preceding year.

If the assessor deems it practicable, he may permit consolidation of items of personal property with a total value of $1,000 or less in one entry on the listing form under the heading, "Miscellaneous Items of Personal Property". When such consolidation is made, the cost reported by the taxpayer shall be identified as "Miscellaneous Tools & Equipment", "Miscellaneous Machinery" or by similar designation indicating the category of property reported.

The county assessor shall not accept a listing that is not signed; however, he may accept a listing that has been signed and not subscribed and sworn to before the assessor, his deputy or a notary public. (RCW 84.40.060)

When the assessor shall be of the opinion that a full, fair and complete listing of property may not have been made, he shall require the listing to be subscribed and sworn to before him, his deputy or a notary public.

This swearing under oath is an essential preliminary step to any action for perjury.

A copy of the completed personal property listing form containing the assessor's estimation of true and fair or assessed values shall be returned to the taxpayer. [Order PT 68-6, § 458-12-065, filed 4/29/68.]

WAC 458-12-070 Listing of personalty——When due——Late filing. All lists and statements of personal property are due on March 31 of each year. This due date may be extended by the assessor when he has, prior to the due date, received a written request showing that there is good cause for granting the extension. If it is granted, the extension will be only for a period of time reasonably necessary to allow the listing of the personal property. (RCW 84.40.040). [Order PT 68-6, § 458-12-070, filed 4/29/68.]

WAC 458-12-075 Personalty——Filing by corporations, partnerships, firms or agents. (1) **Corporations** – The president, vice-president, treasurer, assistant treasurer, chief accounting officer or any other duly authorized person shall be permitted to list for a corporation.

(2) **Partnerships, Firms or Business** – Any partner, member or duly authorized officer who has knowledge of the affairs of the business shall be permitted to list for a partnership firm or business.

(3) **The Estate and Trust** – The fiduciary shall be permitted to list for any trust or estate. In the above situations it shall not be necessary for the officer, partner, owner or fiduciary who is in charge of preparing and submitting the personal property list, schedule, or statement to file a power of attorney with the county assessor. His act shall be considered that of the corporation, partnership, business, or trust which he represents for the purposes of the penalties found in RCW 84.40.130 without the necessity of filing such power.

Whenever any person who does not fall into the category of an officer, partner, owner or fiduciary as provided above prepares and signs a personal property list, schedule or statement required to be submitted by his principal, he shall submit a power of attorney executed by his principal to the county assessor. If properly executed, the assessor shall accept the power of attorney and shall keep a copy of such power on file in his office. This power shall be effective until it is revoked.

When the assessor shall be of the opinion that a full, fair and complete listing of property may not have been made on behalf of a principal, he may require the agent to give evidence of his authority.

"Power of attorney" shall include any written authorization to prepare and sign such personal property lists executed by an authorized officer or the board of directors of a corporation or by a partner, owner or fiduciary.

"Authorized officer" as used in the preceding sentence, means a person who has been appointed by the board of directors to designate, by name or title, an employee or agent to execute and file lists on behalf of such corporation.

When any list, schedule, or statement is made and signed by any agent, the principal required to make out and deliver the same shall be responsible for the contents and the filing thereof and shall be liable for the penalties imposed pursuant to RCW 84.40.130. (Derived from chapter 149, Laws of 1967). [Order PT 68-6, § 458-12-075, filed 4/29/68.]

WAC 458-12-080 Listing of personalty——Manufacturers. (1) **Definitions:** (a) "*Manufacturer*" – Every person who purchases, receives or holds personal property of any description for the purpose of adding to the value thereof by any process of manufacturing, refining or rectifying or by the combination of different materials with the view of making gain or profit by so doing, shall be held to be a manufacturer. (RCW 84.40.210)

(b) "*Manufacturer's Stock*" – Manufacturer's stock shall include all articles purchased, received or otherwise held for the purpose of being used in whole or in part in any process or processes of manufacturing, combining, rectifying or refining and all engines and machinery of every description used or designed to be used in any

process of refining or manufacturing together with all tools and implements of every kind, used or designed to be used for the purpose of adding value to personal property by the manufacturer, excepting fixtures considered as part of any parcel of real property. (RCW 84.40.210)

(2) **Listing Requirements:** A manufacturer shall make and deliver to the assessor a statement of personal property subject to tax. The statement shall include the manufacturer's stock, engines and machinery, and other personal property.

All personal property, manufacturer's stock, and engines and machinery, together with its acquisition cost and date of acquisition, shall be listed in said statement.

The personal property pertaining to the business of a manufacturer shall be listed in the town or place where his business is carried on.

On receipt of the manufacturer's statement, the assessor shall delete from the assessment the value of any engines and machinery that have been listed and assessed as part of any parcel of real property. A copy of the corrected assessment shall be returned to the manufacturer. [Order PT 69-1, § 458-12-080, filed 4/14/69; Order 68-6, § 458-12-080, filed 4/29/68.]

WAC 458-12-085 Listing of personalty——Merchants——Personalty——Consignments. (1) **Definitions: "Merchant"** – Whoever owns, or has in his possession or subject to his control, any goods, merchandise, grain, or produce of any kind, or other personal property within this state, with authority to sell the same, which has been purchased either in or out of this state, with a view to being sold at an advanced price or profit, or which has been consigned to him from any place out of this state for the purpose of being sold at any place within the state, is held to be a merchant. (RCW 84.40.220)

(2) **Listing Requirements:** The assessor of the county where merchandising is actually carried on and where the property is located can demand the listing thereof. (AGO 35-36, p. 174) The merchant, when submitting his personal property list, shall state the value (laid in cost or trade level cost, whichever is applicable) of such property pertaining to his business as a merchant. (RCW 84.40.220) The assessor shall give recognition to the trade level at which the property is situated and to the principle that tangible property normally increases in value as it progresses through production and distribution channels, attaining maximum value normally, at the consumer level. (California Administrative Code, Title 18, Chapter 6, Subchapter 1, Section 10) (See WAC 458-12-310 for trade level definition)

Finished goods held for sale shall be valued at the amount for which they would transfer to a like business (cost to produce); those held for lease or rental shall be valued at the trade level of the principal user, usually cost to retailer or consumer.

Every merchant required to list personalty shall include in such list the value of goods held on consignment or stored for another firm where the merchant stands to profit on the sale thereof.

Where goods are consigned for storage only or held on consignment and the merchant has no interest therein nor any profit to be derived from the sale, such consigned goods are not taxable to the consignee merchant, but if known to such merchant, the value——laid in cost or trade level cost or both——and the ownership of such consigned goods should be reported to the assessor so that the person subject to taxation of such goods is revealed and a proper listing may be made.

The growing crops of nurserymen shall be considered the same as other growing crops on cultivated land. (RCW 84.40.220) (See RCW 84.40.030 for criteria of value). [Order PT 68-6, § 458-12-085, filed 4/29/68.]

WAC 458-12-090 Listing of personalty——$300 exemption and its effect on listing. When all of the personal property owned by a taxpayer consists of household goods and personal effects exempt under the provisions of RCW 84.36.110 or any other statute providing exemptions for personal property, no listing of such property will be required. (RCW 84.36.110)

A taxpayer qualifying for the $300 head of family exemption owning other personal property not in commercial use or held for sale and not worth more than $300 will not be required to file a listing of such property with the assessor.

When the taxable personal property of a head of family exceeds $300 in value a complete listing of such property shall be made by the taxpayer. (RCW 84.36-.110) The assessor shall deduct the $300 exemption from the total value he has determined for the personal property listed on the taxpayer's return. (See WAC 458-12-270). [Order PT 68-6, § 458-12-090, filed 4/29/68.]

WAC 458-12-095 Listing of personalty——Partial listing. Whenever unreported property (See WAC 458-12-100 for Unlisted Property) is found, reported or discovered, the assessor shall add such property to the assessment rolls, and shall make an assessment of current and back taxes and *any applicable penalties.* [Order PT 68-6, § 458-12-095, filed 4/29/68.]

WAC 458-12-100 Listing of personalty——Omitted property. Omitted personal property shall include all personalty which was not entered on the assessment roll for other than fraudulent reasons. It shall not include personalty which was listed but improperly valued. (*Tradewell Stores, Inc. v. Snohomish County* 69 Wn. Dec. 2d 356 (1966); *Wood Lbr. Company v. Whatcom County*, 5 Wn. 2d 63 (1940))

Whenever the assessor shall find omitted personalty he shall go back no more than three years and assess such personalty as omitted property except in cases of fraud or willful evasion. In cases of fraud or willful evasion, there shall be no limitation on the number of years he can go back. [Order PT 68-6, § 458-12-100, filed 4/29/68.]

WAC 458-12-105 Listing of personalty——Willful failure to list or fraudulent listing——Penalty. When a

listing is filed which appears to be fraudulent, a complaint shall be filed with the prosecuting attorney by either the assessor or the board of county commissioners for the collection of the additional tax properly due and, in addition, for a penalty of 100% of such tax. Both the penalty and the additional tax found to be due are to be recovered by the prosecuting attorney in an action in the name of the state and paid into the county treasury to the credit of the current expense fund.

A fraudulent listing may arise either because it does not include all of the taxable personalty in the ownership, possession, or control of the person submitting the list, or because it contains false information relating to the proper value of the personalty which in fact has been listed.

Before a complaint is filed with the prosecutor, the assessor will make a preliminary investigation sufficient to satisfy himself that the probable reason for the erroneous listing was an intent to defraud; *i.e.*, a deliberate intent to escape from the full personal property tax liability, and that the erroneous listing did not arise simply from negligence, inadvertence, accident or simple ignorance.

When a person required to list property subject to taxation does not do so by the date prescribed, and it appears to the assessor that the motive for the failure or refusal to list is an intent to defraud, a complaint shall be filed with the prosecuting attorney by either the assessor or the board of county commissioners for the collection of the total tax determined by the assessor to be properly due and a penalty of 100% of such tax. Both the tax and the penalty are to be recovered by the prosecuting attorney in an action in the name of the state and to be paid into the county treasury to the credit of the current expense fund.

Before a complaint is filed with the prosecutor, the assessor should make a preliminary investigation sufficient to satisfy himself that the probable reason for the failure to list was an intent to defraud; *i.e.*, a deliberate intent to completely escape from personal property tax liability, and that the failure to list did not arise simply from negligence, inadvertence, accident or simple ignorance. [Order PT 68-6, § 458-12-105, filed 4/29/68.]

WAC 458-12-110 Listing of personalty——Estimate listing penalty. If a personal property statement or list is not submitted within the time allowed either by law or by the assessor where an extension has been granted, the assessor shall ascertain the amount and value of the property which should have been reported. (RCW 84.40.200) When such a listing is made by the assessor, he shall deliver or mail a copy to the person for whom the listing is made. The copy delivered must show the valuation of the property listed, and must be signed by the assessor. On the copy of the listing delivered or mailed, the assessor shall notify the person for whom the listing is made of his possible liability for penalties for his failure to make the list himself.

The listing made by the assessor shall be used by him for all purposes in the same manner as though it was submitted by the person required to list, until such person does submit the required statement.

When a statement of personal property subject to taxation is not submitted by the date prescribed, the taxpayer becomes liable to a penalty of 5% of the total tax determined to be due, for each month or fraction thereof from the date that the listing was due to the date that it is actually received, in acceptable form, by the assessor. The performance by the assessor of his duty to ascertain the amount and value of taxable property in the event of the failure of the person required to do so shall not be taken to be such a report as would terminate the accrual of this penalty.

The penalty provided for by this rule shall actually be assessed at the time that taxes are spread on the rolls, to a maximum of 25% of the tax found to be due, and shall then be added to the tax assessed, and collected in the same manner as such taxes. If the person required to list property can show, to the satisfaction of the assessor, that his failure to report is due to a reasonable cause, no late filing penalty shall be assessed. [Order PT 68-6, § 458-12-110, filed 4/29/68.]

WAC 458-12-115 Personalty——Taxable situs——In general. Personal property except where required by statute to be listed elsewhere shall be listed and assessed in the county where situated as of 12 noon on January 1st of each year. (RCW 84.44.010)

For the purposes of determining the situs of goods in transit the following guidelines shall be observed:

(1) **Goods in Interstate Transit** – Goods in transit to this state from another are assessable only if on the assessment date they have come to rest within this state. The fact that such goods may be still in their original package as of the assessment date is immaterial. (*American Steel & Wire Company v. Speed*, 192 U.S. 500 (1903); AGO 5-2-1942; TCR 2-25-1936) Goods which are in-transit either from or through the state with the ultimate destination point elsewhere shall not be subject to local property taxation. However, if during the course of such transit any nonexempt goods (See RCW 84.36.140 through 84.36.191) shall be stored in any county of this state for other than natural causes or lack of facilities for immediate transportation then such goods shall become subject to local taxation. (*Kelley v. Rhoads*, 188 U.S. 1 (1902))

(2) **Exports and Imports** – Goods from foreign countries are imports in the strict sense and generally become taxable within the following situations:

(a) Such goods are sold by the importer;

(b) The physical container except intermodal containers (i.e., vanpacs or similar equipment) constructed and utilized solely to transport a quantity of goods in separate original packages in a single container and intended to be reuseable in which they arrived is broken; (*Brown v. Maryland*, 25 U.S. 266 (1827); *Waring v. The Mayor of Mobile*, 75 U.S. 110 (1868))

(c) The merchandise is commingled with the mass of properties in the state; (*May v. New Orleans*, 178 U.S. 496 (1890))

(d) The goods have been committed to the purpose or use for which they were imported. (*Youngstown Sheet & Tube Company v. Bowers*, 358 U.S. 534 (1958))

Goods which are to be exported are assessable until they enter into the stream of exportation. (*Eardley Fisheries Co. v. Seattle*, 50 Wn.(2d) 566)

(3) **Intrastate Transit** – Goods in transit from one point in this state to another on the assessment date are assessable at their destination. (*State Trust Company v. Chehalis County*, 79 U.S. 282 (1897); AGO 1929–30, p. 179; TCR 2–25–1937; AGO 1933–34, p. 97)

"In–Transit" shall mean that the goods are either in the hands of the carrier without being subject to further control by the owner or that the goods are physically moving as of the assessment date. (TCR 2–16–1938; 2–7–1939) If during the course of the transit the goods shall happen to be delayed for other than natural causes or lack of immediate transportation facilities then such goods shall be subject to assessment at the location of their actual situs. This shall be so notwithstanding the fact that such situs may not be the destination point nor the domicile of the owner. However, if the goods are only temporarily delayed for the excusable reasons, then they are assessable at the destination point. (AGO 1929–30, p. 192; TCR 6–13–1940)

Goods arriving at destination point before the assessment date shall be assessed and taxed at that point regardless of whether or not possession or the right of possession has passed to the person, firms or corporations accepting such goods. (AGO 1929–30, p. 179; AGO 1913–14, p. 61). [Order PT 68–6, § 458–12–115, filed 4/29/68.]

WAC 458–12–120 Situs of Personalty——Beer kegs. Beer kegs owned by Washington breweries are taxable at the situs of the brewery. Those kegs owned by out–of–state breweries are taxable at the situs of their own actual location. (PTB 9–26–1939). [Order PT 68–6, § 458–12–120, filed 4/29/68.]

WAC 458–12–125 Situs of Personalty——Merchants and manufacturers. The second sentence of RCW 84.44.010, which states, "the personal property pertaining to the businesses of a merchant or of a manufacturer shall be listed in the town or place where his business is carried on," should not be construed strictly. It should be considered a secondary rule to be applied only in those cases where the application of the physical situs rule is doubtful.

For instance, these terms could or would apply to (1) motor equipment used in making deliveries from one taxing district into another; (2) merchandise taken for a short period into another taxing unit for display or sale (TCR 10–22–1945; TCR 3–18–1947); (3) merchandise located for a short period in another taxing unit where merchandise is not customarily located or stored; (4) manufacturer's machinery taken out of the home taxing unit for repair; (5) goods in intrastate transit and many other situations of similar nature.

The sentence would not apply to (1) grain owned by a Western Washington milling firm stored in a warehouse in Eastern Washington even though all the firm's business, except for such storage, is transacted in Western Washington, or (2) logs kept customarily in supply, though in variable quantity, owned by a merchant in one county, but stored customarily, or for longer than what would be described as a "transit period", in another county or taxing unit. (TCR 3–18–1947)

The examples given above are not meant to be exhaustive and are only given as a guideline. [Order PT 68–6, § 458–12–125, filed 4/29/68.]

WAC 458–12–130 Situs of Personalty——Migratory stock. All cattle, horses, sheep or boats pastured in a different county than where wintered shall be considered migratory stock.

Whenever listing migratory stock, it shall be the duty of the taxpayer to see that the county assessor of each and every county where such stock may be situated for more than sixty days during the year have notice of such fact. The assessor of the county where the stock is located shall as of January 1st assess the stock as a whole. The assessment shall be subject to proration with any other county in which the migratory stock is or will be located for a period of more than sixty days provided first, however, that such county makes a demand upon the home county assessor before the first day of July each year.

The assessor shall assess every herd of migratory livestock which may at any time be in his county for other than transitory reasons. If at any time he shall find a herd which has not been listed in his county, he shall immediately ascertain first, whether or not the herd has been listed anywhere within the State of Washington, and secondly, how long the herd has been in his county and plans on remaining there.

If it is found that the herd has not been listed in this state, the assessor shall list and assess the herd in the same manner as if it had been in his county as of January 1st of that year. The fact that the herd may have been listed and assessed in another state or territory for that same year shall in no way exempt said stock from the operation of this section.

If it should be found that the stock has been listed in the state but not within the assessor's particular county, he shall ascertain how long such herd has and will be in the county. If it has or will be in the county over sixty days, and the present date is not later than July 1st, a demand should be made upon the assessor of the home county to prorate the assessment. If the present date is later than July 1st, the county where the stock is discovered shall have no right to receive a share of the tax due. (Rule derived from RCW 84.44.070). [Order PT 68–6, § 458–12–130, filed 4/29/68.]

WAC 458–12–135 Listing of property——Taxing district designation. (1) **Definitions:** (a) "*Taxing District*" – means and includes the state and any county, city, town, school district or municipal corporation having the power to levy taxes upon property within the district in proportion to the value thereof.

"*Consolidated Taxing District*" – shall mean a combination of all taxing districts whose combined levy for tax purposes makes up the total levy applicable to an individual property.

(2) The assessor shall designate the name or number of each consolidated taxing district in which each description of real or personal property is located and assessed. The consolidated taxing district designation shall be entered opposite each assessment in a column provided for that purpose in the detail and assessment list. A code number may be used.

When real and personal property of any person is located and assessable in several consolidated taxing districts, a separate listing shall be made on the detail and assessment list and identified by the number or other designation of the consolidated taxing district in which each portion of the property or properties is located.

The county assessor shall designate the consolidated taxing district on all listings of personal property in accordance with the applicable rules controlling "taxable situs" as of the assessment date. (Rule derived from RCW 84.04.120 and RCW 84.40.090) [Order PT 68-6, § 458-12-135, filed 4/29/68.]

WAC 458-12-140 Listing of property——Boundary changes. The official boundaries of all taxing districts are fixed for purposes of property taxation and levy of property taxes as of the first (1st) day of March each year.

The county assessor shall transmit one copy of each instrument filed with the county auditor or any other county official, which sets forth any change in taxing district boundaries, or for the establishment of any new taxing district, together with a copy of a plat showing such change, to the Property Tax Division, Department of Revenue, on or before the first (1st) day of March each year. (Rule derived from RCW 84.04.120; 84.09-.030; 84.40.100). [Order PT 68-6, § 458-12-140, filed 4/29/68.]

WAC 458-12-155 Listing of property——Public lands——Federal lands——Exclusive or concurrent jurisdiction. Before assessing personal property located on federally-owned lands, the assessor shall determine whether the federal government claims exclusive or concurrent jurisdiction over the land. If exclusive jurisdiction is claimed, such land shall be treated as not even existing in the State of Washington for taxation purposes. (*Concessions Company v. Morris*, 109 Wash. 46 (1919); *Ryan v. State*, 188 Wash. 115 (1936); AGO 1933-1934, p. 298; PTB No. 211 (1951)) Personal property, including leasehold interests, located upon such lands shall not be subject to taxation.

If the federal government holds the land concurrently with the state, personal property, including leasehold interests located on or in such land, is subject to taxation. (AGO 1933-34, p. 298; AGO 1945-46, p. 717; PTB No. 211 (1951)). [Order PT 68-6, § 458-12-155, files 4/29/68.]

WAC 458-12-160 Listing of property——Public land——Conveyances. All property coming into the exclusive ownership of any public-exempt body shall be exempt from further taxation and shall be removed from the assessment and taxation rolls.

All property coming into the exclusive possession of any governmental unit as trust property for bond holders shall be exempt from taxation only if a specific exemption can be found for it. (*Spokane v. Spokane County*, 169 Wash. 355 (1932))

All real property now in the ownership of any public-exempt body which is being sold to some non-exempt vendee under an arrangement where possession is given to the vendee and title remains in the vendor shall be governed by RCW 84.40.230; WAC 458-12-045.

In all other situations where either real or personal property is sold by any public-exempt body to a non-exempt vendee, such *property* (only the actual property itself is exempt, not the vendee's possessory interest in it) shall become subject to taxation on the January 1 following the time title passes. [Order PT 68-6, § 458-12-160, filed 4/29/68.]

WAC 458-12-165 Listing of property——Public lands——Purchase by state, county or city. Real property acquired either by purchase or condemnation by the state, county, city or any exempt political subdivision shall remain liable for any tax liens existing on the realty at the time the conveyance is completed. (RCW 84.60.050) If the taxes are not delinquent at the time of the purchase or condemnation, the date of completion of the sale shall be noted. If the transfer was before February 15 of the taxable year, there shall be no tax payable. If the transfer is between February 15 and April 30, one-half of the tax shall be payable. If the transfer is after April 30, the full amount of tax shall be payable. (RCW 84.60.060) Whenever only part of a parcel of property is purchased or condemned, the assessor is authorized to segregate the taxes according to the provision of RCW 84.60.070. [Order PT 68-6, § 458-12-165, filed 4/29/68.]

WAC 458-12-170 Listing of property——Public lands——Possessory rights. All possessory rights in exempt public lands are taxable to the holder (*American Smelting & Refining Co. v. Whatcom Co.*, 13 Wn. (2d) 295 (1942) dealing with mining claims located on Federal lands) thereof unless the holder of the possessory interest is exempt from taxation elsewhere, or if interest is in lands where the Federal Government claims exclusive jurisdiction. (WAC 458-12-155)

All possessory rights which are held by an exempt public body shall likewise be exempt from taxation. [Order PT 68-6, § 458-12-170, filed 4/29/68.]

WAC 458-12-175 Listing of property——Public lands——Leasehold interests and improvements. Leasehold interests in public lands other than those specified in WAC 458-12-155, are taxable as personal property to the holder thereof. (RCW 84.04.080; WAC 458-12-

325) The fact that the land itself may be exempt from taxation is immaterial.

Improvements on public lands are generally considered personal property taxable to the owner thereof. (RCW 84.04.080) Whenever the improvement is a permanent fixture which cannot be removed without destroying it, such improvement shall be presumed to have become a part of the realty and would not be taxable, since owned by the exempt public body. (*Pier 67, Inc. v. King County*, 71 Wn. Dec. (2d) 89 (1967)) This presumption shall not be conclusive and can be overcome by clear evidence which indicates that the parties did not intend that the improvements become part of the realty. [Order PT 68-6, § 458-12-175, filed 4/29/68.]

WAC 458-12-180 Listing of property——Public lands——Public body as lessee——Improvements. Leasehold interests held by public-exempt bodies are exempt from taxation. The property on which they are located is assessable to the owner and its taxability is in no way affected by the leasehold interest. (AGO 1-30-1937; AGO 8-30-1934)

Improvements made by the public-exempt body in or upon the realty of a private taxpayer shall become part of the realty for taxation purposes unless it clearly appears otherwise. (TCR 5-12-1948)

Whenever it should appear that title to the improvements remain in the public-exempt body, the assessor shall ascertain whether or not the owner of the realty has any taxable interest in the improvements. If he does, he shall be taxed on this interest and not the improvements. If he doesn't, he shall not be taxed on the improvements or anything related thereto. [Order PT 68-6, § 458-12-180, filed 4/29/68.]

WAC 456-12-185 Listing of property——Public lands——Airports, bridges, consulates owned by foreign municipalities. The general rule is that real or personal property owned by foreign states, foreign national governments, or municipal corporations is taxable unless a specific statutory exemption can be found to the contrary. (AGO 59-60, No. 31, 4-28-59) RCW 84.36.130 exempts foreign municipal corporations owning exclusively properties for the purposes of an airport.

RCW 84.36.230 grants reciprocal exemptions to neighboring foreign municipal corporations, counties, or states who exempt Washington-owned bridges from taxation.

All property belonging exclusively to a foreign national government used exclusively an [in] an office or residence for a consul or other official representative of that government, shall be exempt from taxation. The consul or representative must be a citizen of the foreign nation for the exemption to apply. (Chapter 149, section 31, Laws of 1967.) [Order PT 68-6, § 458-12-185, filed 4/29/68.]

WAC 458-12-240 Listing of property——Nonprofit organizations——Taxable interests in real property owned or used by nonprofit organizations. Property of organizations qualified for exemption pursuant to WAC 458-12-195 through WAC 458-12-235 is exempt from taxation. With the exception of property used for churches and church grounds, WAC 458-12-195, (See WAC 458-12-195 for criteria to be followed in regard to churches, parsonages, and grounds) and property used for school and colleges, WAC 458-12-230 (See WAC 458-12-230 for criteria to be followed in regard to schools and colleges) the following criteria shall be followed in determining whether there is a taxable property interest in property owned or used by an exempt nonprofit organization:

(1) Where an organization holds ownership of property in fee, that property is exempt from taxation. (AGO 31-32, p. 36, 2-24-31)

(2) Where an organization is lessee of property, its interest in the land is exempt, but the property interest of the lessor is taxable. (RCW 84.04.080)

(3) Where an organization is lessor of property, its interest in the property is exempt, but the property interest of the lessee is taxable as personal property. (AGO 1929-30, p. 704; RCW 84.04.080)

(4) Where an organization has the right to use or possession of property, but title ownership is retained by a private, taxable person, the interest of the organization is exempt from taxation, but the interest of the title owned is taxable until title passes to the nonprofit organization. (AGO 45-46, p. 717, 4-11-46) Thus where a nonprofit group purchases property under a conditional sales contract, with title retained by the vendor, the possessory right of the nonprofit organization is exempt from taxation, but the ownership right of the vendor is taxable as real property. (AGO 5-6-1952)

(5) Where an organization holds title ownership of property, but a private, taxable person has the right to use of possession of the property, the interest of the nonprofit organization is exempt from taxation, but the interest of the person using or possessing the property is taxable as personal property. (AGO 45-46, p. 717, 4-11-46). [Order PT 68-6, § 458-12-240, filed 4/29/68.]

WAC 458-12-245 Listing of property——Intangibles. The following property shall be exempt from taxation:

(1) **All Moneys** - For purposes of this section, "moneys" is defined to mean gold and silver coin, gold and silver certificates, treasury notes, United States notes, and bank notes. (RCW 84.04.060) The exemption is limited to money being used as a measure of value and a medium of exchange. Money, as a commodity having a value of its own, is taxable. (AGO 63-64 No. 116) Thus, coins and currency having a value as collectors' items or for some other special purpose are subject to taxation based upon their fair market value. (AGO 63-64 No. 116)

(2) **Credits** - including mortgages, notes, accounts, certificate of deposit, tax certificates, judgments, state, county and municipal bonds and warrants, and bonds and warrants of other taxing districts, bonds of the United States and of foreign countries of political subdivisions thereof, and the bonds, stocks or shares of private

corporations, including national and state banks. (AGO 2-7-1934)

Only credits payable in money, and entitling the creditor to no personal or real property interest, are exempt from taxation. Thus the interest of a vendee in property sold under executory contract is taxable as personal property, provided the contract right has value, since the contract entitles the vendee to future ownership of property. (PTB No. 222, 1-19-1953) The interest of a vendor selling property under executory or conditional sale contract is taxable as real property, since the vendor retains title ownership of the property. (AGO 5-6-1952) But a mortgage interest in property is not taxable, since the mortgage merely secures the monetary investment of the mortgagee, and does not entitle him to either present or future ownership of the property. (Rule derived from RCW 84.04.060.) [Order PT 68-6, § 458-12-245, filed 4/29/68.]

WAC 458-12-250 Listing of property——Ships and vessels——Definition. Irrespective of size, motive power or type, all ships, vessels, and boats intended or used primarily for movement by water are entitled to partial exemption from taxation. This category includes all ships, vessels or boats, including barges or scows, used in transporting freight or passengers; those carrying fixed loads, such as pile drivers, pumps or diving equipment; yachts; pleasure craft; launches; outboard motor boats; sail boats; row boats; and houseboats used for cruising. Water craft not intended or used primarily for water movement, such as houseboats customarily tied up at a fixed point, boathouses used for storage or rental of boats, and floats used for storage or moorage, are fully taxable. Rule derived from RCW 84.36.100 and PTB No. 166 (1947). [Order PT 68-6, § 458-12-250, filed 4/29/68.]

WAC 458-12-255 Listing of property——Ships and vessels——Taxable situs in Washington. The State of Washington has no jurisdiction to tax ships, vessels, or boats having no situs within the state. Such vessels shall therefore be totally exempt from ad valorem taxation.

The county assessor shall be governed by the following general principles in determining whether a ship or vessel has situs within the State of Washington for taxation purposes:

(1) Situs for taxation of ships and vessels is the domicile of the owner, unless the vessels have acquired situs elsewhere. (*Northwestern Lumber Co. v. Chehalis County*, 25 Wash. 95 (1901)) The domicile of an individual is his permanent place of residence; the domicile of a corporation is its principal place of business. (AGO 3-25-1931)

(2) Situs for taxation is not controlled by place of home port or port registry. (AGO 2-20-1931)

(3) While the general rule is that situs is controlled by domicile of the owner, ships and vessels may be subject to taxation by a state in which they acquire actual situs. (*Guiness v. King County*, 32 Wn. (2d) 503 (1949)) In order to acquire actual situs in the State of Washington, regardless of the domicile of the owner, a ship or vessel must be more or less permanently, rather then [than] temporarily, located in this state. (*Guiness v. King County*, 32 Wn. (2d) 503 (1949)) If presence within the state is merely for the purpose of taking on and discharging cargo or passengers, or for the need of safety and convenience in conducting business, such vessels have not acquired actual situs. (AGO 2-20-1931) However, where the stay of a vessel is indefinite, and it is maintained in this state to suit the convenience of the owner or to be subjected to protracted local use, actual situs for taxation purposes is acquired. (*Guiness v. King County*, 32 Wn. (2d) 503 (1949)). [Order PT 68-6, § 458-12-255, filed 4/29/68.]

WAC 458-12-260 Listing of property——Ships and vessels——Vessels under construction. All real or personal property interests in any vessel of more than one thousand ton burden, and the materials and parts held by the builder at the site of construction for incorporation therein, shall be exempt from taxation while the vessel is under construction. (Rule derived from RCW 84.36.079.) [Order PT 68-6, § 458-12-260, filed 4/29/68.]

WAC 458-12-265 Listing of property——Ships and vessels——Partial exemption. Ships, vessels and boats which are taxable in the State of Washington under WAC 458-12-255, "Taxable Situs," are entitled to partial exemption from taxation, provided they are intended or used primarily for movement by water. (See WAC 458-12-250, "Ships and Vessels——Definition") Ships and vessels in interstate (See WAC 458-12-015, "Definition——Interstate Commerce") or foreign commerce, (See WAC 458-12-020, "Definition——Foreign Commerce") or commerce between ports of the State of Washington and the high seas, shall be exempt from all ad valorem taxes, except those levied for any state purposes. (RCW 84.36.080) All other ships, vessels and boats are exempt from all ad valorem taxes, except taxes levied for any state purpose and twenty percent of taxes levied for all other purposes. (RCW 84.36.090) To qualify for the exemption allowed for vessels engaged in interstate commerce, a vessel must be primarily or exclusively, rather than incidentally, engaged in such commerce. (*Standard Oil Co. v. King County*, 180 Wash. 631 (1935))

Commerce between ports of the State of Washington and the high seas shall not be construed to apply to a vessel engaged in commerce between ports of Washington, even though the vessel primarily navigates the high seas in order to travel between the intra-state ports. (*Standard Oil Co. v. King County*, 180 Wash. 631 (1935)). [Order PT 68-6, § 458-12-265, filed 4/29/68.]

WAC 458-12-270 Listing of property——Household goods and personal effects. "All household goods and furnishings in actual use by the owner thereof in equipping and outfitting his or her residence or place of abode and not for sale or commercial use" shall be exempt from taxation. (RCW 84.36.110)

Household goods and furnishings shall include movable items of necessity, convenience, or decoration, such as bedding, tables, chairs, refrigerators, stoves, freezers, food, clocks, radios, televisions, pictures, tools and equipment used to maintain the residence. It shall include all personal property normally located in or about a residence and used or held to enhance the value of enjoyment of the residence (including its premises). Those items of personal property constructed primarily for use independent of and separate from a residence do not qualify for the exemption (i.e., boats, pickup campers, (Pickup campers attached to the vehicle by the methods authorized in Department of Licenses Bulletin, dated January 26, 1965 shall be considered a part of the vehicle and are not taxable as personal property.) etc.).

The term "actual use" means actually being used in the furnishing of the home. It should not be construed to mean being in actual physical use by the owner thereof. Thus, household goods and furnishings which are either temporarily stored or found in summer homes or cabins are exempt from taxation. (AGO 1935–36; AGO 12–7–1938)

The phrase "not for sale or commercial use" has application to those situations where a home is used as an office, classroom, studio, or some other non–family commercial activity. For example, the hairdresser who uses her home as a beauty salon cannot claim the household goods exemption as to those articles of household goods and furniture used in his or her business.

The residence or place of abode must be outfitted for the owner's personal use. Consequently, the equipping and outfitting of a motel, hotel, apartment, sorority, fraternity, boarding house, rented home, duplex, or any other premise not used by the owner for his own personal use would not qualify for this exemption. (TCR 4–18–1935)

All personal property utilized for any business or commercial purpose and all other personal property not specifically exempt by statute is subject to ad valorem tax. However, the assessor may deduct $300 of actual value from the taxable full value of such property of each "head of family" if such deduction has not been used elsewhere (i.e., office furniture owned and used by the head of a family). (AGO 1903–04; TCR 2–8–1930; TCR 3–8–1935; WAC 458–12–275)

Personal property qualifying for this exemption retains this character while temporarily in storage, or while being used temporarily in storage, or while being used temporarily at locations other than the residence. (AGO 1935–36, p. 114; AGO 12–7–1938)

All personal effects held by any person for his or her exclusive use and benefit and not for sale or commercial use are exempt from taxation.

Personal effects shall be construed to mean tangible property which usually ordinarily attends the person. Such articles as wearing apparel, jewelry, toilet articles and articles of similar nature would qualify for this exemption.

Note: The Department of Revenue deems it impractical to publish a list of all properties included in the definition of "household" goods. Many items exempt in this category because of their location in a residence are fully assessable in other locations. Examples of such items are:

(1) Desks exempt as household goods in a residence are assessable as furniture and fixtures in an office.

(2) Silverware and china exempt in a residence are assessable if used in a restaurant.

(3) Collections exempt in a residence are assessable if located in a public display or used for commercial purposes.

(4) Power lawnmowers used to enhance the value of enjoyment of the residence (including its premises) are exempt, but when used in the maintenance of a golf course are taxable. [Order PT 68–6, § 458–12–270, filed 4/29/68.]

WAC 458–12–275 Listing of property——$300——Head of family——In general. Every qualified (See WAC 458–12–280, $300——Head of Family——Definition) head of family is entitled to a three hundred dollar ($300) deduction from the actual gross value of all his taxable personal property. (*State ex. rel. Tax Commissioners v. Cameron*, 90 Wash. 407 (1916); TCR 3–8–1935) This deduction accrues as of the assessment date. The taxpayer must qualify for said deduction at that time or else it will be lost for the taxable year. (TCR 3–14–1934) [Order PT 68–6, § 458–12–275, filed 4/29/68.]

WAC 458–12–280 Listing of property——$300——Head of family——Definition. For the purposes of RCW 84.36.110, "head of family" shall be construed to include the following residents of the State of Washington:

(1) Any person receiving an old age pension under the laws of this state.

(2) Any citizen of the United State, over the age of sixty–five, who has resided in the State of Washington continuously for ten years. (RCW 84.36.120)

(3) The husband or wife, when the claimant is a married person; or a widow or widower still residing upon the premises occupied by her or him as a home while married. (AGO 1917–18, p. 260)

(4) Any person qualified as "head of family" who has residing on the premises with him or her, and under his or her care and maintenance, any of the following:

(a) His or her minor child or grandchild or the minor child or grandchild of his or her deceased wife or husband;

(b) A minor brother or sister or the minor child of a deceased brother or sister;

(c) A father, mother, grandmother or grandfather;

(d) The father, mother, grandfather or grandmother of deceased husband or wife;

(e) An unmarried sister, or any other of the relatives mentioned in this section who has attained the age of majority, and are unable to take care of or support themselves. (TCR 3–18–1935; RCW 6.12.290). [Order PT 68–6, § 458–12–280, filed 4/29/68.]

WAC 458–12–285 Relationship between average inventory provisions of RCW 84.40.020, the "transient

trader" provision of RCW 84.56.180 and the "freeport exemption" (RCW 84.36.171–84.36.174). RCW 84.36-.171 provides that personal property to which the "freeport" exemption applies shall be listed and assessed as of January 1st of each year ". . . without regard to any average inventory, but the assessor shall cancel any such assessment in whole or in proportionate part upon receipt of the affidavit of exemption as set forth in RCW 84.36.172."

Accordingly, personal property properly identified as "freeport" property must be excluded from all inventory figures used in the computation of any "average inventory" of the taxpayer. An this exclusion applies from the time that the property first arrives in this state.

However, the fact that a taxpayer has "freeport" property, as well as non–freeport property, in no way affects whether the taxpayer may elect or be required, pursuant to RCW 84.40.020, to use an average inventory computation for non–freeport property. Accordingly, the taxpayer should exclude all freeport property from average inventory computations. And this exclusion applies to freeport goods which are shipped into the state after January 1st of a given year and are shipped out prior to January 1st of the following year, as well as to those freeport goods which are part of the inventory on January 1st of the following year and are covered by the claim submitted pursuant to RCW 84.36.171.

A person, firm, or corporation subject to the "transient trader" provision of RCW 84.56.180 may, by itself, or through its agent, claim the freeport exemption for property otherwise qualified for the exemption, even though such property is brought into the state subsequent to January 1st of any year. Moreover, the fact that such property is brought into the state for the purpose of sale in this state prior to shipment outside the state shall not preclude claiming the exemption so long as the identification and reporting requirements established in RCW 84.36.171–84.36.174 and WAC 458–12–290 are complied with. [Order 68–8, § 458–12–285, filed 10/31/68; Order PT 68–6, § 458–12–285, filed 4/29/68.]

WAC 458–12–290 Identification and reporting requirements for "freeport exemption" (RCW 84.36.171–84.36.174). (1) **General Statutory Scheme** The freeport exemption applies only to that tangible personal property which is "* * * brought into this state for the purpose of transportation or sale through and to points without the state, and identified * * * as property ultimately destined for out–of–state shipment. * * *" (RCW 84-.36.171.) Further "* * * all property claimed to be property in transit under RCW 84.36.171 shall be so designated upon the books and records of the owner or his agent, or if the owner or agent maintains no records within this state, then upon the records of the warehouse or other person or agency having custody of such property in this state. * * *" (RCW 84.36.174). And if any property claimed to be "freeport" property is "* * * reconsigned to a final destination in the state of Washington or is not shipped out be December 31st (of the year for which the exemption is claimed) the owner or agent shall file a report not later than March 31st of the following year with the county assessor of the county in which the goods were located. * * *" (RCW 84.36-.173). All such property so reconsigned or not shipped out of the state be December 31st shall be assessed and taxed as provided by law. Further, "If adequate (*i.e.*, sufficient to support the claim) records are not made available to the assessor within the county wherein the exemption is sought then the exemption shall be denied." (RCW 84.36.174).

(2) **The Exemption Claim——Identification on Books and Records** Generally, the books and records of the owner of the freeport goods, his agent, or the warehouseman, must contain such information as will allow tracing of the freeport goods from their origin outside the state to their shipment outside the state, or, alternatively, must contain such information as will show that the amount of the freeport exemption claimed does not exceed the amount that would result from a strict tracing method.

The claim of exemption shall be made in accordance with the standard Department of Revenue form for such claim, with such modifications to the requirements of such form as are contained in this rule. If any information required by such form is not made, the claim should be denied. However, it is recommended that the taxpayer be informally notified of such denial in order to allow a reasonable time to correct the deficiencies in the claim.

Alternative A——Strict Tracing Method The claim shall be made in conformity with the requirements of the standard form. However, identification may be made by serial number, case number, or similar method of identification, as well as by lot number.

The books and records must show:

(a) The identity of the freeport goods. Such identification may be by serial number, lot number, case number, etc., or by actual physical segregation, as reflected on the books and records;

(b) The origins of such freeport goods and the dates on which they were received in the state;

(c) The destination of such goods, and the dates on which they were shipped to such destination.

Note: Certain freeport goods may not be on hand on January 1st of a particular year, and thus may not be covered by the claim submitted under RCW 84.36.171. (For example, freeport goods which come into the state after January 1st of a particular year, and are shipped out before January 1st of the next year, would not be reflected in the exemption claim.) However, the record keeping requirements, as stated above, apply to such freeport goods, as well as to freeport goods covered by an exemption claim.

This alternative A is available in all cases, and is not dependent on whether the taxpayer uses an average inventory method for reporting his non–freeport property.

Alternative B——Modified Tracing Method

(a) The following requirements under this alternative B are applicable where the strict tracing method is not used;

(b) If the books and records show that the origin of all of the taxpayer's inventory is from outside the state the freeport claim may be made in terms of a percentage, expressed as a dollar amount, of the year–end inventory. However, the books and records, in order to support the claim, must establish the amount of such year–end inventory that was actually shipped to points outside the state within the ensuing year. Thus, the books and records must be adequate to distinguish between those shipments to out–of–state points which are from the year–end inventory, and those shipments to out–of–state points which are made from subsequent additions to such inventory;

(c) Where the books and records show that the origin of the taxpayer's inventory is from both outside the state and from within the state, but where the books and records can also identify the origin of particular items or categories of items as being from out–of–state, the claim may be made in terms of a percentage, expressed as a dollar amount, of such items;

The claim must contain a listing of such items or categories of items in sufficient detail to clearly distinguish such items from those items in the year–end inventory which are from in–state sources;

The books and records, in order to support the claim, must establish the amount of the year–end inventory of such items from out–of–state sources that were actually shipped to points outside the state within the ensuing year. Thus, the books and records must be adequate to distinguish between the shipments to out–of–state points which are from such year–end inventory and those shipments to out–of–state points which are made from subsequent additions to such inventory.

(d) This alternative B is available in all cases, and is not dependent on whether the taxpayer uses an average inventory method for reporting his non–freeport property. However, as indicated in the rule entitled "Relationship between Average Inventory Provisions of RCW 84.40.020 and the 'Freeport Exemption' (RCW 84.36-.171–84.36.174)" there may be freeport goods which are shipped into the state after January 1st of a given year and are shipped out prior to January 1st of the following year. Such freeport goods should be excluded from the average inventory computation, in accordance with the provisions of said rule, and said rule is applicable in all cases, whether alternative A or alternative B is used. [Order PT 68–6, § 458–12–290, filed 4/29/68.]

WAC 458–12–295 Exemption——Agricultural products——Grains, flour, fruit, vegetables & fish——Cancellation. All agricultural and horticultural products, other than forest products, livestock and fowls, shall be exempt from assessment when the ownership of the property remains in the original producer on the 1st day of January following harvesting. (RCW 84.44.060) Such agricultural products shall be exempt even though stored in a different location from the owner's farm so long as the ownership remains in the original producer. (TCR 4–1–1938)

Grains and flour, fruit and fruit products, vegetables and vegetable products, and fish and fish products, while being transported to or held in storage in a public or private warehouse shall be exempt from taxation if actually shipped to points outside the state on or before April 30th of the first year for which they would otherwise be taxable. In order to claim the exemption, proof of shipment must be furnished to the county assessor before June 1st of the year for which exemption is claimed. (RCW 84.36.140; RCW 84.36.150)

The county assessor shall list and assess all products covered by RCW 84.36.140 as of January 1st of each year without regard to any average inventory. The assessment shall be cancelled in whole or in proportionate part when the assessor receives documentary proof that the property was actually shipped to points outside the state on or before April 30th of the year. (RCW 84.36.150)

Assessment of grain shall also be subject to cancellation if documentary proof is furnished that the grain was milled into flour and the flour was actually shipped to points outside the state on or before April 30th. (RCW 84.36.150)

The agricultural products exempted by RCW 84.36-.140 may also be exempt under the "Freeport Exemption" provided by RCW 84.36.171–84.36.174. (AGO 65–66 No. 25, 6–16–65)

This exemption shall be liberally construed to effectuate the purpose of encouraging the storage of grains and flour, fruits, vegetables, fish, and their products within the State of Washington, and a broad definition shall be applied in determining whether a given commodity constitutes grain or flour, fruits, vegetables, fish, or their products, whether such commodities are edible and whether, while in the hands of the first processor, such commodities are suitable and designed for human consumption or whose ingredients are solely intended for such purpose. (RCW 84.36.162). [Order PT 68–6, § 458–12–295, filed 4/29/68.]

WAC 458–12–296 Exemption——Ores and metals. RCW 84.36.181 provides: "All ore or metal shipped from without this state to any smelter or refining works within this state, while in process of reduction or refinement and for thirty days after completion of such reduction and refinement, shall be considered and held to be property in transit and non–taxable."

The following ores qualify for the exemption provided in this statute:

(1) **Crude ore** – Which is the original, as mined ore, containing many impurities. Examples are: copper (chalcopyrite); lead (galena); iron (iron oxide); and aluminum (bauxite).

(2) **Concentrated ore** – Which is the product of the beneficiation of crude ore. Beneficiation is the physical, chemical or combination of both processes which is used to remove impurities from a crude ore. The product of beneficiation is a "usable beneficiated ore". Examples of usable or beneficiated ore are: concentrated iron ore (ferric oxide); concentrated copper ore (copper sulfide); and concentrated bauxite ore (alumina or aluminum oxide). [Order PT 69–1, § 458–12–296, filed 4/14/69.]

WAC 458-12-300 Definition——True and fair value. The basis of all assessments is the true and fair value of property. True and fair value means market value. (*Spokane etc. R. Company v. Spokane County*, 75 Wash. 72 (1913); *Mason County Overtaxed, Inc. v. Mason County*, 62 Wn.(2d) (1963); AGO 57–58, No. 2, 1–8–57; AGO 65–66, No. 65, 12–31–65)

The true and fair value of a property in money for property tax valuation purposes is its "market value" or amount of money a buyer willing but not obligated to buy would pay for it to a seller willing but not obligated to sell. In arriving at a determination of such value the assessing officer can 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 he must consider all of such factors. (AGO 65–66, No. 65, 12–31–65) [Order PT 68–6, § 458–12–300, filed 4/29/68.]

WAC 458-12-301 True and fair value——Criteria. The true and fair value of real property for taxation purposes (including property upon which there is a coal or other mine, or stone or other quarry) shall be based upon the following criteria:

(1) True and fair value shall be based upon sales of the property being appraised or sales of comparable property made within the past five years. It may be necessary to adjust sales due to such factors as time of sale, location, physical, or other factors affecting value. Any adjustments shall be made to reflect the value as of the assessment date. In using real estate contracts as comparable sales, consideration must be given to the effect the down payment or financing terms may have had on the stated selling price. Consideration must also be given to the extent to which the sale of comparable property actually represents the general effective market demand for property of such type, in the geographical area in which such property is located. When the number of sales of comparable property are inadequate to properly estimate value, then sales of comparable properties in other similar areas should be considered. Sales involving deed releases or similar seller–developer financing arrangements shall not be used as similar properties.

(2) In addition to sales as defined in (1), consideration may be given to:

(a) Cost, cost less depreciation, reconstruction costs less depreciation.

(b) Capitalization of income that would be derived from prudent use of the property.

The provisions of (2) shall be the dominant factor in valuation of properties of a complex nature, or being used under terms of a franchise from a public agency or operating as a public utility, or property not having a record of sale within five years and not having a significant number of sales of comparable property in the general area.

When the provisions of (2) are relied on to establish value, the property owner shall be advised, upon his request, of the factors used in arriving at such value.

The appraisal shall take into consideration political restrictions, such as zoning, as well as physical and environmental influences. [Order PT 74–6, § 458–12–301, filed 9/11/74; Order 72–3, § 458–12–301, filed 2/23/72.]

WAC 458-12-305 Market value——Estimation——Real property. Market value of real property shall be determined by the application of the market data approach, cost approach, and income approach. 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 estimate of market value depending upon the circumstances. (*Dexter Horton Bldg. Co. v. King Co.*, 10 Wn. (2d) 186 (1941)) The market data and income approaches shall be considered where applicable in all appraisals. (*Bellingham Community Hotel Company v. Whatcom*, 190 Wash. 609 (1937); PTB No. 231, 6–7–1955; *Northwest Chemurgy Securities Co. v. Chelan Co.*, 38 Wn. (2d) 91 (1951))

Appraisal manuals published or approved by the Department of Revenue shall be used in conjunction with the three approaches to value. The data contained in these manuals shall be analyzed and adjusted as to time, location, and any other applicable factors to properly reflect market value. [Order PT 68–6, § 458–12–305, filed 4/29/68.]

WAC 458-12-310 Valuation of property——Personal property. As in the valuation of all other classes of tangible property for ad valorem tax purposes, market value is the assessment goal. To attain that goal, the Trade Level Concept for inventory and leased equipment shall be considered.

Trade level may be defined as value at the point in the production stream where an item of manufactured personalty is found, or the production–distribution level in which a product is found.

In appraising tangible personal property, the assessor shall give recognition to the trade level at which the property is situated and to the principle that tangible property normally increases in value as it progresses through production and distribution channels. Such property normally attains its maximum value as it reaches the consumer level.

Raw Material in the hands of the processor or manufacturer should be valued at their cost to the owner or to a competitor.

Work in Process in the hands of the processor or manufacturer shall be valued at the stage of production where found (costs to date) or cost to a competitor.

Finished Goods held for sale shall be valued at the amount for which they would transfer to a like business (cost to produce); those held for lease or rental shall be valued at the trade level of the principal user, usually cost to retailer or consumer.

Where personal property is in the hands of a person engaged in two or more of the functions of producer, manufacturer, processor, wholesaler, or retailer, the assessor shall determine the level of trade at which the property is situated on the assessment date by reference

to its form, location, quantity, and probable purchasers or lessees.

Livestock All county assessors shall use the livestock schedule published annually for their district by the Department of Revenue as a guide in the valuation of livestock. The assessor must not use the average inventory basis of valuation in the assessment of livestock. (AGO 1-17-51)

Petroleum Products All county assessors shall use the petroleum products schedule, approved annually by the Department of Revenue and adjusted to market zones within the state as a guide in the valuation of petroleum products.

Average Inventory Where the stock of goods, wares, merchandise or material, whether in a raw or finished state or in process of manufacture, owned by a taxpayer on January 1st of any year does not fairly represent the average stock carried by such taxpayer, such stock shall be listed and assessed upon the basis of the monthly average of stock owned or held by such taxpayer during the preceding calendar year or during such portion thereof as the taxpayer was engaged in business. (RCW 84.40.020) Although the taxpayer may request that the average inventory method be used and the assessor must comply with that request, whatever method is used——average inventory or inventory on January 1st——That method must be followed from year-to-year in reporting unless a showing is made that a major change in the business has occurred necessitating use of the other method. [Order PT 68-6, § 458-12-310, filed 4/29/68.]

WAC 458-12-315 Timber and forest products——Valuation. In the case of standing timber held separately from the ownership of the land, the basis of valuation is current true and fair market value. (RCW 84.40.030) The valuation of timber for long term depletions shall consider the factors contained in RCW 84.40.034. (RCW 84.40.034; AGO 55-57 No. 40) Although RCW 84.40.030 restricts the use of auction sales as a criterion of value, a memorandum from an Assistant Attorney General dated May 15, 1961 states that "bid prices for timber in sales by the United States or the State could be used as one factor of value along with other relevant measures".

Valuation of logs shall be determined by log market data for various marketing centers and shall be based on inventories by species and grade. In areas or cases where marketing data is not available, costs of logs to the manufacturer shall be the criterion of value. Forest by-products, i.e., lumber, shingles, plywood, etc., shall be valued at the trade level at which they are found. [Order PT 68-6, § 458-12-315, filed 4/29/68.]

WAC 458-12-320 Timber and forest products——Ownership——Roads. Federal timber itself is not taxable until title passes to the taxable party under the terms of the purchase agreement. Contract interest of private parties in such exempt timber is taxable. Such contracts must have value in themselves in order to be taxable. (*Skate Creek Logging Company Case v. Fletcher* 46 Wn.(2d) 160 (1955); AGO 1923-24, p. 33; AGO 12-2-52; AGO 5-5-53; AGO 53-55 No. 29, 4-30-53) The principles for assessing leasehold interests as contained in WAC 458-12-325 shall be followed. Where a private owner has a right-of-way easement over land where title is in the United States appurtenant to owner's adjoining lands, such easement and land to which it is appurtenant shall be assessed and taxed together. (*Hammond Lumber Company v. Cowlitz County*, 84 Wash. 462 (1915); *Ozette Railway Company v. Grays Harbor County*, 16 Wn. (2d) 459 (1943); AGO 4-2-1942). [Order PT 68-6, § 458-12-320, filed 4/29/68.]

WAC 458-12-330 Real property valuation——Highest and best use. All property, unless otherwise provided by statute, shall be valued on the basis of its highest and best use for assessment purposes. Highest and best use is the most profitable, likely use to which a property can be put. It is the use which will yield the highest return on the owner's investment.

Uses which are within the realm of possibility, but not reasonably probable of occurrence, shall not be considered in estimating the highest and best use.

If a property is particularly adapted to some particular use this fact may be taken into consideration in estimating the highest and best use. (*Sammish Gun Club v. Skagit County* 118 Wash. 578 (1922)) The present use of the property may constitute its highest and best use. The appraiser shall, however, consider the uses to which similar property similarly located is being put. (*Finch v. Grays Harbor County* 121 Wash. 486 (1922))

The fact that the owner of the property chooses to use it for less productive purposes than similar land is being used shall be ignored in the highest and best use estimate. (*Sammish Gun Club. v. Skagit County* 118 Wash. 578 (1922))

Where land has been classified or zoned as to its use, the county assessor may consider this fact, but he shall not be bound to such zoning in exercising his judgment as to the highest and best use of the property. (AGO 63-64, No. 107, 6-6-64) [Order PT 68-6, § 458-12-330, filed 4/29/68.]

WAC 458-12-335 Revaluation process by county assessor. Each county assessor shall maintain an active and systematic program of revaluation on a continuous basis and shall establish and maintain a schedule which will result in revaluation of all taxable real property within the county at least once every four years (RCW 84.41.030).

The county assessor shall submit a revaluation plan to the Department of Revenue on or before September 1, 1973. A revaluation plan shall also be submitted on or before September 1 of the year prior to the beginning of each new four year revaluation cycle.

In those counties where a four year cyclical revaluation plan is in operation on or before the September 1, 1973 filing date as provided above, that plan shall be submitted to the Department of Revenue for approval.

All other counties shall submit a revaluation plan that will result in revaluation of all taxable real property in the county in accordance with RCW 84.41.030.

As a part of the annual progress report as provided in WAC 458-12-337, the assessor shall update the original revaluation plan and submit additions or corrections to the plan. Substantive deviations from the original revaluation plan must be approved by the Department of Revenue. [Order 73-5, § 458-12-335, filed 8/13/73; Order PT 68-6, § 458-12-335, filed 4/29/68.]

WAC 458-12-336 Assessor's revaluation plan. In order to proceed systematically in accomplishing revaluation, the assessor shall prepare a schedule showing the workload distribution in the county and the manner in which appraisers will be assigned to complete revaluation at least once every four years. (P.T.B. 232, 6-8-55)

In most instances it may be desirable to divide the county into suitable subdivisions recognizing taxing district boundaries for orderly completion of the program. (AGO 53-55 No. 117)

The revaluation plan must be sufficiently detailed to show that the assessor can successfully complete the revaluation program and contain among other items the following:

(1) Comprehensive analysis of numbers of properties to be appraised by revaluation area;

(2) Specific geographical revaluation areas;

(3) Appraisal workload and number of personnel required;

(4) Available staff;

(5) Required additional staff;

(6) Contract work or special assistance;

(7) Equipment, supplies, space.

The revaluation plan shall be reviewed by the Department of Revenue. If the revaluation plan is not approved by the Department, the county assessor shall, with the assistance of the Department of Revenue, develop a revaluation plan that will comply with the provisions of RCW 84.41.030. [Order 73-5, § 458-12-336, filed 8/13/73.]

WAC 458-12-337 Revaluation process——Reports. A progress report shall be filed with the Department of Revenue showing the progress of the revaluation plan for the period of July 1 through December 31. Such report shall be filed prior to April 15.

The annual progress report as required in RCW 84.41.130 shall be filed prior to October 15 and shall be for the period related to the January 1 assessment date of that year which shall cover fiscal year July 1 to June 30.

The assessor shall require work reports of his employees, or of contractors, which shall be the basis of the progress reports.

The Department of Revenue shall supply the forms for the required reports. [Order 73-5, § 458-12-337, filed 8/13/73.]

WAC 458-12-338 Revaluation process——Department of Revenue——Performance——Standards——Assistance. The Department of Revenue will make periodic checks in the county to determine if the county is maintaining satisfactory progress in the approved revaluation plan.

If the Department determines that the revaluation process is not being carried out in a manner to achieve revaluation as provided in RCW 84.41.030, the Department shall advise the assessor and the county legislative authority of such determination. Within thirty days of receipt of such advice, the county legislative authority shall either (1) authorize such expenditures as will enable the assessor to complete the revaluation program as approved, or (2) direct the assessor to request special assistance from the Department of Revenue for aid in accomplishing the county's revaluation program. After consideration of such request, the Department shall advise the assessor that such request is either approved or rejected in whole or in part. Upon approval of such request, the Department may assist the assessor in the valuation of such property as time and funds permit in such manner as the Department, in its discretion, considers proper and adequate.

The Department of Revenue shall submit a comprehensive report to the legislature at its regular session showing that extent of progress of the revaluation process in each county. [Order 73-5, § 458-12-338, filed 8/13/73.]

WAC 458-12-339 Revaluation process——Valuation procedure——Uniformity within cyclical period. All appraisals made as part of the revaluation program shall reflect current market value which shall be determined in accordance with WAC 458-12-305.

All real property being valued shall be physically inspected at least once every four years in order to provide adequate data from which to make accurate valuations.

During the interval between each physical inspection, the valuation of real property may be adjusted to current true and fair value using appropriate statistical data. (RCW 84.41.040)

When records have been developed on every parcel of property, showing sufficient data on which to base accurate valuation, the process of periodic physical inspection will serve to insure (a) that all taxable property is listed, and (b) that data on each parcel is kept reasonably up-to-date, for comparison with data on similar property which have sold, and (c) that the property has been observed as a whole including its environmental elements amentities to the extent necessary to arrive at an estimate of current market value.

Manuals and procedures prescribed or approved by the Department of Revenue in accordance with WAC 458-12-305 shall be used in all appraisals. (P.T.B. 231, 6-7-55; AGO 57-58, 1-8-57)

In complying with the mandate of RCW 84.41.030 and *Dore vs. Kinnear* 79 Wn 2nd 755, a substantially equal amount of taxable property must be revalued and placed upon the assessment roll in each year of the cyclical process in order to comply with the equal protection requirements of the state and federal constitutions

and the uniformity of taxation clauses of the state constitution.

Cyclical revaluation on a value basis can be considered where severe administration problems are evident on a strictly parcel count basis. [Order 73–5, § 458–12–339, filed 8/13/73.]

WAC 458–12–340 Assessment and evaluation—— Property assessed as of January 1st. All real and personal property shall be assessed on the basis of its fair market value as of January 1st of each year. (RCW 84-.40.030) Market value shall be determined utilizing manuals published or approved by the Department of Revenue and the approaches to value described in WAC 458–12–305. (*Bellingham Community Hotel Company v. Whatcom*, 190 Wash. 609 (1937))

The market value appraisals made for each property shall be the basis for computation of assessed value. Assessed value shall be computed by multiplying the market value of each property in the county by a uniform ratio. [Order PT 68–6, § 458–12–340, filed 4/29/68.]

WAC 458–12–341 100% assessment ratio. RCW 84.40.030 reads, "All property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law." Therefore, beginning with January 1, 1974 assessments for 1975 taxes, and thereafter, all property shall be assessed at 100% of its true and fair value. [Order PT 74–6, § 458–12–341, filed 9/11/74; Order PT 69–2, § 458–12–395 (codified as WAC 458–12–341), filed 8/28/69.]

WAC 458–12–345 Assessment and evaluation—— Reforestation lands. Lands devoted to reforestation are subject to a yield tax instead of an ad valorem tax. (Article VII Section 1, State Constitution; RCW 84.28.090) Reforestation lands are lands that are logged off or selectively harvested and all un–forested lands particularly valuable for the production and growth of forests and all land growing immature forests and forests of no commercial value. (RCW 84.28.005) To qualify as reforestation lands, lands eligible must be classified as such by the Department of Natural Resources. (RCW 84.28.020)

Eligible lands classified as reforestation lands lying west of the summit of the Cascade Range of mountains shall be assessed for purposes of taxation at $2.00 per acre. Lands classified as reforestation lands lying east of the summit of the Cascade Range shall be assessed at $1.00 per acre. (RCW 84.28.090; *State ex rel Mason County Logging Company v. Wiley*, 177 Wash. 65 (1934))

The values listed above shall be the assessed values for reforestation lands without further adjustment. (RCW 84.29.090) [Order PT 68–6, § 458–12–345, filed 4/29/68.]

WAC 458–12–350 Assessment and evaluation—— Separate valuation of lands and improvements. In assessing any tract or lot of real property the value of the land exclusive of improvements shall be determined. The value of all improvements and structures on the land excluding the value of annual crops growing on cultivated lands shall also be determined. (RCW 84.40.030; *Miethke v. Pierce Co.* 173 Wash. 381)

Although a separate valuation is made of land and improvements for assessment purposes, the appraiser shall consider the total value of the property in all appraisals.

Revaluation of improvements and entry on the roll without revaluation of the land is valid under the uniformity requirement of the 14th Amendment of the State Constitution. (AGO 53–55 No. 117, 8–19–53) Land and improvements shall be valued separately to meet the requirements of RCW 84.40.040. [Order PT 68–6, § 458–12–350, filed 4/29/68.]

WAC 458–12–355 Assessment and evaluation—— Assessment of classes of property to be uniform within the taxing district. All taxes shall be uniform upon the same class of property within the territorial limits of the authority levying the tax and shall be levied and collected for public purposes only. (Article VII, Section 1, State Constitution; Carroll Barlow, Snohomish County Assessor v. Washington State Tax Commission (1967)) The county commissioners are the authority that levies the tax (not individual taxing districts) in the county, (Carrol Barlow, Snohomish County Assessor v. Washington State Tax Commission (1967)) and all property that comes within their jurisdiction must be uniformly valued and assessed. This rule firmly prohibits the use of varying assessment ratios within the confines of the county boarders. The assessor must value all real and personal property at its fair market value (see WAC 458–12–305 for definition of fair market value) and then apply the same or a uniform assessment ratio thereto. [Order PT 68–6, § 458–12–355, filed 4/29/68.]

WAC 458–12–360 Assessment and evaluation—— Notice of value change——Real property. Whenever there is a change in the true and fair value of real property, a notice of such change for the tract or lot of land and any improvements shall be mailed for by the assessor to the taxpayer. A copy shall be sent to the legal owner where such is requested, his address is given or is known, and the legal owner is different from the taxpayer.

The notice shall be mailed on or before June 15th of each year and shall contain a statement of the true and fair value on which the assessment of the property is based, and a brief statement of the procedure for appeal to the board of equalization including the time, date, and place of the meetings of the board.

"Taxpayer" shall mean the person charged, or whose property is charged with property tax, and whose name appears on the most recent tax roll or has been otherwise provided to the assessor.

"Legal owner" shall mean the person holding legal title to the property against which property tax is charged.

(Rule derived from Section 10, Chapter 146, Extraordinary Session 1967.) [Order PT 68-6, § 458-12-360, filed 4/29/68.]

WAC 458-12-365 Levy. All taxes shall be *levied* or *voted* in specific dollar amounts, (RCW 84.52.010) and the assessed value of the taxing district shall be considered as the taxable value upon which such levy shall be made. (RCW 84.52.040)

The levy for any taxing district must be uniform throughout its area, and if its levy is subject to prorate reduction, its maximum uniform levy is the highest levy that may be made for it in the district where its levy is most reduced by such prorate. (PTB No. 180; TCR 5-11-1950; TCR 9-29-1950)

Boundaries of a taxing district must be established by March 1st in a given year before a valid levy may be made for the year in accordance with WAC 458-12-140. (AGO 1953-54, p. 105-A) [Order PT 68-6, § 458-12-365, filed 4/29/68.]

WAC 458-12-370 Levy——Duty of assessor. The board of county commissioners on or before the second Monday in October shall certify the amount of taxes levied for county purposes, and taxes levied by the board for each taxing district, within or coextensive with the county.

Each city or district authorized to levy taxes directly and not through the board of county commissioners, on or before the second Monday in October shall certify the amount of taxes levied upon the property within the city or district for city or district purposes. (RCW 84.25.070)

Although the county assessor cannot question the validity of tax levies certified to him by tax-levying authorities which appear upon their face to be valid and the duty of extending a tax upon the assessment roll is ministerial in character, it is the duty of the assessor to take action or objection to prevent the imposition of a void tax; and where a levy on its face is shown to be invalid, such action or objection should be taken. (AGO 10-18-1928, p. 961)

Where a district regularly determines its tax levy and certifies the figure to the county assessor or county commissioners, a subsequent inadvertent omission of a part of the levy does not prevent that part from being extended upon the tax rolls and collected within a reasonable time. (AGO 1953-54 44-D) [Order PT 68-6, § 458-12-370, filed 4/29/68.]

WAC 458-12-375 Levy——Prorating 40 mill law. If the county assessor shall find that the aggregate rate of levy on any property shall exceed the limitation fixed by Section 2, Article 7 of the State Constitution, he shall recompute and establish a consolidated levy in the following manner:

(1) He shall include for extension on the tax rolls the *full rates* of levy for:

State
County
Road District
City
School District

in the amounts not exceeding the limitations established by law.

(2) He shall reduce all other taxing districts imposing taxes on such property (other than Port Districts and Public Utility Districts) in such uniform percentages as will bring the consolidated tax levy on such property within provisions of the constitutional limitations. (RCW 84.52.010) [Order PT 68-6, § 458-12-375, filed 4/29/68.]

WAC 458-12-380 Levy——Tax freeze act of 1967. (1) **Scope** These rules cover interpretative problems involved in the implementation of sections 1 through 6, and sections 8 and 9 of chapter 146, Laws of 1967 ex. sess. These sections comprise the 1967 amendments to the so-called property tax freeze act originally enacted in 1965 and codified as chapter 84.54 RCW.

(2) **Definitions:** (a) The term "assessment rate" means that percentage figure which the assessor applies to his determination of the true and fair value of a parcel of real property or item of personal property in order to arrive at the assessed value of that particular property. The term corresponds to the assessor's "assessment level" or "assessment ratio". It should be distinguished from the "indicated county ratio" determined by the Department of Revenue;

(b) The term "indicated county ratio" means the Department of Revenue's determination of the ratio of the total assessed value of locally assessed property in the county to the total true and fair value of such property in the county;

(c) The term "regular property tax levy" means "the total dollar amount of all property tax levies on property in the taxing district, excluding excess levies levied under the provisions of Article VII, § 2 of the Constitution of the State of Washington and chapter 84.52 RCW, excluding levies for bond debt retirement, and excluding levies pursuant to RCW 53.36.100". (See subsection 1 of section 1 of the act.) The term thus excludes those excess levies which are specifically authorized by vote of the people pursuant to the provisions of Article VII, § 2 of the Constitution and chapter 84.52 RCW, special levies for bond debt retirement authorized by a vote of the people, and levies for port district harbor improvements and industrial developments made by a port district pursuant to RCW 53.36.100. As is shown by the context and purpose of the act, the term does not refer to the aggregate total of various levies by various taxing districts on property within a specific taxing district, but rather refers to the dollar amount of the levy made by any single taxing district on property within such district. In short, each levy by each taxing district is considered separately;

(d) The term "revalue" or "revalued" means "such changes as are made on the county assessor's valuation of the property because of changes pertaining to the

particular property including, but not limited to, construction improvements, other changes in value, and similar changes made as to the property or properties in the immediate area". (See subsection 2 of section 1 of the act.) Thus, the term refers only to those changes in assessed valuation which are attributable to changes in the assessor's determination of the true and fair value of a particular piece of property, or are attributable to new property coming into the tax rolls, such as new construction. It does not refer to changes in assessed valuation attributable to changes in the "assessment rate";

(e) The term "taxing district" means "any taxing district as defined in RCW 84.04.120 except the state of Washington". (See subsection 3 of section 1.) RCW 84-.04.120 provides as follows: "'Taxing district' shall be held and construed to mean and include the state and any county, city, town, township, port district, school district, or other municipal corporation, now or hereafter existing, having the power or authorized by law to impose burdens upon property within the district in proportion to the value thereof, for the purpose of obtaining revenue for public purposes, as distinguished from municipal corporations authorized to impose burdens, or for which burdens may be imposed, for such purposes, upon property in proportion to the benefits accruing thereto;"

(f) The term "fixed ratio" means that percentage of the true and fair value of utility property used by the Department of Revenue, pursuant to the provisions of chapters 84.12 and 84.16 RCW for purposes of determining the assessed valuation of utility property within a county. This fixed ratio is based upon the indicated ratio;

(g) The term "fixed maximum millage rate" means the maximum millage rate established for a taxing district *apart from the tax freeze act.* Note that for certain types of districts, e.g., fire districts and certain counties, this rate can vary from year to year, depending upon whether other taxing districts levy their full fixed maximum millage rate;

(h) The term "authorized maximum millage rate" means the maximum millage rate established for a taxing district *by the tax freeze act.*

(3) **General Purpose of the 1967 Act:** The 1967 amendments to the 1965 tax freeze act retain the original general purpose to the 1965 act, *i.e.*, to place a ceiling on the total dollar amount which a taxing district can levy on its "regular property tax levy". As does the 1965 act, the 1967 amendments accomplish this by requiring a reduction in the otherwise allowable millage rate of a taxing district if there is an increase in the "assessment rate" used by the assessor. This ceiling does not in any way increase the fixed maximum millage rates established for various taxing districts by RCW 84.52.050 and similar statutes. It does prevent a levy at the full millage rates established by these statutes if there has been an increase in the "assessment rate".

As under the 1965 act, so also under the 1967 amendments this ceiling can be raised by a vote of the electors in the taxing district. However, two basic changes brought about by the 1967 amendments should here be noted. First, section 9 of the 1967 act places, in addition to the removable "ceiling", *i.e.*, the ceiling which may be increased by a vote, an additional and irremovable ceiling, beyond which the regular property tax levy may not be increased even with a vote of the people. This irremovable ceiling is that dollar amount which would be produced by a levy of the number of mills available to a taxing district under statutes other than the tax freeze act (*i.e.*, the maximum millage rates established for various taxing districts by RCW 84.52-.050 and similar statutes) applied to an assessed valuation equal to 25% of the true and fair value of taxable property in the taxing district as determined by the "indicated county ratio".

Secondly, under section 8 of the 1967 act, school districts are now taken out of the scope of the act, in that there is no longer a removable ceiling for school districts. However, there is an irremovable ceiling, just as for other taxing districts. Thus, school districts may not make a regular property tax levy in excess of an amount that would be produced by a levy of 14 mills multiplied by an assessed valuation equal to 25% of the true and fair value of taxable property in such school district, as determined by the Department of Revenue's "indicated county ratio".

Other differences between the 1965 act and the 1967 amendments will be discussed below.

The relationship between section 8 of the act and chapter 133, Laws of 1967 ex. sess., should be noted. Chapter 133 provides for the "two mill shift", whereby for the years 1967 and 1968 the usual fixed maximum millage rate of 14 mills for school districts is reduced to 12 mills, and a new levy of two mills for school purposes is to be made on the state level. Section 8 of the 1967 tax freeze act in no way changes this temporary twelve mill limit for local school districts. However, it does provide for a limitation on the dollar amount of the regular property tax levy, which, as noted above, is computed in terms of fourteen mills times the assessed valuation equal to 25% of the true and fair value of taxable property in such school district as determined by the Department of Revenue's "indicated county ratio". The effect of this is that for 1967 and 1968, the full twelve mills could be applied to an assessed valuation equal to 14/12th of 25%, or 29.17%, of the true and fair value of taxable property in such school district as determined by the Department of Revenue's "indicated county ratio". Only if an indicated ration of 29.17% is exceeded must the twelve mills be cut back for the 1967 and 1968 school district levy. However, section 8 in no way authorizes use of an assessment ratio for purposes of the twelve mill school district levy different from that used for other taxing districts. To illustrate: If a school district's boundaries coincide exactly with those of another taxing district (*e.g.*, a city), the assessed valuation for the school district and the other taxing district will be exactly the same.

(4) **Computation of the Ceiling——General Provisions (Section 2):** Section 2 of the 1967 act gives the general rules for the computation of the removable ceiling, *i.e.*, the dollar amount of the regular property tax levy which may not be exceeded unless authorized by a vote of the

people. This ceiling consists or the total dollar amount of the following factors:

(a) The actual levy of the preceding year;

(b) The levy that could have been made in the preceding year if increases in assessed valuation due to revaluation of existing property or addition of new property in the current year had, in fact, occurred in the prior year;

(c) The difference between the actual levy of the preceding year and the maximum levy that could have been levied for the preceding year. (As discussed below, this factor becomes applicable only beginning with 1968 levies;

(d) For counties, increased and additional costs to be expended by the county assessor in fulfilling his duties;

Each of the four factors will be discussed below:

(i) The actual levy of the preceding year. (Subsection 1 of section 2.) This factor consists simply of the dollar amount of the regular property tax levy in the preceding year. Thus, in computing the ceiling for 1967 levies, this factor will be simply the dollar amount of the 1966 levy of the taxing district involved. It should be noted that the 1967 amendments cast this first factor in terms of the amount of the levy, rather than the amount of revenues actually collected pursuant to the levy;

(ii) Increases in value. (Subsection 2 of section 2.) This factor can be computed by taking the following three steps: First, determine the increase in the assessed value of property in the district in the current year over the previous year, to the extent that such increase is not attributable to an increase in the assessment rate in the current year from the assessment rate used in the previous year. In other words, such increase in assessed value can be only that increase attributable to reappraisal and revaluation of property already existing, the addition of new property through new construction, and the addition of new property through annexation. The purpose of subsection 2 is to take into account those increases in assessed value which result from increases in the total true and fair market value of the property within the district, but not increases in the assessed value resulting solely from increases in the assessment rate;

The 1967 amendments make a change from the 1965 act by providing that this second factor may be a minus factor if there is a net decrease in the assessed valuation of the property. Thus, if there is a net reduction in the true and fair value of property within the district, this second factor will become a minus factor to be subtracted from the first factor;

Secondly, determine the maximum millage rate which the taxing district could have legally levied for the preceding year. If, in fact, for the preceding year the taxing district levied the legal maximum millage rate, the actual millage rate of the previous year will be used in computing the second factor. Note that the maximum millage rate for the previous year is either the fixed maximum millage rate or the authorized maximum millage rate, whichever is lower. For the 1967 levy, the previous year's authorized maximum millage rate will, of course, have been determined by reference to the 1965 freeze act, rather than by reference to the 1967 amendments;

Thirdly, multiply this maximum millage rate times the increase or decrease determined in step one. This dollar amount is the second factor, to be either added to or subtracted from the first factor;

(iii) Difference between actual levy of preceding year and maximum allowable levy of preceding year; (Subsection 3 of section 2.)

The third factor, which was not contained in the 1965 act, is intended to retain a maximum levy amount without the necessity of actually levying that maximum. Since the ceiling is based upon the levy for the preceding year, a levy less than the maximum could result in a lowering of that maximum, thereby practically destroying any possible incentive to temporarily decreasing a levy. (AGO 65-66, No. 45, dated October 8, 1965) This factor is obtained by subtracting the actual levy rate from the maximum levy rate, both for the previous year, and then multiplying the assessed property valuation of the district for such previous year by the difference;

For levies made in 1967, this factor will equal zero. The 1967 amendments did not, of course, establish a ceiling for levies made in 1966. That ceiling was set under the 1965 act. For levies in 1968 and following years, a maximum is established by the 1967 act, which will be available for use in computing this factor.

(iv) Additional dollar amount of assessor's increased costs; (Subsection 4 of section 2.)

To compute this amount, simply determine any increase in the budget of the assessor's office for the subsequent year over the budget for the current year. This factor is applicable only to the levy by a county;

The ceiling for a taxing district will be the result of these four factors, unless that ceiling has been lifted by a vote of the people or unless the taxing district fits within section 3 or section 4 of the 1967 amendments, which establish special methods of computing the ceiling for special situations.

Example 1: County X, a first-class county, levied its fixed maximum millage rate, 8 mills, in 1966. The assessment rate for 1967 is the same for 1966. County X can levy eight mills in 1967.

Example 2: Assume the following facts for County X, a first-class county:

Millage in 1966 -	8 mills
Levy in 1966 -	$ 8,000.00
1966 assessed valuation - locally-assessed property - (at 20% assessment rate)-	$ 800,000.00
1966 assessed valuation - utilities - (at 20% fixed ratio) -	$ 200,000.00
Total assessed valuation in 1966-	$1,000,000.00

1967 assessed valuation – locally–assessed property – (at 25% assessment rate)–	$1,000,000.00
1967 assessed valuation – utilities – (at 22% fixed ratio) –	$ 220,000.00
Total assessed valuation in 1967–	$1,220,000.00
Assessor's budget for 1967 operations	$ 1,000.00
Assessor's budget for 1968 operations	$ 1,500.00

Computation:

Factor 1	$ 8,000.00
Factor 2	
$1,000,000.00 x 20/25 =	$ 800,000.00
220,000.00 x 20/22 =	200,000.00
Total	$1,000,000.00
$1,000,000.00 (1967 assessed value at 20% assessment rate) minus $1,000,000.00 (1966 total assessed value) =	0
Factor 3	0
Factor 4	500.00
Total dollar amount equals	$ 8,500.00

Example 3: Assume the following facts for County X, a first–class county:

All data for 1966 are the same as in Example 2.

1967 assessed valuation – locally–assessed property – (at 25% assessment rate)	$1,500,000.00
1967 assessed valuation – utilities – (at 22% fixed ratio)	$ 440,000.00
Total assessed valuation in 1967	$1,940,000.00
Assessor's budget for 1967 operations	$ 1,000.00
Assessor's budget for 1968 operations	$ 1,500.00

Computation:

Factor 1	$ 8,000.00
Factor 2	
$1,500,000.00 x 20/25 =	$1,200,000.00
440,000.00 x 20/25 =	400,000.00
Total	$1,600,000.00
$1,600,000.00 (1967 assessed value at 20% assessment rate) minus $1,000,000.00 (1966 total assessed value)=	$ 600,000.00
$ 600,000.00 x 8 mills =	4,800.00
Factor 3	0
Factor 4	500.00
Total dollar amount equals	$13,300.00

Example 4: City X in 1966 levied its fixed maximum millage of 16 mills. The total assessed valuation within the city in 1966 was $1,000,000.00. For 1967 there is no change in the assessment rate, but because of property going off the tax rolls through condemnation, etc., the total assessed valuation in 1967 is $750,000.00. No reduction in the millage rate for the 1967 levy is required.

Example 5: City X, whose fixed maximum millage rate is 16 mills, was cut back by the freeze act for its 1966 levy to fourteen mills. No change is made from 1966 to 1967 in the assessment rate. Without an election to lift the ceiling, City X is limited to fourteen mills for its 1967 levy.

(5) **Computation of the Ceiling——Special Cases:** In the cases of (a) newly–created districts, (b) existing districts which were levying less than the legal maximum millage rates immediately prior to the effective date of the 1965 act, (c) existing districts which made no levy at all in a prior year, and (d) districts resulting from merger or consolidation, special treatment is given. The first three special cases are covered in section 3 of the act. The fourth special case is covered in section 4. The special treatment in the second and third cases is available only if the taxing district is subject to the forty mill limit.

Section 3 governs the ceiling only for "the first tax year for which a levy is made, after the adoption of this 1967 amendatory act". Thus, if in one of these special situations a levy is made in 1967, section 3 will set the ceiling. But if no levy is made in 1967, section 3 will determine the ceiling for the 1968 levy. Thus, only the first levy after the effective date of the 1967 amendments is computed under section 3. Subsequent levies are computed just as for any other taxing district, *i.e.*, the ceiling for subsequent levies is set by either section 2 or by an election under section 5, and section 3 is no longer applicable.

The ceiling under section 3 can be computed by taking the following steps: First, determine the maximum millage rate which the county in which the taxing district is located is authorized itself to levy under section 2. Secondly, formulate a fraction, the numerator of which is the millage rate computed in step 1 and the denominator of which is the maximum millage rate established for the county under RCW 84.52.050. This fraction is multiplied by the particular taxing district's fixed maximum millage rate. The result of this computation is the authorized maximum millage rate under section 3.

If the taxing district is located in more than one county, the numerator of the fraction to be formulated in step 2 will be established by computing the maximum

millage rate under section 2 for each county and then using the highest rate.

In the fourth special situation, *i.e.*, the creation of a taxing district by merger or consolidation, section 4 lays down special rules for the computation to be made under section 2. Thus, the dollar amount for the first factor under section 2 is the total of the regular property tax levies for the previous year for the components of the new taxing district. And for purposes of computing the second factor in section 2, the highest actual millage rate levied in the previous year by a component taxing district is used.

These special rules under section 4 are applicable only to the first levy after creation of the new district. For subsequent levies, limitations are computed in the same manner as for any other taxing district.

Example 6: District X, located wholly within County Y, levied no millage in 1966 (or in 1964 levied less than its fixed maximum millage rate, or is a newly–incorporated district). County Y's authorized maximum millage rate under section 2 of the act, is 8 mills for 1967, and its fixed maximum millage rate is also 8 mills. District X can levy its full fixed maximum millage rate.

Example 7: District X, located wholly in County Y, levied no millage in 1966 (or in 1964 levied less than its fixed maximum millage rate, or is a newly–incorporated district). County Y's fixed maximum millage is 8 mills, but its authorized maximum millage rate for 1967 under section 2 is 6 mills. District X can levy, in 1967, only 6/8 or 3/4 of its fixed maximum millage rate. (And this is true even if, because of an election, section 5 will allow the county itself to levy its full 8 mills.)

If the district makes a levy in 1967, the ceiling for the 1968 levy is computed in the same manner as for other taxing districts.

Example 8: District A and district B merged. The 1966 levy for district A was $5,000.00 and the 1966 levy for district B was $6,000.00. Also, the millage rate used by district A in 1966 was two mills, and the millage rate used by district B in 1966 was 2.2 mills. Under section 2, the first factor is $11,000.00. And the second factor is computed by applying to the net increase or decrease in assessed valuation (at the 1966 assessment rate) a millage rate of 2.2 mills.

(6) **Lifting the Ceiling by an Election:** The ceilings established in sections 2, 3, and 4 can be n be raised by an election held pursuant to section 5. Such an election must be held either (a) at a general election held within the taxing district, or (b) at a special election of a taxing district at the time of the state general election, or (c) at the time of a general election of a city or town in which the particular taxing district is wholly included. Reference should be made to RCW 29.13.010 and 29.13.020. Thus, an election to lift the ceiling will not affect the levy made in the year of the election, but only the levy made in the next year.

The new ceiling established by an election in 1967 and subsequent years is raised only to the extent that it is actually utilized by the levy following the election. Thus, the ceiling for the levy following a levy authorized by such an election is based upon the amount of the actual levy made following the election, not the amount voted upon. Accordingly, in computing the ceiling next following a levy authorized by an election, the first factor under section 2 will be the actual amount of the levy following the election, and the third factor (subsection 3 of section 2) will be zero.

Example 9: By a 1967 election, County X, whose fixed maximum millage rate is eight mills, is authorized to make a 1968 levy of one million dollars. In 1968, it, in fact, levies only seven mills. Without a 1968 election lifting the ceiling for 1969, the 1969 levy will be limited to dollar amount collected in 1968.

(7) **Requirements for Future Elections——Effect of Past Elections:** Elections held under the 1067 amendments must be upon a proposition containing the following elements:

(a) The dollar amount of the last regular property tax levy (for a 1967 election, this amount will be the 1967 levy);

(b) The dollar amount of the proposed subsequent levy;

(c) An estimate of the millage which will be required to produce this subsequent levy.

With respect to elections held prior to the passage of the 1967 amendments, *i.e.*, elections held in 1965 and 1966, these elections, if they did not comply with the requirements established in section 6, will not permit a levy in 1968 in excess of that permitted by section 2 of the act. Such prior elections will, however, be sufficient to authorize increases in the 1967 levy, which will then be used as the first factor under section 2 of the act for purposes of computing the 1968 levy.

But if the authorized increase is not used for the 1967 levy, subsection 3 of section 2 will not permit the ceiling for the 1968 levy to be computed as if the authorized increase had, in fact, been used for the 1967 levy.

Example 10: District A, in a 1965 election, was authorized to levy eight mills on an assessed valuation computed at a 25% assessment rate. No dollar amounts were stated on the ballot proposition. For 1966, the assessment rate was 20%, and for 1967 it is 25%. District A may levy eight mills in 1967. And it may levy eight mills in 1968 also, if no change is made in the assessment rate in 1968.

Example 11: District A, in a 1965 election, was authorized to levy eight mills on an assessed valuation computed at a 25% assessment rate. No dollar amounts were stated on the ballot proposition. For 1966 and 1967 the assessment rate was 20%, but the assessor intends to raise the assessment rate to 25% for 1968. Without an election in 1967 to lift the ceiling for the 1968 levy, district A will be cut back in its millage for the 1968 levy.

Example 12: (*Sample Ballot Proposition*)

AUTHORIZING PROPERTY TAX LEVY

Shall (name of taxing district) be authorized to increase its regular property tax levy to $_____, which would be the dollar amount produced by a levy of approximately _____ mills, $_____ having been the levy made in 1967?

(This shall not be construed to authorize an excess levy)

Yes ☐

No ☐

(Derived from sections 1 through 6, 8, and 9, chapter 146, Laws of 1967 ex. sess. Effective September 19, 1967.) [Order PT 68-6, § 458-12-380, filed 4/29/68.]

WAC 458-12-385 State levy. The department of revenue shall levy the state taxes as authorized by law not to exceed the lawful limit per thousand dollars of assessed value of the property of the entire state, which assessed value shall be one hundred percent of the true and fair value of such property in money. (RCW 84.48.080)

It is the duty of the county assessor to spread the state levy on the tax rolls. (*State v. Wiley*, 176 Wash. 641)

The county assessor shall add to the amount levied for the current year, the amount due to each state fund and unpaid for the seventh preceding year, as certified by the state auditor. (RCW 84.48.110)

The delinquent state tax for the seventh preceding year as certified by the state auditor is not subject to the 1% limitation. (*Greb v. King County*, 187, Wash. 587) [Order PT 74-6, § 458-12-385, filed 9/11/74; Order PT 68-6, § 458-12-385, filed 4/29/68.]

WAC 458-12-390 State levy——Fertilizers and insecticides held by farmers——Inventory. When fertilizers or insecticides in any form are moved onto a farm pursuant to a previously planned schedule, to spread or spray them on the farm acreage or growing plants, and this schedule is carried out promptly upon delivery of the fertilizer or insecticides in accordance with good farming practice, such material shall not be considered as inventory of the farmer for ad valorem tax purposes. This policy will apply to fertilizers or insecticides in solid, liquid, or gaseous form, whether applied by the farmer using his own equipment or applied by commercial concerns.

If on January 1st of any year fertilizers or insecticides are held in storage preceding the commencement of application, they shall be included in the farmer's inventory.

When the material has not been held in storage, in order to provide the assessing officer with adequate records, the farmer shall attach the following statement to his personal property listing:

"During the 19__ calendar year $_____ worth of (fertilizers) (insecticides) were delivered on my premises for the purpose of immediate spreading or spraying upon my (crop) (land) in accordance with a previously planned schedule, which schedule was promptly carried out."

The statement attached to the personal property listing shall be separately signed and dated by the taxpayer. When this statement is attached to the listing form, the value of such material shall not be included on the face of the return as an item or taxable property. [Order PT 69-1, § 458-12-390, filed 4/14/69.]

WAC 458-12-400 Leasehold estates——Definitions. "Contract rent" means the amount of consideration conveyed according to the leasehold instrument or agreement. Any prepaid rent shall be considered to have been paid in the year due and not in the year that it was actually paid.

"Economic rent" means the rental warranted to be paid in the open real estate market based on rentals being paid for leases conveying comparable rights.

"Extended or renewed" means: the lengthening of the term of possession of an agreement by mutual consent; the exercise of an option by either party to the agreement; increasing the amount of property under lease; or increasing the rights or permitted uses conveyed by the agreement.

"Leasehold estates, leasehold interests, and possessory interests" are synonymous and shall mean an interest in tax exempt property which exists as a result of possession, exclusive use, or a right to possession or exclusive use of such property whether real or personal, unaccompanied by ownership in fee simple or a life estate. This right can be granted either verbally or in writing irregardless of whether it is created by a permit, lease, agreement, contract or concession.

"Renegotiation or renegotiated" means the process occasioned by any situation or circumstance which results in a change in the consideration to be paid by the lessee to the lessor for any extension or renewal of a lease or agreement. Therefore, renegotiation occurs or a lease is renegotiated, only when the terms of an existing lease are extended or an existing lease is renewed, and the consideration to be paid by the lessee, in the extended or renewed term, is different from what he pays in the old term. Renegotiation or renegotiated will not have occurred if the consideration is changed without extending or renewing the lease.

"The value of the annual leasehold rent collected in the previous year" shall include all valuable rents, whether in the form of money, property or services, conveyed by the lessee to the lessor in exchange for rights under the lease, and shall include the fair value of costs borne by the lessee which, according to customary business practice, are normally borne by the lessor. [Order PT 75-1, § 458-12-400, filed 2/13/75.]

WAC 458-12-401 Leasehold estates——Report to county assessor by public body. Each department or agency of the state, each county, school district, city and other municipal corporations and each political subdivision of the state of Washington shall, on or before the fifteenth day of January each year, supply an accounting of all leasehold estates to each county assessor of the county in which such property is located. The accounting shall be on forms as prescribed by the department of revenue or in such a manner as to contain the following information concerning the leasehold estates:

(1) Name and address of the owner (lessor)
(2) Name and address of the lessee
(3) Location
(4) Legal description
(5) Address of the property, if any

(6) The amount of consideration conveyed according to the agreement. All non-monetary considerations shall be included; e.g., property expenses paid by the lessee, improvements made by lessee for the lessor, etc.

(7) The value of the annual leasehold rent received the previous year

(8) The effective date of the agreement

(9) Expiration date

(10) Restrictions, if any, contained in the agreement

(11) Renegotiation dates

(12) Options to renew

(13) Reversion or disposition of any improvements at the end of the term

(14) Lease number [Order PT 75-1, § 458-12-401, filed 2/13/75.]

WAC 458-12-402 Leasehold estates——Report to county treasurer by county assessor. Each county assessor shall, on or before the fifteenth day of February each year, deliver to the county treasurer a listing of those leasehold estates which are subject to the in lieu excise tax imposed by RCW 82.29.030. Said listing shall be on such forms as prescribed by the department of revenue or in such a manner as to contain the following information concerning the leasehold estates:

(1) Name and address of the owner (lessor)

(2) Name and address of the lessee

(3) Location

(4) Legal description

(5) Address of the property

(6) Tax Code Area

(7) The amount of consideration conveyed according to the agreement

(8) The amount of the true and fair economic rent

(9) The value of the annual leasehold rent collected the previous year

(10) Expiration date

(11) Renegotiation dates

(12) Options to renew

(13) Lease number [Order PT 75-1, § 458-12-402, filed 2/13/75.]

WAC 458-12-403 Leasehold estates——Notice of in lieu tax due——Payment to department. Each county treasurer shall, on or before the last day of February each year, mail to the director of the department of revenue and to the lessors of leasehold estates which are subject to the in lieu excise tax imposed by RCW 82-.29.030, notice of the amount of tax payable for that year. Said notice shall be on such forms as prescribed by the department of revenue or in such a manner as to contain the following information concerning the leasehold estate:

(1) County

(2) Name and address of the lessor (owner)

(3) Name of the lessee

(4) Lease number

(5) The amount of the in lieu excise tax

(6) The economic rent

(7) The contract rent

(8) Tax Code Area

The in lieu excise tax shall be due and payable to the director of the department of revenue on or before the thirtieth day of April of that year.

Interest on delinquent payments shall be due and payable at the rate statutorily provided for money judgments (RCW 4.56.110(2)). Such interest may be waived in whole or in part by the department for good cause shown. [Order PT 75-1, § 458-12-403, filed 2/13/75.]

WAC 458-12-404 Leasehold estates——Determination of economic rent. Economic rent is the amount that would be paid in money or kind for the right to use property if the rent were currently negotiated under the conditions which exist in a free and competitive market, as of the assessment date, and if the fee owner paid property taxes on the value of the fee. In the determination of economic rent, the private rate of return and normal costs to the private sector shall be considered.

In those cases where similar leases of real property are not available, the economic rent shall be determined by the following procedure:

(1) The permitted use market value of the land and improvements (if any) will be determined.

(2) The interest rate that is normally being returned to private investors in real estate shall be determined and to this, a component for property taxes shall be added. Said component shall be the estimated percentage of taxes to full value.

(3) The value as established in (1) shall be multiplied by the rate as determined in (2) to determined the economic rent. If the value of (1) included wasting assets, then an annual amount necessary to recapture the value of the wasting assets over their remaining economic life shall be added to the rental established above.

If the document creating the leasehold estate clearly states that the improvements will remain in the ownership of the lessee and will not revert to the lessor, the improvements will not be considered as part of the leasehold estate for the determination of economic rent, as needed to satisfy the requirements of RCW 84.36.450(1). [Order PT 75-1, § 458-12-404, filed 2/13/75.]

WAC 458-12-405 Leasehold estates——Amount of in lieu tax. There shall be levied and collected an in lieu excise tax in 1974 and each year thereafter from each lessor of a leasehold estate which is exempted from ad valorem taxation pursuant to RCW 84.36.450 and WAC 458-12-410. The tax shall be levied and collected in an amount equal to fourteen percent of the value of the annual leasehold rent collected the previous year. The in lieu excise tax shall not be levied upon lessors of the following property:

(1) Lands owned in fee or held in trust by the government of the United States.

(2) Leasehold estates held by a body which were it to own the property in fee, said property would be exempt from taxation.

(3) Leasehold estates exempted from property taxation pursuant to WAC 458-12-410(2).

(4) All leasehold estates held by enrolled Indians of, and leasehold estates of, lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States. [Order PT 75–1, § 458–12–405, filed 2/13/75.]

WAC 458–12–406 Leasehold estates——Disbursement of the in lieu excise tax. The director of the department of revenue shall transmit to the state treasurer the leasehold in lieu tax revenues, which shall be placed in the leasehold in lieu tax fund created by RCW 82.29-.070. The director shall also provide the state treasurer with the information necessary to make the proper disbursements to the counties.

The moneys if the leasehold in lieu tax fund shall be disbursed by the state treasurer to the counties on or before the first day of June of each year. Such amount to each county will be based upon the percentage collected within that county to the total collected throughout the state.

Each county shall disburse the funds in the following method:

(1) Sixty percent to each school district within the county ratably, on the basis of the amount of in lieu excise tax collected from leased property within said school district.

(2) Twenty–five percent to each city or town within the county ratably, on the basis of the amount of in lieu excise tax collected from leased property within said city or town.

(3) The remainder of the amount disbursed to the county shall be credited to the county current expense fund. Said amount shall be forty percent of the amount disbursed to the county less any amounts paid to any cities or towns within the county. However, the county legislative authority may, in the manner it deems most equitable, allocate and deposit to the credit of the taxing districts within the county, any funds received pursuant to this subsection. [Order PT 75–1, § 458–12–406, filed 2/13/75.]

WAC 458–12–408 Leasehold estates——Operating properties. All leasehold estates in operating property, held by companies assessed and taxed as public utilities pursuant to chapter 84.12 RCW, shall be valued and assessed by the department of revenue according to the valuation procedures set forth by the provisions of chapter 84.12 RCW. All such leasehold estates shall be exempt from the in lieu excise tax. [Order PT 75–1, § 458–12–408, filed 2/13/75.]

WAC 458–12–410 Leasehold estates——Exemptions. (1) All leasehold estates in property owned in fee or held in trust by the government of the United States, or the state of Washington, or any political subdivision thereof shall be exempt from ad valorem tax and subject to the leasehold in lieu excise tax if it meets the following two criteria:

(a) The lease must have been negotiated and signed prior to July 1, 1970, and must not have been renegotiated, extended, or renewed since July 1, 1970, and,

(b) Must have a contract rent equal to or at least ninety percent of economic rent.

The above exemption shall not apply to leasehold estates in operating properties vested in any company which is assessed and taxed as a public utility pursuant to chapter 84.12 RCW.

(2) The following leasehold estates shall be exempt from both ad valorem taxation and the leasehold in lieu excise tax imposed by WAC 458–12–405 and chapter 82.29 RCW.

(a) All leasehold estates which have a total economic rent of less than one hundred dollars per year. This exemption will not apply if numerous leases are written to the same party(s) with the intent to escape taxation under this subsection. However, in determining this exemption, due regard will be given to such factors as when the leases were entered into and whether they covered contiguous tracts.

(b) All leasehold estates in facilities owned or used by a school, college, or university which leaseholds provide housing for students and which are otherwise exempt from taxation under the provisions of RCW 84.36.010 and 84.36.050 and WAC 458–12–230.

(c) All leasehold estates of subsidized housing where an income qualification exists to reside in such housing and the fee ownership of such property is vested in the government of the United States, the state of Washington or any political subdivision thereof.

(d) All leasehold estates used for fair purposes of a nonprofit fair association that sponsors or conducts a fair(s) which receives support from revenues collected pursuant to RCW 67.16.100 and allocated by the director of the department of agriculture where the fee ownership of such property is vested in the government of the United States, the state of Washington, or any political subdivison thereof; however, this exemption shall not apply to the leasehold estates of any sublessee of such fair association.

(e) All leasehold estates of state forest lands as defined in chapter 76.12 RCW. These lands are commonly referred to as county trust lands or forest board lands.

(f) All leasehold estates in state property used as a residence by state employees who are required, as a condition of employment, to live at a state facility or station. As used in this subsection, state shall mean public, and include federal, state, county, city and other political subdivisions.

(g) All leasehold estates on any real property of any Indian or Indian tribe, band or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

(h) All leasehold estates held by enrolled Indians of lands owned or held by any Indian or Indian tribe where the fee ownership of such property is vested in or held in trust by the United States, unless the lands are subleased to a lessee that is not exempt from taxation according to these rules. The sublessee would then be taxable upon his leasehold estate. [Order PT 75–1, § 458–12–410, filed 2/13/75.]

WAC 458-12-412 Leasehold estates——Taxation of improvements. Improvements will be valued and assessed as a part of an in conjunction with the leasehold estate, providing the leasehold estate is taxable.

The improvements will be assessed to their owner as personal property (RCW 84.04.080) provided that:

(1) The improvements are owned or being acquired by contract purchase or otherwise and

(a) The owner or acquirer is a sublessee of the property on which the improvements are located, or

(b) The improvements are on a leasehold estate that is exempt from ad valorem tax, and

(i) The improvements do not revert to the lessor at the end of the term, or

(ii) The remaining economic life of the improvements is less than the remaining term. [Order PT 75-1, § 458-12-412, filed 2/13/75.]

WAC 458-12-414 Leasehold estates——Continuity. The continuity of possession or exclusive use necessary to establish a leasehold estate is satisfied when, on January 1st of the assessment year, one is in possession of such property or has a contractual right to possession at a later date, *provided*, that such possession or right to possession must be for a period of 30 or more consecutive days, and must entitle the holder to the use and enjoyment of the property during that term. For purposes of this rule, there may be more than one taxable possessory interest in the subject property where such interests are separate and compatible. Preferential assignment agreements whereby holders of possessory interests in publicly owned property agree to permit temporary secondary uses of the subject property, which do not conflict with their own use and enjoyment, shall not affect the taxable status of the subject possessory interest. For purposes of this rule, the title or description attached to a taxable possessory interest by the parties shall be irrelevant. [Order PT 75-1, § 458-12-414, filed 2/13/75.]

WAC 458-12-416 Leasehold estates——Term. When a written instrument creating a leasehold estate specifies the period of occupancy which is to exist, the stated period will be taken as the term of possession for purposes of valuation, except as provided below: (1) Any option shall be added to the specified period if the parties actually anticipate that the option will be exercised. (2) Should the stated period be in conflict with the actual anticipated term of possession, the actual anticipated term, whether shorter or longer, shall be used instead of the stated term. The actual anticipated term will be based on the intent of the owner and the possessor as indicated by:

(a) History of property's use.

(b) Prior course of conduct between the parties.

(c) The relation of the parties.

(d) The object of the agreement.

(e) The conduct the parties subsequent to the formation of the agreement establishing the possessory interest between the parties.

When there is no specified period of occupancy, the term shall be defined in accordance with (2). [Order PT 75-1, § 458-12-416, filed 2/13/75.]

WAC 458-12-418 Leasehold estates——Valuation. The value of a taxable leasehold estate is the sum of the value of all property rights held by the possessor. This value is not diminished by any obligation to pay rent or to retire any debt secured by the leasehold estate. Stated in other terms, the taxable value of a leasehold estate is the value of the fee simple estate reduced by the value of any rights, except security interests, held by the owner (other than the right to receive rent) or granted by the owner to other persons.

The value may be measured by one or more of the following methods:

(1) The "equity sales approach", wherein the subject property is compared with itself on the date of a prior or subsequent sale or with similar leasehold estates which have been sold on dates prior or subsequent to the date as of which the property is being valued. To the sale price of such an estate, the following should be added:

(a) The present worth of any unpaid future contract rents for the estimated remaining term of possession,

(b) The value of any debt (other than the debt for future rents) assumed by the purchaser of the leasehold estate, and

(c) The present worth of any obligated costs of the purchaser, such as the cost of site restoration at the end of the term, less the present worth of any contractual benefits to the purchaser, such as salvage value of, of reimbursement for, improvements at the end of the term.

The estate sold should be reasonably comparable to the leasehold estate being valued in location, physical characteristics, term of possession, risk of cancellation, and permitted use.

(2) The "imputed return approach", wherein the leasehold estate is valued by capitalizing all future income that the leasehold estate is capable of generating under typical management during the estimated term of possession. The income to be capitalized is either the imputed economic rent, which may be estimated by reference to rentals recently negotiated in a competitive market or, if such evidence is inadequate, by reference to the anticipated gross income of a typical operator of the property subject to the leasehold estate, less costs of goods sold and typical management and other operating expenses. When the second of these methods of estimating economic rent is employed, the "other operating expenses" to be deducted do not include amortization, depreciation, depletion charges, debt retirement, interest on funds invested in the leasehold estate, the contract rent for the leasehold estate, property taxes on the leasehold estate, income taxes, or franchise taxes measured by income.

The imputed economic rent or gross income estimate is to reflect the restrictions on use inherent in the leasehold estate.

When using a recently negotiated or percentage contract rent for a leasehold estate as an indicator of the economic rent, the appraiser shall:

(a) Include in the contract rent his estimate of the amount, if any, by which the cash or share rent has been reduced because the possessor has assumed the cost of improvements that will revert to the exempt owner on expiration of the leasehold estate;

(b) Add to the contract rent his estimate of the taxes that will be paid on the leasehold estate if the capitalization rate contains a property tax component;

(c) Add to the contract rent his estimate of the amount, if any, by which the contract rent was reduced because the possessor has agreed to bear the cost of restoring the property to its original condition when it reverts to the exempt owner, or the cost of removing improvements and restoring the site to its original condition (less any estimated salvage value), or any similar obligations.

The capitalization rate shall be derived by extraction of a rate from sale prices of comparable leasehold estates or from sale prices of fee interests in similar properties that are not expected to yield substantially higher incomes after expiration of the leasehold estate being valued than during its existence, or by combining weighted components for debt and equity yields. In either case, the capitalization rate shall include a property tax component when the property tax has not been netted out of the rent or other income being capitalized.

(3) The "residual approach", wherein the value of the leasehold estate is determined by first estimating the possessor's rights as if perpetual and then deducting the present worth of those rights for the period subsequent to the term of the possession. The value of the possessor's rights, as if perpetual, shall be estimated by one or more of the following methods:

(a) By comparison with fee interests which have been sold, which have comparable locations and physical characteristics, and for which the highest and best use corresponds to or is comparable with the permitted use of the property subject to the leasehold interest.

(b) By capitalizing the net income the property is capable of producing subject to the terms of the lease.

(c) By determining the cost of replacing reproducible property with new property which offers utility that will satisfy the requirements of the possessor's permitted use, less accrued depreciation plus the value of the right to occupy the land as determined in (1) or (2).

The leasehold value as determined in subsections (1), (2), or (3) of this section shall be reduced by any loss in value brought about by risks, lack of assignability, or other restrictions which detract from the value thereof. [Order PT 75-1, § 458-12-418, filed 2/13/75.]

WAC 458-12-420 Leasehold estates——Commercial concessions or restrictions. If the agreement creating a taxable possessory interest includes express provisions granting commercial concessions to the lessee, or if it imposes commercial restrictions on the use of the property by the lessee, such commercial concessions or restrictions shall be considered in determining the true and fair value of the possessory interest if, and only if, they are an integral part of the possessory interest on sale or assignment by either lessor or lessee.

For the purpose of this rule only, commercial concession shall mean any right granted by the grantor of the possessory interest to maintain an exclusive or limited business franchise within a common facility owned by the grantor of which the grantee is one of a limited number of owners of possessory interests from the same grantor, such as an airport, port facility, amusement of sports arena or stadium, or shopping center. [Order PT 75-1, § 458-12-420, filed 2/13/75.]

WAC 458-12-422 Leasehold estates——Appeal procedures. (1) A lessor may, on or before July 15th of the year in which the in lieu excise tax is due and payable, appeal any determination of the assessor made pursuant to WAC 458-12-402 to the county board of equalization. The board shall, upon such appeal, promptly notify the lessee that the appeal has been filed and that the lessee may participate in the hearing on the appeal.

(2) In the event that it is determined by the board that the excise tax is not due and payable, the board shall, if the lessee so requests, determine the value of the leasehold. Also, in such event, the assessor shall list and value the leasehold as omitted property for the prior year, using the value determined by the board if it has been so determined.

(3) In the event that a lessee appeals to the county board of equalization on the grounds that his leasehold estate is exempt from property taxation under the provisions of RCW 84.36.450(1), the board shall promptly notify the lessor that the appeal has been filed and that the lessor may participate in the hearing on the appeal. In the event that it is determined by the board that the leasehold estate is so exempt, the board shall determine, upon the request of the lessor, the amount of the excise tax due and payable.

In the event of an appeal pursuant to paragraph (3) of this rule, paragraphs (1) and (2) shall be inapplicable.

All orders of the board of equalization made pursuant to this rule may be appealed to the State Board of Tax Appeals in the same manner as other orders of the board. [Order PT 75-1, § 458-12-422, filed 2/13/75.]

Chapter 458-14 WAC
RECONVENING COUNTY BOARDS OF EQUALIZATION

WAC
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WAC 458-14-010 Reconvening county boards of equalization——By whom. Upon its own initiative or upon written request therefor the department of revenue may, in the exercise of its discretion, order any county board of equalization to reconvene. [Order PT 70-1, § 458-14-010, filed 4/8/70; Tax Commission Rule 1, filed 7/6/66.]

WAC 458-14-020 Reconvening county boards of equalization——Contents of request. The request shall designate the board to be reconvened, shall specifically set forth the matters such board is to consider, shall contain a brief, definite statement of the facts which demonstrate that action upon the matter so specified would be within the powers of the reconvened board, and shall briefly and definitely state sufficient facts to reasonably support the allegations that the errors have occurred. [Order PT 70-1, § 458-14-020, filed 4/8/70; Tax Commission Rule 2, filed 7/6/66.]

WAC 458-14-030 Content of order——Limitation on what county board may consider. The order of the department of revenue reconvening a county board of equalization shall be in writing, shall specify the date for reconvening, shall designate the matters which are to be considered by such reconvened board, and such board shall have no authority to consider to take action on any matter except such as is designated in the order. [Order PT 70-1, § 458-14-030, filed 4/8/70; Tax Commission Rule 3, filed 7/6/66.]

WAC 458-14-040 Content of order——Further limitations on reconvening. No county board of equalization will be reconvened subsequent to the 30th day of April immediately following the time the board was in regular session, except where the request for the order alleges sufficient facts to substantiate a prima facie showing that there was either actual fraud on the part of the taxpayer or taxing officers, or that an error occurred because the taxing officers, acting with due diligence, did not have available all of the facts when performing their duties, or except where, in cases in which the department orders upon its own initiative the reconvening of a county board, the department has grounds to substantiate a prima facie showing that there was actual fraud on the part of the taxpayer or taxing officers or constructive fraud on the part of taxing officers; nor will a board be reconvened to act upon or consider an increase in the valuation of real estate when a bona fide purchaser, encumbrancer or contract buyer of record has acquired an interest in such real property subsequent to the first Monday in January next succeeding the date of levy of the taxes. [Order PT 70-1, § 458-14-040, filed 4/8/70; Tax Commission Rule 4, filed 7/6/66.]

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WAC 458-14-050 Membership. The county board of equalization shall be formed by the county governmental authority prior to July 1st and shall consist of not less than three nor more than seven members. The size and composition of the board of equalization is the responsibility of the county governmental authority. The board of county commissioners has the option of either appointing the members or constituting the board.

Appointed members shall not be a holder of an elective office nor be an employee of any elected official. They shall be selected for their knowledge of property values in the county.

The term of each appointed member shall be for three years or until his successor is appointed, which term shall begin on July 1, 1970. They may be removed by a majority vote of the county commissioners or other county governmental authority. [Order PT 74-5, § 458-14-050, filed 4/29/74; Order PT 70-3, § 458-14-050, filed 6/26/70.]

WAC 458-14-051 Composition of board. The county board of equalization shall consist of the board of county commissioners or three to seven members appointed by the county governmental authority. The county board of equalization shall not be a mixed board consisting of members of the board of county commissioners and appointed members. [Order PT 74-5, § 458-14-051, filed 4/29/74; Order 72-7, § 458-14-051, filed 6/23/72.]

WAC 458-14-055 Clerk. The county board of equalization shall appoint a clerk of the board and any assistants the board might need, all to serve at the pleasure of the members of the board. The clerk or his assistants shall attend all sessions thereof, and shall keep the records. Neither the assessor or any of his staff may serve as clerk or assistants to the board. [Order PT 70-3, § 458-14-055, filed 6/26/70.]

WAC 458-14-060 Legal advisor. The prosecuting attorney of each county shall be the legal advisor of the board. [Order PT 70-3, § 458-14-060, filed 6/26/70.]

WAC 458-14-062 Property tax advisor. The county governmental authority of any county may appoint one or more persons to act as property tax advisor to any person liable for payment of property tax in the county. Such person(s) shall not have been associated in any way with the determination of any valuation that may be the subject of an appeal nor shall he be an employee of the assessor's office. The county governmental authority shall provide for payment of such advisor and shall publicize the availability of his services. [Order PT 74-5, § 458-14-062, filed 4/29/74.]

WAC 458-14-065 Appraisers. The county board of equalization may hire appraisers for the purpose of investigating and finding of facts to aid the board in carrying out its functions and duties as required, which may be at times when the board is not in session.

Appraisers hired by the board must be certified as such by one of the following:

Washington State Department of Personnel
Society of Real Estate Appraisers
American Institute of Real Estate Appraisers
International Association of Assessing Officers

Appraisers hired by the board cannot be an employee of the county, and they are not required to be a resident of the county.

The boards of the various counties may make reciprocal arrangements for the exchange of the appraisers with other counties. [Order PT 70-3, § 458-14-065, filed 6/26/70.]

WAC 458-14-070 Public notice of July meetings. The board of equalization shall give notice of the meeting of the July board of equalization by publishing notice thereof, (Form 500-BE-50) once each week for two successive weeks in the official newspaper printed in the county, and by posting such notices in the office of the county assessor, and on the court house bulletin board. The first publication of said notice and the posting thereof, shall be on or before June 15th of each year.

The notice shall specify the meeting place, time of meeting, the meeting dates of at least three days of the boards sessions, where appeal forms may be secured and where the appeal petition is to be filed.

A copy of the notice published and posted together with proof of publication shall be filed with the clerk of the board of equalization and made a part of the official record. [Order PT 70-3, § 458-14-070, filed 6/26/70.]

WAC 458-14-075 Meetings. The county board of equalization shall meet in open session on the first Monday in July of each year and shall be in existence for a period of four weeks (28 consecutive days), and shall not be adjourned, sine die, until the last day of the twenty-eight day period, but shall be considered adjourned after the expiration of the twenty-eight day period. The board shall be in session not less than three days during the said four-week period.

When the day of convening falls on a holiday, the board shall convene the next following business day. Hearings shall not be held after the expiration of the four-week period unless the board is reconvened by the state department of revenue. Prompt application for reconvening shall be made when necessary to enable the county board to continue and complete its business. Any county board of equalization may be reconvened as provided under WAC 458-14-010 through 458-14-040, but not later than three years after the date of adjournment of its regularly convened session.

The meeting of the county board of equalization shall be held in any suitable room in the courthouse properly identified for the purpose or other suitable place within the county.

The majority of the board will constitute a quorum.

The meetings shall be open to the public unless the county assessor proposes to enter evidence he has obtained under RCW 84.40.340 or confidential income data exempted from public inspection pursuant to RCW 42.17.310. Where such evidence is offered, the board's session must be closed to the public unless the taxpayer against whom the evidence is offered waives his right to confidentiality. (AGO 1971 No. 37) [Order PT 74-5, § 458-14-075, filed 4/29/74; Order PT 70-3, § 458-14-075, filed 6/26/70.]

WAC 458-14-080 Organization of the board. At the opening of the July session of the county board of equalization, each member shall take and subscribe on oath to fairly and impartially perform his duties as a member of such board (Form 500-BE-56).

At its July meeting, the board shall elect as chairman a member of the board who shall preside over the July, November, June, and all reconvened meetings. A vice-chairman shall be elected to preside in the absence of the chairman. [Order PT 70-3, § 458-14-080, filed 6/26/70.]

WAC 458-14-085 Record of proceedings——In general. A record of the proceedings and orders of the board shall be kept, and shall be considered a public record.

All hearings of the board, or hearing examiners, shall be recorded with a recording device and the recordings shall become a part of the record of proceedings and considered a part of the public record. A recording of deliberations of the board; i.e., discussions by board members of a particular petition after the hearing on the petition, is not required: *Provided*, That nothing in this section shall be construed to authorize executive sessions; that the board shall meet in open session as required by RCW 84.48.010.

The record shall show the dates the board was in session and that a quorum of members was in attendance. All records presented to the board shall become a part of the official record of the board. However, those records obtained by the assessor pursuant to RCW 84.40.340 or confidential income data exempted from public inspection pursuant to RCW 42.17.310 shall not be open to the public, but all other information related to that appeal shall be a part of the public record.

A summary of the record of the proceedings shall be published or posted the same as proceedings of the county governmental authority. (RCW 36.22.020)

The said recordings of the proceedings of the board of equalization shall be maintained for a period of three years following adjournment of any regular or reconvened session. The transcripts, minutes, petitions, orders, and other written evidence and documents shall be maintained as required by RCW 40.14.070.

The county governmental authority shall provide the storage space for said records and shall be responsible for them when the county board of equalization is not in session. [Order PT 74-5, § 458-14-085, filed 4/29/74; Order PT 72-11, § 458-14-085, filed 9/29/72; Order PT 70-3, § 458-14-085, filed 6/26/70.]

WAC 458-14-086 Additional record requirements. RCW 84.40.031 requires that the value determination made by the county assessor be presumed as correct in the absence of "clear, cogent and convincing evidence" to the contrary.

RCW 84.48.010 requires that the record of the board contains "the facts and evidence upon which their (the board's) action is based".

(1) The purpose of this rule is to establish procedures for the implementation of these statutory directives, and is supplementary to WAC 458-14-085 and previous specific directives of the department relating to records of the board of equalization.

The supplementary directives contained in this rule are applicable with respect to any change in land value (as distinguished from improvement value) in which a reduction from the assessor's determination exceeds ten percent.

(a) The record shall contain the board's determination of the highest and best use of the land if such highest and best use as determined by the board is different from that as shown by the county assessor. If the assessor's determination of highest and best use is not indicated on his answer to the petition (Form 500-BE-55), then the assessor shall indicate his determination of highest and best use orally at the hearing.

(b) Where a reduction is ordered by reason of specific factors peculiar to the property involved, such as soil conditions, topography, accessibility, etc., such factors shall be indicated in the record.

(c) The record shall contain at least two sales of similar; *i.e.*, comparable property, upon which the board has relied in making its determination.

(d) If the assessor has recommended to the board a reduction in a specific amount, such recommendation shall be indicated in the record. If the board accepts the assessor's reduced value, the requirements of (a), (b) and (c) above shall not be applicable.

(2) The supplementary directives contained in this rule are applicable to any petition pertaining to a claim for exemption and shall contain the following information:

(a) The statute under which exemption is approved by the board.

(b) If the assessor's denial of the exemption is overruled, the record shall clearly state the board's reasons for approving the exemption.

(c) If the assessor's denial of exemption is sustained, the requirements of (a) and (b) above shall not be applicable.

The information required by this rule shall, at the option of the board, be contained either (1) in the minutes, or (2) on a separate sheet attached to the copy of the board's order in the individual file folder for each petition. [Order PT 74-5, § 458-14-086, filed 4/29/74; Order PT 72-11, § 458-14-086, filed 9/29/72.]

WAC 458-14-090 Assessment roll and records. The completed assessment roll for the current year, properly indexed, shall be made available to the county board of equalization by the county assessor. The county assessor shall file with the clerk of the board as part of the records a certificate of verification (Form 500-BE-51) of the current assessment roll, thereafter changes in valuation on the assessment roll must be authorized by the board of equalization.

The county board of equalization shall have access to the basic records, maps, tax lot records, supporting records, and detailed lists of personal property which support the contents of the assessment roll. The board shall examine and compare the assessments for purposes of equalization. [Order PT 70-3, § 458-14-090, filed 6/26/70.]

WAC 458-14-091 Certification of the valuation of the assessment roll by assessor. The county board of equalization shall require certification of the valuation of the assessment roll on Form 500-BE-51 as required by RCW 84.40.320 and WAC 458-14-090 and the board shall not act upon equalization, or any appeals made to the board until the assessor's certificate verification of the valuation of the assessment rolls (Form 500-BE-51) is filed with and made a part of the records of the board.

Subsequent changes in the valuation of the assessment roll shall be fully documented and authorized by the board of equalization. [Order 73-4, § 458-14-091, filed 8/13/73.]

WAC 458-14-094 Availability of valuation information. Prior to or at the time a taxpayer petitions the board of equalization for review of a valuation, and no later than ten business days before the scheduled hearing on his property, he may request the county assessor to make available the comparable sales or other valuation criteria used to determine the value of his property. The assessor shall furnish this information as well as the addresses or locations of any property and/or any other factors considered in the valuation process. This will be supplied within thirty days of the request but no later than ten business days before the taxpayer's appearance before the board. The assessor shall not change or modify the information supplied the taxpayer up to and including the appeal proceedings unless he has found new evidence to support his valuation. If such is the case, the

assessor shall provide the taxpayer with the new evidence at least ten business days before the appeal is to be heard.

A taxpayer who lists comparable sales on his notice of appeal shall not thereafter change his comparable sales without providing the assessor with a list of the new comparables at least five business days prior to the appeal hearing. The board of equalization may waive this requirement or allow the assessor a continuance of reasonable duration to verify the comparables furnished by the taxpayer. [Order PT 74-5, § 458-14-094, filed 4/29/74.]

WAC 458-14-098 Review of valuation. When any court or appellate body reviews the valuation of property for property tax purposes, it shall be presumed that the value determined by the public official charged with that responsibility is correct. However, this presumption shall not be a defense against any correction indicated by clear, cogent, and convincing evidence. [Order PT 74-5, § 458-14-098, filed 4/29/74.]

WAC 458-14-100 Duties of the board. The county board of equalization shall perform the duties set forth in chapter 84.48 RCW and as set forth in RCW 84.52-.090 and 84.56.390-84.56.400. The board shall not reduce or cancel taxes for prior years, except as provided in RCW 84.56.390 and 84.56.400.

The board shall at its July meeting receive and equalize the assessed values for all property listed by the county assessor on the real and personal property assessment rolls as of January 1, 12:00 noon meridian time, in the current year except that the assessed valuation date of new construction shall be considered as of April 30th immediately preceding the date that the property is placed on the assessment rolls. (RCW 36.21.080). The board shall hear and act upon all petitions regarding current assessments properly filed by any aggrieved party.

They shall raise the valuation of each tract or lot or item of real property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof.

They shall reduce the valuation of each tract or lot or item which in their opinion is returned above its true and fair value to such price or sum as they believe to be the true and fair value thereof.

They shall raise the valuation of each class of personal property which in their opinion is returned below its true and fair value to such price or sum as they believe to be the true and fair value thereof, and they shall raise the aggregate value of the personal property of each individual whenever they believe that such aggregate value is less than the true valuation of the taxable personal property possessed by such individual, to such sum or amount as they believe to be the true value thereof.

They shall, upon complaint in writing of any party aggrieved, reduce the valuation of each class of personal property enumerated on the detail and assessment list of the current year, which in their opinion is returned above its true and fair value, to such price or sum as they believe to be the true and fair value thereof, and upon like complaint, they shall reduce the aggregate valuation of the personal property of such individual who, in their opinion, has been assessed at too large a sum, to such sum or amount as they believe was the true and fair value of the personal property. [Order PT 70-3, § 458-14-100, filed 6/26/70.]

WAC 458-14-110 Notice of raise in valuation by the board. The board is authorized to raise the valuation of real and personal property only after at least five days notice has been given in writing by order on Form 500-BE-52 or 54 to the owner or his agent and a copy to the county assessor. Such notice should be given by personal service. If service is by mail, it shall be certified or registered, and the notice must fix a time certain for appearance of the owner or agent, and at least ten days must elapse between date of mailing and the date fixed for the hearing. [Order PT 70-3, § 458-14-110, filed 6/26/70.]

WAC 458-14-115 Exempt properties. The board may review only those claims for either real or personal property tax exemptions that are determined by the county assessor. The board may not review those exemptions which are determined by the department of revenue. The appeal from the assessor's determination is to be made upon the proper forms and the board is to determine (1) if the property is entitled to an exemption, and (2) if so, the amount thereof. Petitions for exemption shall be filed on or before the deadline as specified under WAC 458-14-120. [Order PT 74-5, § 458-14-115, filed 4/29/74; Order PT 70-3, § 458-14-115, filed 6/26/70.]

WAC 458-14-120 Petitions. The owner of any property or the person in whose name the property is assessed may petition the county board of equalization for reduction and equalization of the assessed valuation placed upon such property by the county assessor for the current year or other action as required by law or these rules. Each such petition shall:

(a) Be made in writing on Forms 500-BE-52, 54, 59, 61 or other required forms;

(b) Include a legal description or itemized listing of all property affected by the petition;

(c) State the facts and the grounds upon which the reduction and equalization or other action is sought;

(d) Be certified by the petitioner or his qualified agent or attorney;

(e) State the address to which notice of the action of the board shall be sent;

(f) Have attached thereto any documentary evidence the petitioner deems material, including the petitioners determination of true and fair value.

Any petition not conforming to the foregoing requirements shall not be considered by the board.

The county assessor shall be furnished with a copy of each petition as it is received by the board so he may prepare an answer to the petition. The petition must be

filed with the board on or before July 15th. Petitions received by the board after this date shall be denied on the grounds of not being timely filed. Evidence of timely filing shall be made, if filed by mail, by means of the cover under which the tion [petition] was sent, in that the cover must be postmarked no later than midnight of the filing date. If the filing date falls upon a Saturday or Sunday, the petition must be filed on, or postmarked no later than midnight of, the next day which is not a Saturday or Sunday. [Order PT 74-5, § 458-14-120, filed 4/29/74; Order PT 70-3, § 458-14-120, filed 6/26/70.]

WAC 458-14-121 Action on appeals. An appeal may be made to the board which may consist of a letter of personal appearance before the board, however, no action shall be taken by the board on such appeal until the petition in WAC 458-14-120 is timely filed and the board has received evidence, oral or written, from the property owner and county assessor which evidence shall be retained as a part of the record. [Order 72-7, § 458-14-121, filed 6/23/72.]

WAC 458-14-122 Appeal of board members, assistants, or county governmental authorities. In the event of an appeal by any appointed member of the board of equalization or by any person employed as an assistant to the board, including the clerk of the board, or by any member of the county governmental authority on his own property or on any property in which he has an interest, the action of the county board of equalization upon that appeal shall be to sustain the valuation made by the assessor and deny the petition. The appellant shall be advised of his rights to appeal to the State Board of Tax Appeals. The purpose of this rule is to insure the effectiveness, quality and performance of the county board of equalization. This will require the county governmental authority to effect the appointment of members of the board of equalization to be as professional as possible. [Order PT 74-5, § 458-14-122, filed 4/29/74; Order 72-7, § 458-14-122, filed 6/23/72.]

WAC 458-14-125 Hearing on petition. The county board of equalization shall hold an individual hearing on each petition which shall be numbered as received and shall be heard in the order received or at a time fixed by the board. Each petitioner and county assessor shall be notified by the clerk of the board at least three days in advance of the hearing time scheduled for his petition.

The petitioner and all witnesses shall be sworn. The board may use the following or other appropriate oath:

Chairman or clerk of the board:

Do you solemnly swear that the testimony you are about to give in this matter is the truth, the whole truth, and nothing but the truth, so help you God.

Appellant: I do.

The petitioner shall be given adequate time to present his case either in person or through his attorney or other authorized representative. Upon conclusion of the petitioner's case the county assessor shall present his case which shall include executed Forms 500-BE-53 and 55 as the case may be, and any documentary evidence deemed material.

If the county assessor is not going to respond to a petition, he shall so inform the board.

The board shall consider all evidence and facts presented in each appeal and shall render a decision on every petition prior to adjournment. If a decision in each appeal cannot be made prior to adjournment date as provided by law, the board shall request to be reconvened to enable it to complete its duties.

The board may appoint one or more of its members as an examiner for the purpose of holding prehearing conferences with the petitioner. Such prehearing conferences shall not be required by the board as a condition precedent to the petitioner's obtaining an individual hearing before the full board, and the function of such prehearing conferences shall be limited to defining the issues raised by the petitioner and/or the assessor, and to giving such assistance to the petitioner as may be required to assist the petitioner in the hearing before the full board. If, after a prehearing conference, a petitioner wishes to waive his right to a hearing before the full board, such waiver shall be in writing. The full board may require of the examiner such written reports, as it deems appropriate. [Order 71-3, § 458-14-125, filed 4/29/71; Order PT 70-3, § 458-14-125, filed 6/26/70.]

WAC 458-14-130 Orders of the board. The final action of the county board of equalization upon petitions and all other determinations such as corrections, additions or changes in the assessment roll, shall be entered on record by order. The orders shall specify the changes to be made in the roll and the proper county official then in charge of the assessment or tax roll is directed to make the changes as ordered by the board.

A signed copy of the board's order shall be delivered to the petitioner and the county assessor at the conclusion of the hearing, or shall be sent by mail to the petitioner to the address given in the petition, immediately following the signing of the order. [Order PT 70-3, § 458-14-130, filed 6/26/70.]

WAC 458-14-135 Appeals. Appeals from decisions of the county board of equalization may be made under RCW 84.08.130 and the Rules of Practice and Procedure of the State of Washington Board of Tax Appeals. Appeals to this board shall be made on notice of appeal Form 500-BE-65, which notice shall be filed in duplicate with the county auditor within ten calendar days of the date of the order of the county board of equalization. If the order of the county board of equalization is sent to the petitioner by mail, the ten day period for filing shall commence on the third day following the day the county board's order was placed in the mail as evidence by the postmark.

Court actions involving taxes may also be instituted under the provisions of chapter 84.68 RCW. [Order PT 70-3, § 458-14-135, filed 6/26/70.]

WAC 458-14-140 Records to state board. The clerk shall secure from the county auditor a list of those persons filing an appeal to the State Board of Tax Appeals. The clerk shall immediately forward a copy of the complete record on each appealed property to the State Board of Tax Appeals as required by the regulations of said board. [Order PT 74-5, § 458-14-140, filed 4/29/74; Order PT 70-3, § 458-14-140, filed 6/26/70.]

WAC 458-14-145 June meeting. The county board of equalization shall reconvene in June on a day fixed by the board and shall consider only matters referred to it by the county treasurer or county assessor.

If the county treasurer has reason to believe or is informed that any person has given to the county assessor a false statement of his personal property, or that the county assessor has not returned the full amount of personal property required to be listed in his county, or has omitted or made erroneous return of any property which is by law subject to taxation, or if it comes to his knowledge that there is personal property which has not been listed for taxation for the current year, he shall prepare a record setting out the facts with reference thereto and file such record with the county board of equalization.

The board may issue compulsory process and require the attendance of any person having knowledge of the articles or value of the property erroneously or fraudulently returned, and examine such person on oath in relation to the statement or return of assessment, and the board shall in all such cases notify every person affected before making a finding, so that he may have an opportunity of showing that his statement or the return of the assessor is correct.

The county treasurer shall also make and file with the county board of equalization a record, setting forth the facts relating to such manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of property which do not involve a revaluation of property, such as the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family, as shall come to his attention after the rolls have been turned over to him for collection. The said record shall also set forth by legal description all property belonging exclusively to the state, any county or any municipal corporation whose property is exempt from taxation, upon which there remains, according to the tax roll, any unpaid taxes.

The county board of equalization shall consider such matters as appear in the record filed with it by the county treasurer, and shall only correct such matters as are set forth in such record, but it shall have no power to change or alter the assessment of any person, or change the aggregate value of the taxable property of the county, except insofar as it is necessary to correct the errors herein before mentioned: *Provided*, That the board shall cancel all unpaid taxes upon property which belongs exclusively to the state, any county or municipal corporation. The board shall make findings of the facts upon which it bases its decision on all matters submitted to it, and when so made the assessment and levy shall have the same force as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the rolls as modified.

The county assessor may cancel or correct assessments which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of the property which do not involve a revaluation of property. When the county assessor cancels or corrects an assessment, he shall send a notice to the taxpayer by registered mail advising the taxpayer that the action of the county assessor is not final, and shall be considered at the June meeting of the county board of equalization, and that such notice shall constitute legal notice of such fact, and a copy of the notice shall be sent to the county treasurer as his authority for correcting the current tax roll. When the county assessor cancels or corrects an assessment, he shall prepare and file a record of such action with the county board of equalization, setting forth therein the facts relating to such manifest error.

The county board of equalization at its meeting in June shall consider such matters as appear in the record filed with it by the county assessor and shall determine whether the action of the county assessor was justified, and shall make findings of facts upon which it bases its decision on all matters submitted to it. If the county board of equalization finds that the action of the assessor was not correct, it shall issue a supplementary roll including such corrections as are necessary, and the assessment and levy shall have the same force and effect as if made in the first instance, and the county treasurer shall proceed to collect the taxes due on the supplementary roll. [Order PT 70-3, § 458-14-145, filed 6/26/70.]

WAC 458-14-150 November meeting. The county assessor shall file with the county board of equalization a verified record of all errors in descriptions, double assessments, or manifest errors in assessment appearing on the assessment list.

The county board of equalization shall reconvene on the third Monday in November for the sole purpose of considering such errors, and shall proceed to correct the same.

The board has no authority to change the assessed valuation of the property of any person or to reduce the aggregate amount of the assessed valuation of the taxable property of the county, except only insofar as the same may be affected by the corrections ordered based on the record submitted by the county assessor.

The board's considerations shall be limited to the current assessment roll. To consider prior years, the board must be reconvened for that particular year by the Department of Revenue. [Order PT 70-3, § 458-14-150, filed 6/26/70.]

WAC 458-14-152 Manifest errors. A manifest error as provided in RCW 84.52.090, 84.56.400 and 84-.68.110 will be held to be any of the following:

(1) Any error that is clearly evident from an inspection of any "assessment list" or "tax roll" itself; or

(2) Any error that becomes clearly evident upon examination of any record of the county assessor or other public officer, upon which any "assessment list" or "tax roll" is based; or

(3) Any other error made in the process of preparing any "assessment list" or "tax roll", and subsequently becoming evident;

(4) Providing that the correction of any of the above errors *does not involve a revaluation of property.*

NOTE: A correction of an assessment based upon an appraisal manual, but involving erroneous application of measurements, quantities, rate, etc., would involve a revaluation of property.

The correction of an assessment resulting from the improper classification of land and the wrong per-acre rate would involve a revaluation of property.

When land was valued on a square foot basis and later discovered that the description included a parcel which had been acquired by the state for a highway; this is a manifest error that can be corrected without resulting in a change in the assessed value of the property which is subject to taxation.

Corrections of manifest errors which involve a revaluation of property can only be done by the reconvened July board of equalization pursuant to RCW 84.48.010. [Order PT 74-5, § 458-14-152, filed 4/29/74.]

WAC 458-14-155 Definitions. Assessment roll shall be the record on which the county assessor records the assessed valuation of each parcel of property within the county.

The assessment roll shall be considered accurate unless the board discovers items requiring changes, or petitions for changes by a property owner, assessor or treasurer are approved by the board.

Board: Reference to board in these rules of practice and procedure shall mean the county board of equalization.

County governmental authority shall mean the board of county commissioners or the county legislative body as established under "Home Rule Charter".

Member shall have reference to a qualified member of the board of equalization.

True and fair value: The basis of all assessments is the true and fair value of property. True and fair value means market value.

The true and fair value of a property in money for property tax valuation purposes is its "market value" or amount of money a buyer willing but not obligated to buy, would pay for it to a seller willing but not obligated to sell. In arriving at a determination of such value the assessing officer can 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 he must consider all such factors. (WAC 458-12-300)

Equalize means to make equal, or to cause to correspond with a common standard, which standard under the statute is true and fair value.

As in the statute "equalize" can be defined as the process whereby the county board of equalization reviews the valuation of real and personal property as returned by the assessor, so that each tract or lot of real property and each item or class of personal property is entered on the assessment roll at 100% of its true and fair value.

County Board of Equalization Manual: A manual of operation procedures shall consist of these rules of practice and procedure; current board forms; department directives and opinions relating to the county boards of equalization. The manual shall be the basis of the schools for the training of members of the several boards of equalization throughout the state. [Order PT 74-5, § 458-14-155, filed 4/29/74; Order PT 70-3, § 458-14-155, filed 6/26/70.]

Chapter 458-16 WAC
PROPERTY TAX——EXEMPTIONS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

458-16-140 Property tax exemptions, generally, rules of construction——Proof of exemption. [Order PT 76-2, § 458-16-140, filed 4/7/76. Formerly WAC 458-12-150.] Repealed by Order PT 77-2, filed 5/23/77.

458-16-160 Property tax exemptions, generally, rules of construction——Inaccurate information——What constitutes. [Order PT 76-2, § 458-16-160, filed 4/7/76. Formerly WAC 458-12-152.] Repealed by Order PT 77-2, filed 5/23/77.

458-16-170 Property tax exemptions, generally, rules of construction——Rental or lease of property deemed to be exempt. [Order PT 76-2, § 458-16-170, filed 4/7/76. Formerly WAC 458-12-153.] Repealed by Order PT 77-2, filed 5/23/77.

458-16-250 Property tax exemptions, generally, rules of construction——Relief organizations. [Order PT 76-2, § 458-16-250, filed 4/7/76. Formerly WAC 458-12-220.] Repealed by Order PT 77-2, filed 5/23/77.

WAC 458-16-010 Senior citizen and disabled persons exemption——Definitions. (1) The term "residence" shall mean a single family dwelling unit whether such unit be separate or part of a multi-unit dwelling, and includes the land on which the dwelling stands not to exceed one acre. It includes a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the State of Washington or its political subdivisions. Also included is a mobile home which has substantially lost its identity as a mobile unit by being fixed in location upon land owned. [,] leased or rented by the owner of said mobile home and placed on a foundation, posts, or blocks with fixed pipe connections with sewer, water or other utilities even though it may be listed and assessed by the county assessor as personal property.

The residence must have been regularly occupied by the person claiming the exemption as the principal or main residence of the claimant. It does not include a residence used merely as a vacation home.

(2) The term "preceding calendar year" shall mean the calendar year preceding the year in which the claim for exemption is filed.

(3) "Department" shall mean the State Department of Revenue.

(4) The term "real property" for the purposes of WAC 458-16-010 through 458-16-070 shall include subsection (1) of this section and the land on which a mobile home is located if both the land and mobile home are owned by a qualified claimant.

(5) "Combined income" shall mean the total income from all sources whatsoever for both the claimant and spouse, if any. It shall include such items as investment income in the form of dividends from stock, interest on savings accounts and bonds, capital gains, gifts and inheritances, and net rental income from real estate. It shall also include income from pensions, disability payments, retirement pay and annuities. Reimbursement for losses is not to be considered as income. Only two-thirds (2/3) of social security, federal civil service, and/or railroad retirement benefits will be considered as income. Combined income shall not include any ascertainable return of capital or investment. Any gain realized from the sale of the claimants residence shall not be considered as income if the gain is reinvested in a replacement residence within eighteen (18) months of its realization.

(6) "Owned" shall include "contract purchase" as well as "in fee". It shall also include an owner who has transferred the property under a revocable trust agreement if the claimant has full use of the property and is able to revoke the trust and take ownership. A life estate retained in a property shall not be considered as ownership. A residence owned by a marital community shall be deemed to be owned by each spouse.

(7) The term "gainful employment" is used to indicate any labor or services which results in an increase in wealth or earnings. The usage is sufficiently broad to include the performance of any function or activity, whether initiated by the person performing or by any other person. It also is broad enough to include any payment therefor whether in money or in goods, so long as the person performing realizes a gain, as opposed to a loss, from any source. It is not necessary that the gain be "wages" in any technical sense, or that the arrangement under which the labor or service is performed be the conventional one of employer or employee. Judicial consideration of the meaning of the term indicates, however, that a woman acting as a housewife, for her husband and family only, is not engaged in "gainful employment".

(8) "Regular" shall mean consistent or habitual.

(9) The term "family" includes a single person, any number of related persons, or a group not exceeding a total of eight related and nonrelated, nontransient persons living as a single non-profit house keeping unit. The term does not, however, include a boarding or rooming house.

(10) "Replacement residence" shall mean a residence that qualifies for the exemption contained in WAC 458-16-010 through 458-16-070 except for the time requirement contained in WAC 458-16-020(1).

(11) "Physical disability" shall mean the condition of being disabled, resulting in the inability to pursue an occupation because of physical impairment. A doctor's signed statement shall constitute proof of such disability and shall be required before the exemption may be granted.

(12) "Regularly occupy" shall mean to dwell or occupy indefinitely without intent to change. Temporary absences such as being confined to a hospital or nursing home for medical purposes shall not be considered as evidencing an intent to change residence or occupancy. [Order PT 76-1, § 458-16-010, filed 4/7/76; Order PT 74-6, § 458-16-010, filed 9/11/74.]

WAC 458-16-020 Senior citizen and disabled persons exemption——Qualifications for exemption. A person shall be exempt from any legal obligation to pay all or a portion of the real property taxes due and payable in the year following the year in which a claim is filed if the following qualifications are met:

(1) The property taxes must have been imposed upon a residence which has been regularly occupied by the

person claiming the exemption during the two calendar years preceding the year in which the exemption claim is filed; or the property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of January 1st of the year in which the claim is filed and the person claiming the exemption must also have been a resident of the State of Washington for the last three calendar years preceding the year in which the claim is filed.

(2) The person claiming the exemption must have owned, at the time of filing, the residence on which the property taxes have been imposed.

(3) The person claiming the exemption must have been sixty-two years of age or older on January 1st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of physical disability. [Order PT 74-6, § 458-16-020, filed 9/11/74.]

WAC 458-16-022 Senior citizen and disabled persons exemption——Qualifications for cooperative housing. A share ownership in a cooperative housing association, corporation or partnership will qualify provided

(1) The claimant owns a share therein representing the specific unit or portion of the structure in which the claimant resides and

(2) The authorized agent of such cooperative signs the claim for exemption and

(3) The cooperative housing association, corporation or partnership agrees to reduce any amount owed by the claimant to the cooperative by such exact amount of tax exemption or, if no amount be owed, the cooperative will make payment to the claimant of such exact amount of exemption.

If the claimant qualifies, the tax liability of such cooperative shall be reduced by the amount of tax exemption to which the claimant is entitled. [Order PT 76-1, § 458-16-022, filed 4/7/76.]

WAC 458-16-030 Senior citizen and disabled persons exemption——Claims. Claims for exemption shall be made annually and filed with the county assessor between January 2 and July 1 of the year in which the property tax is to be levied and solely upon the forms prescribed by the Department of Revenue. All claims for exemption shall be made and signed by the person entitled to the exemption, by his or her attorney in fact or in the event the residence of such person is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, by such holder or by the owner, either before two witnesses or the county treasurer, assessor or their deputies in the county where the real property is located.

If the taxpayer is unable to submit his own claim, the claim shall be submitted by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

In January of each year the county assessor shall mail applications for exemption to each person approved for exemption during the previous year.

Whenever possible, information concerning qualifications, applications, and availability of information about this exemption shall be included with property tax statements. [Order PT 74-6, § 458-16-030, filed 9/11/74.]

WAC 458-16-040 Senior citizen and disabled persons exemption——Denial——Appeal——Penalty——Perjury. If the assessor finds the applicant does not meet the qualifications as set forth by WAC 458-16-020 the claim shall be denied.

Any denial of a claim for exemption shall be subject to appeal to the county board of equalization as provided for in WAC 458-14-120.

Any applicant who received exemption in prior years based on erroneous information shall be assessed for the proper taxes as well as the penalties provided for in RCW 84.40.130 for a period not to exceed three years.

Any person signing a false claim with the intent to defraud or evade the payment of any tax shall be guilty of the offense of perjury. [Order PT 74-6, § 458-16-040, filed 9/11/74.]

WAC 458-16-050 Senior citizen and disabled persons exemption——Amount of exemption. The amount that the person shall be exempt from an obligation to pay shall be calculated, on the basis of the combined income, from all sources whatsoever, of the person claiming the exemption and his or her spouse for the preceding calendar year, in accordance with the following schedule:

Income Range		
$4,000 or less	–	Exempt from regular property taxes on up to $5,000 valuation, plus 100% of excess levies.
More than $4,000 but less than $5,001	–	Exempt from 100% of excess levies.
$5,001 to $6,000	–	Exempt from 50% of excess levies.

[Order PT 74-6, § 458-16-050, filed 9/11/74.]

WAC 458-16-060 Senior citizen and disabled persons exemption——Transfer of exemption. Any person who sells, transfers, or is displaced from their residence may transfer their exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year. The amount of exemption transferred shall be based upon the following:

(1) If the transferee(s) have not paid any of the current years taxes on their former residence they shall be allowed to claim exemption on all of the current year's taxes on the replacement residence.

(2) If the transferee(s) have paid the first half of the current year's taxes on their former residence, then the

exemption will only apply to second half taxes of the replacement residence.

(3) If the transferee(s) have paid the entire tax on their former residence, then no exemption will be allowed on the replacement residence.

The qualifications in WAC 458-16-020(1) and (2) shall be considered as being complied with on the replacement residence, if the claimant would have met those qualifications on his former residence. [Order PT 74-6, § 458-16-060, filed 9/11/74.]

WAC 458-16-070 Senior citizen and disabled persons exemption——Cancellation. As the exemption contained in WAC 458-16-010 through WAC 458-16-070 is a personal exemption and is considered claimed when the property tax is paid, it shall cease to exist and be cancelled upon the claimant's demise (unless the spouse is also qualified) or transfer of the property. In such a case, any portion of that year's taxes due and owing in the year of the cancelling event which have not yet been paid shall be levied and collected at the full rate.

If the exemption results in no taxes being due, the exemption shall be considered as claimed, if the qualified claimant still owns the property, as of the tax payable date of February 15. [Order PT 74-6, § 458-16-070, filed 9/11/74.]

WAC 458-16-080 Improvements to single family dwellings——Definitions. For the purpose of WAC 458-16-080 and WAC 458-16-081 and RCW 84.36.400: (1) The term "single family dwelling" shall mean a detached dwelling unit and the lot on which the dwelling stands which is designed for, and not occupied by, more than one family. Said dwelling unit must meet the definition of real property contained in WAC 458-12-010 and RCW 84.04.090.

(2) The term "physical improvement" shall mean any addition, improvement, remodeling, renovation, structural correction or repairs which shall materially add to the value or condition of an existing dwelling. It shall also include the addition of, or repairs to, garages, carports, patios or other improvements attached to and compatible with similar dwellings, but shall not include swimming pools, outbuildings, fences, etc., which would not be common to or normally recognized as components of a dwelling unit. [Order PT 75-3, § 458-16-080, filed 5/23/75.]

WAC 458-16-081 Improvements to single family dwellings——Exemption——Filing——Amount——Limits. Any physical improvement to an existing single family dwelling upon real property shall be exempt from taxation for three assessment years: *Provided*, That no exemption shall be allowed unless a claim is filed with the county assessor of the county in which the property is located prior to commencing the improvement. The claim shall be on such forms as prescribed by the Department of Revenue and supplied by the county assessor.

The assessor, upon receipt of the claim, shall value the single family dwelling prior to the improvement and then shall revalue the dwelling upon written notification, by the applicant, of completion of the improvement. The difference of the two values shall be the amount of the exemption and shall be deducted from the value of the dwelling after the completion of the improvement or any subsequent value determined according to chapters 84.41 RCW or 84.48 RCW: *Provided*, the amount of the exemption shall not exceed thirty percent (30%) of the value of the dwelling prior to the improvement, and, *Provided further*, That in no event will the assessed value of the dwelling unit, after deduction of the exemption, be less than it was prior to the improvement.

The cost of the physical improvement shall not be construed as being the dominant factor in determining the exemption.

The exemption shall be allowed on the property for the three assessment years following completion of the improvement. If at any time the property does not meet the definition contained in WAC 458-16-080(1), the exemption shall be cancelled.

This exemption shall not be allowed on the same dwelling more than once in a five year period, calculated from the date the exemption first affected the assessment roll. [Order PT 75-3, § 458-16-081, filed 5/23/75.]

WAC 458-16-100 Property tax exemptions, generally, rules of construction. All property having situs in Washington is subject to assessment and taxation, except property expressly exempted from taxation by law (RCW 84.36.005). In interpreting statutes which exempt property from taxation, the following principles shall govern:

(1) Statutory language shall be construed strictly, though fairly, and in keeping with the ordinary meaning of the language employed (Group Health Co-op of Puget Sound, Inc. v. Wash. State Tax Comm'n., 72 Wn.2d. 424, (1967)) – in favor of the public and the right to tax. Thurston County v. Sisters of Charity of House of Providence, 14 Wash. 264 (1896). Taxation is the rule; exemption is the exception (Spokane County v. Spokane, 169 Wash. 355 (1932)).

(2) If a justifiable doubt exists as to the meaning of an exemption statute, that doubt shall be construed in favor of the power to tax. Spokane County v. Spokane, 169 Wash. 355 (1932).

(3) If an exemption from taxation is found to exist, that exemption shall not be enlarged by construction, since the state legislature has presumably granted in express terms all that it intended to grant. Norwegian Lutheran Church v. Wooster, 176 Wash. 581 (1934).

(4) The burden rests upon the one claiming exemption to show clearly that the property is within the exempting statute (Pacific Northwest Conference of the Free Methodist Church of North America v. Barlow, 77 Wn.2d 487). The burden of proof is upon the one alleging the exemption. (In Re All-State Construction Co., Inc., 70 Wn.2d 657) *Provided*, That in implementing the foregoing, the Department of Revenue shall adhere to and operate within the bounds of the overriding principle

that its duty is to effectuate to the fullest extent the legislative intent (Thurston County v. Sisters of Charity of House of Providence, 14 Wash. 264 (1896)).

Provided further, That the principles herein enumerated are set forth as guidelines for assisting in statutory construction, and shall not be interpreted as a license for unjustifiably denying any exemption, and thereby forcing the organizations, corporations, or associations to establish their exempt status through court action. [Order PT 76-2, § 458-16-100, filed 4/7/76. Formerly WAC 458-12-145.]

WAC 458-16-110 Applications——Who must file, filing requirement, application forms, what covered, filing fee, financial statement, evidence of timely filing. All foreign national governments, cemeteries, nongovernmental nonprofit corporations, organizations, and associations, and soil and water conservation districts seeking exemption from ad valorem property taxation under the provisions of chapter 84.36 RCW shall make application for exemption with the State of Washington Department of Revenue, General Administration Building, Olympia, Washington 98504.

Initial applications, renewal applications and annual recertification for exemption shall be filed on or before March 31 in the assessment year for which exemption is sought with the Department of Revenue.

All applications and recertifications for exemption shall be filed on forms prescribed by the Department of Revenue and shall be signed by an authorized agent. On or before January 1 of each assessment year the Department shall mail the approved forms to each legal owner previously listed as having exempt property, and to those who have requested such forms from the Department. In addition, applications shall be available from any Department of Revenue office or from any county assessor's office. No property shall be granted an exempt status without the owner first filing for exemption, for the specific property for which exemption is sought, and the filing shall be due regardless of whether or not the legal owner has received forms for exemption from the Department.

To retain exempt status, applicants except nonprofit cemeteries must file a renewal application on or before March 31 of the fourth year following the date of the initial application and on or before March 31 of every fourth year thereafter, and when an applicant previously granted exemption acquires or otherwise converts real property to exempt status, such applicant shall file a renewal application within sixty days following the conversion of such real property to exempt status without penalty. Failure to file a renewal application within sixty days of conversion of such real property to exempt status shall result in a late filing penalty. See WAC 458-16-111 for computation of penalty.

In the years initial or renewal applications are not due, an applicant previously granted exemption shall annually file, on forms prescribed by the department, a certification that the exempt status of the real or personal property owned by the exempt organization has not changed: *Provided*, That when said certification has not been filed by March 31 of the year prior to the year taxes would be due, it shall be deemed to have not been filed annually and the exemption has lapsed. The exemption claim must then be reestablished by the filing of a new application on forms prescribed by the Department of Revenue along with the appropriate filing fees and penalties.

The property covered by each application for property tax exemption, or renewal thereof, shall include all the real and personal property which is contiguous, and which is used as a homogeneous unit.

(a) The term "homogeneous unit" means property under the control of a single applicant, the operation and use of which is integrated with and directly related to the activity of the entity seeking exemption.

(b) The term "contiguous" means all property which is geographically one unit without separation except for separations caused by public streets and roads.

EXAMPLES:

A church owns a single piece of property upon which is constructed a church, parsonage, and elementary school. All three buildings are owned by the church and constitute a homogeneous unit in that they are integrated with and directly related to the activities of the church. This requires only one application because the property is geographically contiguous and is a homogeneous unit.

O corporation, the supervising entity of a nonprofit recognized religious denomination, holds title to five separate units in a county. The operation of each church unit is integrated with the activity of and supervised by O. To properly apply for an exemption for these five church units O would be required to file a separate application for each church unit as they are geographically separate.

No application shall be acted upon until complete. To be complete all filing fees and penalties for late filing must be paid.

Organizations claiming exemption under RCW 84.36-.040, RCW 84.36.050 and RCW 84.36.060 are required to file financial statements with the Department of Revenue on or before April 1. Such financial statements shall be for the accounting period for the fiscal year ending during the previous calendar year.

Evidence of timely filing shall be made, if filed by mail, by means of the cover under which the application was sent, in that the cover must be postmarked no later than midnight of the last day on which the application, financial statement, or filing fee is required to be filed. If the due date falls upon a Saturday, Sunday, or legal holiday, the application, financial statement, or filing fee must be filed on the next day which is not a Saturday, Sunday, or legal holiday. If filed in person, evidence of time of filing shall be by the date stamp of the Department of Revenue office receiving the application.

Property leased may be claimed by the lessor or lessee, provided the lessee has permission of the lessor to claim exemption. Property claimed by the lessee must be specifically identified by owner and location of the property.

Applications will be considered for the assessment year in which received, unless requested in writing to be held for the following or previous assessment year. [Order PT 77-2, § 458-16-110, filed 5/23/77; Order PT 76-2, § 458-16-110, filed 4/7/76. Formerly WAC 458-12-146.]

WAC 458-16-111 Filing fees, penalties and refunds. Fees and penalties collected under this rule are statutory and may not be waived for any reason.

Filing Fee:

The filing fee of $35.00 shall be collected before the Department of Revenue considers any of the following for property tax exemption.

(1) Original claims for exemption for property never claimed and approved for exemptions.

(2) Renewals for property previously exempt every fourth year.

(3) Property not recertified for exemption annually by the filing deadline of March 31 of the assessment year for which exemption is sought.

(4) Property acquired by a different ownership, although the new owner may subsequently be able to qualify or requalify the property for exemption.

Late Penalties:

A late filing penalty of $10.00 per month or portion of a month shall be collected before the Department of Revenue will consider any claim for property tax exemption when the completed claim is not filed by the due date. A claim will not be considered complete until a written request claiming exemption and identifying the property is filed with all filing fees and penalties that may be due.

The due date is March 31 of the assessment year, unless the property is converted to an exempt use after March 31 in which case it shall be 60 days after the conversion date.

Extension:

The due date may be extended in 30 day increments upon written request filed before the due date for good cause shown therein.

Refunds; [:]

Fees and penalties may be refunded only under the following circumstances:

(1) A duplicate claim for the same property is filed by the same legal owner for the same assessment year.

(2) A claim is improperly received by Department of Revenue and it has no authority to consider it. (Example: Claim filed by government entity.)

(3) A request is received in writing prior to the determination on forms provided by the Department of Revenue or its equivalent requesting withdrawal. The forms shall include:

(a) A listing of the property covered by the application.

(b) An acknowledgment the property is not entitled to exemption and all assessment levies, and taxes will be payable.

(c) A signed statement clearly withdrawing the claim for exemption. The requesting official must be the same person who signed the application or another person authorized by the legal owner.

The Department of Revenue has no authority to refund fees and/or penalties even though the claim is denied. The fees are intended to pay part of the cost of administration and are expended regardless of the determination. [Order PT 77-2, § 458-16-111, filed 5/23/77.]

WAC 458-16-120 Appeals and notice of determination. The Department of Revenue shall have access to all books and records necessary to determine if the requirements for exemption have been complied with. The Department of Revenue shall have the authority to request additional information relevant to the claim for exemption as it deems necessary.

Leased property may be claimed by the lessor or lessee, provided the lessee has permission of the lessor to file on the lessor's behalf. Property claimed by the lessee must be specifically identified by owner and location of the property. The Department of Revenue shall, prior to August 1 of the assessment year, review each application which is timely filed and accompanied by a filing fee, and make a determination thereon, or if received after August 1 within 30 days of receiving the completed application. The Department of Revenue shall notify each legal owner or his designated agent in writing and by mail of the determination, either approval, denial, or the portion approved or denied, which has been made upon the application and stating therein the reasons for its determination. A copy of each determination shall also be sent to each county assessor.

Any property owner aggrieved by the Department's denial of an exemption application may, within 30 days of notification thereof, petition the State Board of Tax Appeals at 1010 Cherry Street, Olympia, Washington 98504 for review. Any county assessor who feels the Department's determination of exemption is unwarranted may, within 30 days after receiving a copy of the notification, petition the State Board of Tax Appeals for review. To determine whether an appeal is timely taken to the Board of Tax Appeals, the commencement of the period for giving notice of appeal shall commence on the third day following the day upon which the notice was placed in the mail. (WAC 456-08-003, Board of Tax Appeals)

Appeal forms shall be available at the Board of Tax Appeals in Olympia and County Auditor's Offices except in King County where they are available at the Office of the Clerk of the County Council. Appeals shall be filed with the Board of Tax Appeals and a copy thereof shall be filed with the Department of Revenue at the same time. The appellant shall prepare an original and three copies of the Notice of Appeal. The original shall be filed with the Board of Tax Appeals; a copy with the Department; if the property owner is the appellant, one copy of the notice must be served on the assessor of the county in which the property is located; when the assessor is the appellant, one copy of the notice must be

served on the property owner; and one copy shall be retained in the appellant's files.

The State Board of Tax Appeals shall consider any appeals which are timely filed to determine (1) if the property is or is not entitled to an exemption, and (2) the amount or portion thereof.

Failure to timely file a claim for exemption is not subject to appeal. [Order PT 77-2, § 458-16-120, filed 5/23/77; Order PT 76-2, § 458-16-120, filed 4/7/76. Formerly WAC 458-12-147.]

WAC 458-16-130 Properties sold or acquired by property owner deemed to be exempt. Property which is transferred by an exempt body to private taxable ownership shall be subject to a pro rata portion of the taxes allocable to that property for the remaining portion of that year, after the date of recording the instrument of sale, contract or exchange (RCW 84.40.360), and shall be subject to the provisions of RCW 84.40.350 through 84.40.390.

When any property owner determined to be or who could be exempt under chapter 84.36 RCW acquires ownership of property which was in other ownership as of January 1, such property owner shall prove that, under the specific RCW section and appropriate WAC, the property is entitled to exemption or continued exemption from time of transfer. Organizations seeking exemption under the provisions of this rule shall, within 60 days of conversion to an exempt use, make application to the Department of Revenue, or shall make a request for an extension of time, in writing, prior to the expiration of the 60 day period. If the extension is requested for good cause, therein the department may grant an extension. If filed after the expiration of the 60 day period and any extension granted, a late filing penalty shall be due pursuant to WAC 458-16-111 and RCW 84.36.825. [Order PT 77-2, § 458-16-130, filed 5/23/77; Order PT 76-2, § 458-16-130, filed 4/7/76. Formerly WAC 458-12-148.]

WAC 458-16-150 Cessation of use——Taxes collectible. Upon cessation of any use exempted under RCW 84.36.030 through 84.36.060, except RCW 84.36.032 and 84.36.045, the taxes that would have been paid had the property not been exempt during the seven (7) years preceding, or for the life of the exemption, if such be less than seven years, shall be collectible.

The property owner, county assessor, or any other public official having information or knowledge of any change in use which may constitute cessation of use, shall notify the Department of any such changes in use which may be brought to their attention. The Department shall notify the current property owner, and the legal owner previously granted exemption, of the reported change in use and shall examine the property to determine if the reported change in use has taken place. The property owner shall have 30 days from the time of notification by the Department to submit any information which may be relevant to the question of changing use.

The Department shall determine, upon the information supplied by the assessor or the public official, the property owner, or from the inspection of the property, whether in fact such a cessation of use as warrants collection of taxes payable has occurred.

The county treasurer, upon notification from the Department of Revenue, shall compute the taxes payable, together with interest, at the same rate and computed in the same manner as that upon delinquent property taxes. If such a cessation of use involves a portion of the total property, the taxes collectible shall attach to only that portion affected.

This rule shall be effective for those applications granted under chapter 84.36 RCW in assessment year 1974, and years thereafter: *Provided*, That if the cessation of use resulted solely from the following, the provisions of this section shall not apply:

(1) Transfer to an organization, association, or corporation for a use which also qualifies and is granted exemption under the provisions of chapter 84.36 RCW;

(2) A taking through the exercise of the power of eminent domain, or sale or transfer to an entity having the power of eminent domain, in anticipation of the exercise of such power;

(3) Official action by an agency of the State of Washington or by the county or city within which the property is located which disallows the present use of such property;

(4) A natural disaster such as a flood, windstorm, earthquake, or other such calamity, rather than by virtue of the act of the organization, association, or corporation changing the use of such property;

(5) Relocation of the activity and use to another location or site except for the undeveloped property of camp facilities exempted under RCW 84.35.030 [84.36.030].

Lease or rental of all or part of such properties may constitute a cessation of use and knowledgeable authorities should report same to the Department of Revenue. [Order PT 77-2, § 458-16-150, filed 5/23/77; Order PT 76-2, § 458-16-150, filed 4/7/76. Formerly WAC 458-12-151.]

WAC 458-16-180 Cemeteries. The following property shall be exempt from taxation, when used without discrimination as to race, color, national origin, or ancestry:

All lands, and buildings required for necessary administration and maintenance of public burying grounds or cemeteries, which are used, or to the extent used exclusively for public burying grounds or cemeteries. Use shall be evidenced in one of the following manners:

(1) actual entombment of human remains,

(2) a contractual limitation to limit the use of the property to entombment of human remains, i.e., sale of grave plot,

(3) dedication of property as a cemetery as provided under chapter 68.24 RCW; provided other nonqualifying use is not made of the property.

Lands owned by a nonprofit cemetery association, exempted under the provisions of RCW 68.20.110, but not exceeding 80 acres. Expansion, by additional 20 acre

sections, when necessary for continuing the operation of the cemetery, may be included; this limitation does not apply to a corporation sole.

Necessary administration and maintenance of cemeteries shall be construed to mean those functions, the necessity of which would be nonexistent but for the presence of the cemetery, the performance of which is a direct benefit to the cemetery. This may include the groundskeeping or maintenance building and the administration building used in connection with the general conduct of a cemetery business. Residential use of the grounds is not generally within the scope of this construction, but under certain circumstances, listed below, the Department may allow such use in a limited manner.

(1) The residence is necessary for the protection of the property.

AND

(2) The size is reasonable for the purpose.

AND

(3) The caretaker is required to be on the premises 365 days a year without exception unless a substitute is in place. This requirement would apply to all hours that the cemetery would be normally closed or during the time when vandalism or other damage is most likely to take place.

AND

(4) No rent is paid to the cemetery by the caretaker but is provided to him as part of his employment.

AND

(5) Protection is afforded by the caretakers, not merely by their presence, but that they regularly patrol the grounds, lock gates if necessary, and generally act in the capacity of ensuring the property is secure.

Exempt properties held by families or individuals for the purposes of burial are not subject to the requirement applying for exemption.

Nonprofit cemeteries are only required to file an initial application and additional filings are not required on property approved for exemption by the State Department of Revenue. [Order PT 77-2, § 458-16-180, filed 5/23/77; Order PT 76-2, § 458-16-180, filed 4/7/76. Formerly WAC 458-12-190.]

WAC 458-16-190 Churches, parsonages and convents. All churches and grounds that are exclusively used for church purposes shall be exempt to the following extent:

(1) The area upon which a church and parsonage is or shall be built, not exceeding five acres of land. The area exempt includes the ground covered by the church, parsonage, and convent, the buildings and improvements required for the maintenance and security of such property and the structures and ground necessary for street access, parking, light and ventilation. (AGO 5-1-1952; PTB No. 217)

(2) If the requirements of section (1) are met the exemption will apply to a parsonage or convent and a church built on non-contiguous lots, or to the construction of separate parsonages for a minister and assistant minister (AGO 4-9-1947), and to caretakers quarters when the following conditions are met.

(a) The residential use is necessary for the protection of property.

AND

(b) The size is reasonable for the purpose.

AND

(c) The caretaker is required to be on the premises 365 days a year to provide security or provide custodial service indicated in (e1) or (e2) without exception unless a substitute is in place.

AND

(d) No rent is paid to the church by the caretaker but is provided to him as part of his employment.

AND

(e1) Protection is afforded by the caretakers, not merely by their presence, but they regularly patrol the grounds, and/or buildings and generally act in the capacity of insuring the property is secure.

OR

(e2) Necessary on a daily basis to open and close the premises at irregular hours, activate or shut down environmental systems, and other maintenance activities necessary for the effective operation and utilization of the facilities.

(3) Land unoccupied or not covered by a church, parsonage or convent, and not occupied for church or related purposes, is exempt up to an area the equivalent of 120 feet by 120 feet, except where additional unoccupied land may be required to conform with state or local codes, zoning, or licensing requirements.

Where title is in church ownership, but the property is used for non-church purposes, the exemption is lost. If a portion of the church building or grounds is used for commercial rather than church purposes, that portion must be segregated and taxed whether or not the profit reserved by the church from the commercial use is applied to church purposes. (Norwegian Lutheran Church v. Wooster, 176 Wash. 581 (1934).)

The rental or lease of any portion of the church building or grounds is subject to the following provisions:

(1) Must be to a nonprofit organization, association, corporation or school.

(2) Must be for an eleemosynary use (see definition below).

(3) Rental must be reasonable and solely for operation and maintenance of property.

"Church purposes" shall be construed to mean the use of real and personal property owned by a nonprofit religious organization for religious worship or related administrative, educational, eleemosynary, and social activities. This definition is to be broadly construed.

"Eleemosynary" shall be construed to mean charitable; not limited to the distribution of alms, but also includes activities when some social objective is served or general welfare is advanced, and where, but for the activity, government might be required to provide the service.

"Convent" means a house or set of buildings occupied by a community of clergymen or nuns devoted to religious life under a superior.

"Parsonage" means a residence occupied by a clergyman who is designated for a particular congregation and who holds regular services therefor.

With regard to property covered by this rule, the Department of Revenue may request additional information, in the area of finances, relative to the lease rental or license to use the properties claimed for exemption. This shall not be construed as a license to require general information relating to the amount of revenue received as donations, gifts, bequests, or tithes. The Department shall have access to financial information, where necessary, to establish nonprofit status, if requested in writing. [Order PT 77-2, § 458-16-190, filed 5/23/77; Order PT 76-2, § 458-16-190, filed 4/7/76. Formerly WAC 458-12-195.]

WAC 458-16-200 Grounds upon which a church or parsonage shall be built. Any church claiming exemption from ad valorem taxation on the property upon which a church, parsonage, or convent is to be built, shall have a specific plan and clear intent to hold such land for this and no other purpose.

It shall be the responsibility of such organizations to sustain the burden of proof that a reasonably specific and active program is being carried out to accomplish the construction of a church, parsonage, or convent within a reasonable period of time. Such proof should include sufficient information from which the Department may be able to determine what portion of the property will qualify for exemption when construction is completed.

Proof which may be submitted to evidence the required intent to build may include, but is not limited to:

1. Affirmative action by the board of directors, trustees, or governing body toward an active program of construction.

2. Itemized reasons for the proposed construction, such as

(a) Need for expansion due to growth;

(b) Replacement of wornout buildings;

(c) Initial facilities for a newly organized congregation;

3. Clearly established plans for financing the construction.

4. Proposed architectural plans which would tend to show what portion of the property will be under actual use.

5. Building permits.

6. Such other proof as the Department may deem relevant to show an active program aimed at construction. The length of time under which a property may be held for future construction shall be dependent upon the intent evidenced under the circumstances of each individual situation. [Order PT 77-2, § 458-16-200, filed 5/23/77; Order PT 76-2, § 458-16-200, filed 4/7/76. Formerly WAC 458-12-200.]

WAC 458-16-210 Nonprofit, nonsectarian organizations. The real and personal property owned by nonsectarian organizations is exempt from taxation, provided that:

(1) The organization is nonprofit and is organized and conducted primarily for nonsectarian purposes; and (2) the property is solely used, or to the extent used, for character-building, benevolent, protective or rehabilitative social services directed at persons of all ages. (These are the primary uses and the word "fraternal" is not among them, therefore, organizations whose main function is fraternal would not qualify under this section.)

This exemption extends to property of nonprofit, nonsectarian organizations which are used for benevolent, protective or rehabilitative social services and those which are actually related to those purposes. If any portion of the property of the organization is used for commercial rather than nonsectarian purposes, that portion must be segregated and taxed. [Order PT 77-2, § 458-16-210, filed 5/23/77; Order PT 76-2, § 458-16-210, filed 4/7/76. Formerly WAC 458-12-205.]

WAC 458-16-220 Church camps. The property owned by a nonprofit church or an organization or association comprised solely of churches or their qualified representatives which is used exclusively or jointly used for organized and supervised recreational activities and church purposes as related to such camp facilities are exempt from ad valorem taxation up to a maximum of 200 acres as selected by the church, including buildings and other improvements thereon.

The rental or lease of such property shall not nullify this exemption, provided:

(1) The rental is to another nonprofit church or a nonsectarian organization or association, nonprofit school or college exempt under chapter 84.36 RCW for use by the lessee for organized and supervised recreational activities and church purposes as related to such camp facilities.

(2) And the rental income is devoted solely to the operation and maintenance of the property.

It shall be the burden of the organization owning the property to insure that the lessee abides by the terms of the statute under which the exemption is obtained and provide evidence of compliance upon request. [Order PT 77-2, § 458-16-220, filed 5/23/77; Order PT 76-2, § 458-16-220, filed 4/7/76. Formerly WAC 458-12-206.]

WAC 458-16-230 Character building organizations. Property, including buildings and improvements required for the maintenance and safeguarding of such property, which is owned by organizations and associations engaged in character building of boys and girls under eighteen years of age, is exempt from taxation to the

extent that it is solely used, or to the extent used, for such purposes and uses: *Provided*, That (1) the group is nonprofit, and (2) the purposes of the group are for the general good and its properties are devoted to the general public benefit. Only that property solely used is exempt, and property used for other purposes, whether commercial or otherwise, must be segregated and taxed.

If the existing charters of such organizations or associations provide for services to boys and girls up to the age of twenty–one years, then such organizations or associations shall be deemed qualified under this rule.

The rental of property otherwise exempt under this rule to another nonprofit organization or association exempt under this rule, a nonprofit church organization, a nonsectarian organization or association, a school or college exempt under the provisions of RCW 84.36.050, or to a public school, for the purposes set forth in this rule, shall not nullify the exemption provided for in this rule so long as the rental income is devoted solely to the operation and maintenance of the property. [Order PT 77–2, § 458–16–230, filed 5/23/77; Order PT 76–2, § 458–16–230, filed 4/7/76. Formerly WAC 458–12–210.]

WAC 458–16–240 Veterans organizations. Property of veterans organizations, which are recognized by the Department of Defense and nationally chartered, are exempted from taxation. To qualify, these organizations shall have as their general purpose and objectives; (1) the preservation of war memories and associations, and (2) consecration of their efforts toward mutual helpfulness and patriotic or community services. The exemption is not lost if the property is devoted partially to commercial use so long as the profit derived is not retained by any members of the general organization, but is used exclusively in reasonable furtherance of the patriotic and community services of the organization. (AGO 9–3–1943; TCR 5–22–1939) However, where property owned by a veteran organization is primarily used for commercial purposes, the exemption for that portion of the property used primarily for commercial purposes is lost, whether or not the profits derived are used in furtherance of the purpose of the organization. (TCR 2–11–1941; TCR 1–14–1947) [Order PT 77–2, § 458–16–240, filed 5/23/77; Order PT 76–2, § 458–16–240, filed 4/7/76. Formerly WAC 458–12–215.]

WAC 458–16–260 Day care centers, libraries, orphanages, homes for the aged, homes for sick or infirm, hospitals. Buildings, grounds and other real and personal property to the extent used by the following institutions are exempt from taxation; day care centers, as defined by RCW 74.15.020; free public libraries; orphanages and orphan asylums; homes for the aged; homes for the sick or infirm; and hospitals for the sick, including any portion of the hospital building or other buildings used as a nurses home or residence for hospital employees, or operated as a portion of the hospital unit.

To qualify under this rule, the organization must be nonprofit, in that no part of the income of which is paid directly or indirectly to its members, stockholders, officers, directors, or trustees, except in the form of services rendered by the organization, association, or corporation in accordance with its purposes and by–laws and the salary or compensation paid to officers of such organization, association, or corporation is for actual services rendered and compares to the salary or compensation of like positions within the public services of the state. Any portion of property owned by an organization which is used in a manner not furthering the purposes of the institution, for example, hospital property used free of rent by a physician for private practice, must be segregated and taxed. (AGO 7–3–1935)

Property owned by an organization exempt under this rule which is under construction at the time of assessment is included in this exemption, provided that the organization which owns the property can evidence the irrevocable intent to put the property to a qualifying use. The forms of proof set forth in WAC 458–16–200 may be utilized for this purpose. To be exempted, the property must be in use or under construction which is designed for use.

The superintendent or manager of the organization claiming exemption under this statute shall allow the Department of Revenue access to the books and records of the organization and shall make, under oath, a report to the Department showing that the income and receipts thereof, including donations to it, have been applied to the actual expenses of operating and maintaining it, or for its capital expenses and to no other purposes, also including a statement of the receipts and the disbursements of said organization.

Real property owned by any organization, corporation, or association exempted under the provisions of RCW 84.36.040 which is leased or rented to another individual or organization shall be segregated and taxed. An exemption may be granted to the real or personal property leased or rented by any organization, corporation, or association exempted under the provisions of RCW 84.36.040 and used exclusively by it: *Provided*, That the benefit of the exemption inures to the user. Such property must be specifically identified as leased in filing for exemption.

For the purposes of this rule a "hospital" is an organization primarily engaged in providing medical, surgical, nursing and/or related health care services in the prevention, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition, or mental illness or retardation, and the equipment and facilities used by such organization to deliver such services on an inpatient basis. This definition shall include any portion of a hospital building, or other buildings used in connection therewith, and the equipment therein, operated as a portion of the hospital unit, or used as a residence for persons engaged or employed in the operation of a hospital. [Order PT 77–2, § 458–16–260, filed 5/23/77; Order PT 76–2, § 458–16–260, filed 4/7/76. Formerly WAC 458–12–225.]

WAC 458–16–270 Schools and colleges. The property owned or used by any nonprofit school or college within this state shall be exempt to the extent that:

(1) The property is used solely for educational purposes, or the revenue derived therefrom, be devoted exclusively to the support and maintenance of such institutions, provided such revenue is derived from an incidental, not commercial, use. An example of which would be the occasional lease of the gymnasium, field house, or auditorium;

(2) The real property so exempt shall not exceed four hundred (400) acres in extent and shall be used exclusively for college or campus purposes. College or campus purposes shall be construed to mean that the need for such property would be nonexistent, but for the presence of such school or college and which are principally designed to further the educational functions of such college or schools;

(3) The institution must be open to all persons on equal terms. However, there is no limitation on the types of courses which the institution may offer. Wilson's Modern Business College v. King County, 4 Wn.2d 636 (1940); AGO 1927-1927, p. 854.

Real property of institutions exempted under this rule which are owned, controlled, rented or leased for the purpose of deriving revenue from it, shall not be exempt and must be segregated and taxed whether or not such revenue is devoted to educational purposes. AGO 5-10-1944; Wilson's Modern Business College v. King County, 4 Wn.2d 636 (1940).

Institutions claiming exemption within this rule shall allow the Department of Revenue access to all books and records of the institution and shall annually make, under oath, a report to the Department showing that the income and receipts thereof, including donations to it, have been applied to the actual expenses of operating and maintaining it or for capital expenses for endowments, the income of which shall be used for the operation, maintenance or capital expenditures and to no other purpose, also including a statement of the receipts and disbursements of said organization. In addition, institutions claiming exemption under this rule shall submit a list of all property claimed to be exempt, the purpose for which it is used, the revenue derived from it during the preceding year, the use to which the revenue was applied, the number of students in attendance at the institution, the total revenues of the institution and the source from which they were derived, and the purposes to which such revenues were applied, giving the items [of] such revenues and expenditures in detail. [Order PT 77-2, § 458-16-270, filed 5/23/77; Order PT 76-2, § 458-16-270, filed 4/7/76. Formerly WAC 458-12-230.]

WAC 458-16-280 Art, scientific and historical collections——Fire companies——Humane societies. 1. All art, scientific, or historical collections, together with all real and personal property used exclusively for the safekeeping, maintaining or exhibiting of such, which are maintained or exhibited for the general public and not for profit, shall be exempt from taxation under the following conditions:

(a) Such organization must be organized and operated exclusively for artistic, scientific, historical, literary or educational purposes, and

(b) Receive a substantial part of its income (exclusive of income received in the exercise or performance by such organization of its purpose or function) from the United States, any state or political subdivision thereof, or from direct or indirect contributions from the general public.

2. Fire engines and other implements used to put out fires, and the buildings or fire stations to the extent that they are exclusively used for the safekeeping of such equipment, and to hold fire company meetings, shall be exempt, provided that such properties are owned by either a city, town or nonprofit fire company.

3. Property within the state which is owned and actually used by humane societies shall be exempt. (BTA 11213)

4. This exemption shall not apply to the performing arts. (BTA 11308) [Order PT 77-2, § 458-16-280, filed 5/23/77; Order PT 76-2, § 458-16-280, filed 4/7/76. Formerly WAC 458-12-235.]

WAC 458-16-290 Nature conservancy lands. The real property or leaseholds, exclusively used for the conservation of ecological systems or natural resources owned or held under contract purchase by any nonprofit corporation or association, the primary purpose of which is the conducting or facilitating of scientific research or the conserving of natural resources for the general public, shall be exempt under either of the following conditions:

(1) The property shall be used and effectively dedicated primarily for the purpose of providing scientific research or educational opportunities, or the preservation of native plants or animals or biotic communities, or works of ancient man, or geological or geographical formations of distinct scientific and educational interests, and shall be open to the general public subject to reasonable restrictions designed for its protection and not for the pecuniary benefit of any person or company; or

(2) That such property shall be subject to an option, accepted in writing, for the purchase thereof by the United States, the state, a county or a city at a price to be determined by the criteria set forth in RCW 84.36.260(2).

Property used merely for recreational activities does not qualify for an exemption.

Upon cessation of the use which has given rise to this exemption, the county treasurer shall collect all taxes which would have been paid had the property not been exempt during the ten years preceding, or the life of such exemption if such is less, together with interest at the same rate and computed in the same way as upon delinquent property taxes.

Such properties shall be subject to the provisions of WAC 458-16-150. [Order PT 77-2, § 458-16-290, filed 5/23/77; Order PT 76-2, § 458-16-290, filed 4/7/76. Formerly WAC 458-12-236.]

Chapter 458-18 WAC
PROPERTY TAX——ABATEMENTS, CREDITS, DEFERRALS AND REFUNDS

WAC

458-18-010 Deferral of special assessments and/or property taxes——Definitions.
458-18-020 Deferral of special assessments and/or property taxes——Qualifications for deferral.
458-18-030 Deferral of special assessments and/or property taxes——Declarations to defer——Filing——Forms.
458-18-040 Deferral of special assessments and/or property taxes——Lien of state——Mortgage——Purchase contract——Deed of trust.
458-18-050 Deferral of special assessments and/or property taxes——Declarations to renew deferral——Filing——Forms.
458-18-060 Deferral of special assessments and/or property taxes——Limitations of deferral——Interest.
458-18-070 Deferral of special assessments and/or property taxes——Duties of the county assessor.
458-18-080 Deferral of special assessments and/or property taxes——Duties of the department of revenue——State treasurer.
458-18-090 Deferral of special assessments and/or property taxes——Appeals.
458-18-100 Deferral of special assessments and/or property taxes——When payable——Collection——Partial payment.

WAC 458-18-010 Deferral of special assessments and/or property taxes——Definitions. (1) "Claimant" means a retired person who elects to defer payment of the special assessments and/or real property taxes on his or her residence. If two individuals of a household seek to defer, they must determine between them as to who the claimant shall be.

(2) "Consumer price index" shall mean the consumer price index for urban wage earners and clerical workers as compiled by the Bureau of Labor Statistics of the United States Department of Labor.

(3) "Department" means the State Department of Revenue.

(4) "Equity value" means the amount by which the true and fair value of a residence as shown on the county property tax rolls for the year the deferral is to be made exceeds the total amount of all liens, obligations and encumbrances against the property.

(5) "Owned" includes possession under a contract of sale, deed of trust, joint tenancy, or tenancy in common. It also includes a person who has transferred the property under a revocable trust agreement if the claimant has full use of the property and is able to revoke the trust and take ownership. A share interest in cooperative housing or a life estate retained in a property shall not be considered as ownership. Ownership by a marital community shall be deemed to be owned by each spouse.

(6) "Special assessment" means the charge or obligation imposed by a city, town, county or other municipal corporation upon property specially benefited by a local improvement. The term does not include the charge or obligation for services specially benefiting property not involving the construction of permanent improvements to real property, e.g., mosquito control, weed control, etc.

(7) "Real property taxes" means ad valorem property taxes levied on a residence in this State in the preceding year.

(8) "Preceding calendar year" shall mean the calendar year preceding the year in which the declaration to defer special assessments and/or real property taxes are filed.

(9) The term "residence" shall mean a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, and includes the land on which the dwelling stands not to exceed one acre. It includes a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the State of Washington or its political subdivisions. Also included is a mobile home which has substantially lost its identity as a mobile unit by being fixed in location upon land owned, leased or rented by the owner of said mobile home and placed on a foundation, posts, or blocks with fixed pipe connections with sewer, water or other utilities even though it may be listed and assessed by the county assessor as personal property.

The residence must have been regularly occupied by the person claiming the deferral as the principal or main residence of the claimant. It does not include a residence used merely as a vacation home.

(10) The term "real property" for the purposes of WAC 458-18-010 through 458-18-100 shall include all residences as defined in subsection (9) of this section and the land on which a mobile home is located if both the land and mobile home are owned by a qualified claimant.

(11) "Combined income" shall mean the total income from *all sources whatsoever* for both the claimant and spouse, if any. It shall include such items as investment income in the form of dividends from stock, interest on savings accounts and bonds, capital gains, gifts and inheritances, and net rental income from real estate. It shall also include income from pensions, disability payments, retirement pay and annuities. Reimbursement for losses is not to be considered as income. Only two-thirds (2/3) of social security, federal civil service, and/or railroad retirement benefits will be considered as income. Combined income shall not include any ascertainable return of capital or investment. Any gain realized from the sale of the claimants residence shall not be considered as income if the gain is reinvested in a replacement residence within eighteen (18) months of its realization.

(12) The term "gainful employment" is used to indicate any labor or services which results in an increase in wealth or earnings. The usage is sufficiently broad to include the performance of any function or activity, whether initiated by the person performing or by any other person. It also is broad enough to include any payment therefor, whether in money or in goods, so long as the person performing realizes a gain, as opposed to a loss, from any source. It is not necessary that the gain be "wages" in any technical sense, or that the arrangement under which the labor or service is performed be the

conventional one of employer or employee. Judicial consideration of the meaning of the term indicates, however, that a woman acting as a housewife, for her husband and family only, is not engaged in "gainful employment".

(13) "Regular" shall mean consistent or habitual.

(14) The term "family" includes a single person, any number of related persons, or a group not exceeding a total of eight related and nonrelated, non-transient persons living as a single non-profit house keeping unit. The term does not, however, include a boarding or rooming house.

(15) "Physical disability" shall mean the condition of being disabled, resulting in the inability to pursue an occupation because of a physical impairment. A doctor's statement shall constitute proof of such disability and shall be required before the exemption may be granted.

(16) "Retired" shall mean to have withdrawn oneself from regular gainful employment.

(17) "Fire and casualty insurance" means a policy with an insurer that is authorized to insure property in this State by the State Insurance Commission.

(18) "Reside permanently" and/or "regularly occupy" shall mean to dwell or occupy indefinitely without intent to change. Temporary absences such as being confined to a hospital or nursing home for medical purposes shall not be considered as evidencing an intent to change residence or occupancy.

(19) "Lien" shall mean any interest in property given to secure payment of a debt or performance of an obligation, and shall include a deed of trust. It shall include the total amount of assessments and/or property taxes deferred and the interest thereon. [Order PT 76-1, § 458-18-010, filed 4/7/76.]

WAC 458-18-020 Deferral of special assessments and/or property taxes——Qualifications for deferral. A retired person may elect to defer payment of special assessments and/or real property taxes on his residence up to eighty percent of the amount of his equity value in said property if the following conditions are met:

(1) The special assessments and/or property taxes must have been imposed upon a residence: (a) which has been regularly occupied by the claimant during the two calendar years preceding the year in which the declaration to defer is filed; or (b) which was occupied by the claimant as a principal place of residence as of January 1st of the year in which the declaration is filed and the claimant must also have been a resident of the State of Washington for the last three calendar years preceding the year in which the declaration is filed.

(2) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed.

(3) The claimant must have been sixty-two years of age or older on January 1st of the year in which the declaration to defer is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of physical disability.

(4) The claimant and/or his or her spouse must not have received a combined income, from all sources whatsoever, during the preceding calendar year which exceeds the following amounts:

(a) For declarations filed in 1976——eight thousand dollars;

(b) For declarations filed in subsequent years, an amount equal to the previous year's income limit adjusted by the percentage change in the consumer price index for the twelve month period ending September 31st of the previous year.

(5) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the State of Washington and shall designate the State as a loss payee upon said policy.

(6) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available. [Order PT 76-1, § 458-18-020, filed 4/7/76.]

WAC 458-18-030 Deferral of special assessments and/or property taxes——Declarations to defer——Filing——Forms. (1) Declarations to defer shall be filed with the county assessor between January 1 and July 1 of the year prior to the year the deferral is to be made. All declarations to defer shall be made and signed by the claimant. If the claimant is unable to make his or her own declaration, it may be made and signed by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant.

(2) The declaration to defer shall be made solely upon forms prescribed by the Department of Revenue and supplied by the county assessor. Such forms shall contain the following:

(a) Name and address of the claimant.

(b) Legal description and parcel number of the property to which the deferral applies. If the property described upon the assessment rolls by the assessor contains more than one (1) acre, the claimant must supply a complete and accurate legal description that encompasses the residence and that does not contain more than one (1) acre.

(c) An affirmation that the claimant meets the conditions of WAC 458-18-020 including, but not limited to; [:] (a) the amount and type of income received the previous calendar year and (b) the name, address, policy number, and amount of fire and casualty insurance carried on the residence.

(d) A list of all members of the claimants household.

(e) The claimants equity in his residence including all liens, obligations and encumbrances against the property.

(f) Information concerning any special assessments to be deferred.

(g) The names of other parties with an interest in the residence to which the deferral applies.

(h) Signatures of other parties in interest designating the claimant.

(i) Signature of any mortgagee, contract purchase holder and/or beneficiary under a deed of trust.

(j) An affirmation that the claimant is aware of the lien of the deferred special assessments and/or real property taxes and when the lien becomes payable.

(k) A numbering system approved by the department.

(l) Any other pertinent information the Department deems relevant. [Order PT 76-1, § 458-18-030, filed 4/7/76.]

WAC 458-18-040 Deferral of special assessments and/or property taxes——Lien of state——Mortgage——Purchase contract——Deed of trust. (1) Whenever any special assessments and/or real property taxes are deferred under the provisions of this chapter, the amount deferred, including interest, shall become a lien in favor of the State upon this property and shall have priority as provided in chapters 35.50 and 84.60 RCW except as provided in subsection (3) herein.

(2) If any residence is under mortgage, deed of trust or purchase contract whereby the explicit wording or terms of the mortgage, deed of trust or purchase contract requires the accumulation of reserves out of which the holder of the mortgage, deed of trust, or purchase contract is required to pay real property taxes, said holder or his authorized agent shall cosign the declaration to defer either before a notary public or the county assessor or his deputy in the county in which the real property is located.

(3) The interest of any party required to cosign a declaration to defer under subsection (2) of this section shall have priority to the lien established in subsection (1) of this section. [Order PT 76-1, § 458-18-040, filed 4/7/76.]

WAC 458-18-050 Deferral of special assessments and/or property taxes——Declarations to renew deferral——Filing——Forms. (1) Declarations to defer assessments and/or real property taxes for all years following the first year may be made by filing a "Declaration to Renew Deferral" with the county assessor between January 1 and July 1 of each year of the year prior to the year the deferral is to be made. If the claimant is unable to make his or her renewal declaration, it may be made and signed by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant.

(2) Such "Declaration to Renew Deferral" will be made solely upon forms prescribed by the department and supplied by the county assessor. The "Declaration to Renew Deferral" form shall include, but not be limited to, those requirements contained in WAC 458-18-030(2)(a), (2)(e), (2)(f), (2)(j), (2)(k) and (2)(l). [Order PT 76-1, § 458-18-050, filed 4/7/76.]

WAC 458-18-060 Deferral of special assessments and/or property taxes——Limitations of deferral——Interest. The lien created by the deferral of special assessments and/or real property taxes shall not exceed eighty (80%) percent of the claimant's equity value in said property.

The lien shall include:

(1) The total amount of special assessments and/or real property taxes deferred, plus

(2) Interest on the amount deferred at such rates as prescribed for delinquent taxes in RCW 84.56.020, as now or hereafter amended, per year, until said lien is paid. [Order PT 76-1, § 458-18-060, filed 4/7/76.]

WAC 458-18-070 Deferral of special assessments and/or property taxes——Duties of the county assessor. The county assessor shall: (1) determine each year if each claimant filing a "Declaration to Defer" and/or a "Declaration to Renew Deferral" shall be granted a deferral for the following year. If the assessor determines the claimant is not eligible, he shall notify the claimant prior to July 15 of that year;

(2) In January of each year mail renewal declarations to each claimant whose declaration had been approved the previous year;

(3) Transmit one copy of each approved declaration to the department prior to July 15;

(4) Transmit one copy of each approved declaration to the local improvement district which imposed the assessment that is to be deferred. Such district shall verify the figures concerning said assessment supplied by the claimant and notify the assessor of the correct figures if those supplied are inaccurate;

(5) Compute the dollar tax rates under the provisions of chapter 84.52 RCW as if the deferrals did not exist;

(6) Notify the department, prior to December 15, of the amount of special assessments and/or real property taxes deferred for each claimant for that year. Such notice shall contain any corrections brought about by subsection (4) of this section;

(7) On or before December 15, notify the county treasurer and the respective treasurers of the local improvement districts of which claimants and properties have qualified for deferral and the amount that will be paid by the state treasurer on behalf of the claimant;

(8) Notify the county treasurer and the department immediately upon occurance of any condition set forth in WAC 458-12-100(1). [Order PT 76-1, § 458-18-070, filed 4/7/76.]

WAC 458-18-080 Deferral of special assessments and/or property taxes——Duties of the department of revenue——State treasurer. The department shall: (1) publish prior to December 31 of each year the maximum amount of income, as adjusted by WAC 458-12-020(4), that a claimant may have received that year to qualify for deferral;

(2) Notify the county assessor prior to August 31 of any declaration to defer, where any factor appears to disqualify the claimant;

(3) Certify to the State Treasurer prior to February 15 of the amount due the respective treasurers for any special assessments and/or real property taxes deferred for that year;

(4) File liens against the property upon which a deferral has been made with the respective auditors or recorders of the counties in which the property is located.

Such liens will be filed annually at the time payment is made by the State Treasurer;

(5) Notify the county assessor prior to December 31 of each year of those claimants and the properties upon which the assessments and/or taxes have been paid by the state and the amount of the liens, including the accrued interest, upon those properties as of the last day of December.

The Department may audit any "Declaration to Defer" and/or "Declaration to Renew Deferral" it deems necessary.

The State Treasurer shall pay, before delinquency, to the county treasurers and the treasurers of the respective local improvement districts the amounts certified by the Department of Revenue. The amount paid shall be distributed to the districts which levied the taxes. [Order PT 76-1, § 458-18-080, filed 4/7/76.]

WAC 458-18-090 Deferral of special assessments and/or property taxes——Appeals. Any claimant whose "Declaration to Defer" or "Declaration to Renew Deferral" is denied by the county assessor may appeal to the county board of equalization under the provisions of chapter 458-14 WAC. The decision of the county board of equalization shall be final for that year and no further appeal shall be allowed.

In any case where the claimant is notified of a denial subsequent to July 15 due to WAC 458-18-080(2), the department may reconvene the board of equalization if requested to do so by the assessor or claimant. [Order PT 76-1, § 458-18-090, filed 4/7/76.]

WAC 458-18-100 Deferral of special assessments and/or property taxes——When payable——Collection——Partial payment. (1) Any special assessments and/or real property taxes deferred shall become payable together with interest: (a) Upon the conveyance of property which has a deferred special assessment and/or real property tax lien upon it.

(b) Upon the death of the claimant except when the surviving spouse is qualified and elects to incur the lien and continue the deferment by (i) filing an original "Declaration to Defer" within ninety (90) days of the claimant's death and (ii) continuing to meet the qualifications of WAC 458-18-010 through 458-18-100 and (iii) the property being the residence of the spouse.

When a surviving spouse elects to continue the deferment, the spouse then becomes the claimant and is fully subject to the conditions of WAC 458-18-010 through 458-18-100.

(c) Upon condemnation of property with a deferred special assessment and/or real property tax lien upon it by a public or private body exercising the power of eminent domain: *Provided*, That if the assessed value of the property not condemned exceeds the amount of the liens, including interest, the claimant may elect to have the liens set over to the property retained: *Provided further*, That the amount of the lien allowed to be set over shall not exceed 80% of the claimant's equity in the retained property.

(d) At such time as the claimant ceases to reside permanently in the residence upon which the deferral has been granted. If the cessation occurs between filing the declaration and December 15 of that year, the deferral shall not be allowed.

(e) Upon the failure of the claimant to have or keep in force fire and casualty insurance in sufficient amount to protect the interest of the State of Washington or failure to keep the State listed as a loss payee upon said policy. Subsection (1)(b) shall take precedence over subsection (1)(d).

Once a deferral has been granted, the various conditions contained within WAC 458-18-010 through 458-18-100 may prohibit the claimant from qualifying for further deferrals, but any obligations resulting from deferrals previously granted will become due and payable only upon occurrence of the conditions set forth in subsection (1) of this section.

(2) Upon occurrence of any condition requiring the payment of any deferred special assessments and/or real property taxes, the county treasurer shall proceed to collect the same in the manner provided for in chapter 84-.56 RCW. For purposes of collection of the deferred taxes and interest, provisions of chapters 84.56, 84.60, and 84.64 RCW shall be applicable. When these moneys are collected, they shall be credited to a special account in the county treasury and shall then be remitted to the State Treasurer within thirty (30) days from collection with remittance advice to the Department of Revenue. The State Treasurer shall deposit the moneys in the state general fund.

(3) Any person may at any time pay a part or all of the deferred assessments and/or taxes including the interest, but such payment shall not affect the deferred tax status of the property. Any payment made shall be credited to the oldest deferred amount and shall be prorated between interest and the deferred assessments and/or taxes. [Order PT 76-1, § 458-18-100, filed 4/7/76.]

Chapter 458-20 WAC
EXCISE TAX RULES

WAC

458-20-100 (Rule 100) Appeal procedures.
458-20-101 (Rule 101) Certificates of registration.
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458-20-103 (Rule 103) Time and place of sale.
458-20-104 (Rule 104) Exemptions—Volume of business.
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458-20-109 (Rule 109) Finance charges, carrying charges, interest, penalties.
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458-20-115 (Rule 115) Sales of packing materials and containers.
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458-20-117 (Rule 117) Sales of dunnage.
458-20-118 (Rule 118) Rental of real estate, license to use real estate.
458-20-119 (Rule 119) Sales of meals.
458-20-120 (Rule 120) Sales of ice.
458-20-121 (Rule 121) Sales of steam.
458-20-122 (Rule 122) Sales of feed, seed, fertilizer and spray materials.
458-20-123 (Rule 123) Public and lending libraries.
458-20-124 (Rule 124) Restaurants, soda fountains, cocktail bars, beer parlors, etc.
458-20-125 (Rule 125) Miscellaneous sales for farm use.
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458-20-127 (Rule 127) Magazines and periodicals.
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458-20-130 (Rule 130) Sales of real property, standing timber, minerals, natural resources.
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458-20-140 (Rule 140) Photofinishers and photographers.
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458-20-143 (Rule 143) Publishers of newspapers, magazines, periodicals.
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458-20-147 (Rule 147) Public stenographers.
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458-20-149 (Rule 149) Jewelry repair shops.
458-20-150 (Rule 150) Optometrists, ophthalmologists, and oculists.
458-20-151 (Rule 151) Dentists, dental laboratories and physicians.
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458-20-154 (Rule 154) Cemeteries, crematories, columbaria.
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458-20-159 (Rule 159) Consignees, bailees, factors, agents and auctioneers.
458-20-160 (Rule 160) Agricultural commission agents.
458-20-161 (Rule 161) Persons buying or producing wheat, oats, dry peas, corn and barley and making sales thereof.
458-20-162 (Rule 162) Stockbrokers and security houses.
458-20-163 (Rule 163) Insurance companies, including surety companies, fraternal benefit societies, fraternal fire insurance associations and beneficiary corporations or societies.
458-20-164 (Rule 164) Insurance agents, brokers and solicitors.
458-20-165 (Rule 165) Laundries, dry cleaners, laundry agents, self service laundries and dry cleaners.
458-20-166 (Rule 166) Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.
458-20-167 (Rule 167) Educational institutions, school districts, student organizations, private schools.
458-20-168 (Rule 168) Hospitals.
458-20-169 (Rule 169) Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops.
458-20-170 (Rule 170) Constructing and repairing of new or existing buildings or other structures upon real property.
458-20-171 (Rule 171) Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic.
458-20-172 (Rule 172) Clearing land, moving earth, cleaning, fumigating, razing or moving existing buildings, and janitorial services.
458-20-173 (Rule 173) Installing, cleaning, repairing or otherwise altering or improving personal property of consumers.
458-20-174 (Rule 174) Sales of motor carriers operating in interstate or foreign commerce of motor vehicles, trailers, parts, etc.
458-20-175 (Rule 175) Persons engaged in the business of operating as a private or common carrier by air, rail or water in interstate or foreign commerce.
458-20-176 (Rule 176) Persons engaged in the business of conducting commercial deep sea fishing operations outside the territorial waters of Washington.
458-20-177 (Rule 177) Sales of motor vehicles and trailers to nonresidents, and to residents taking delivery outside this state.
458-20-178 (Rule 178) Use tax.
458-20-179 (Rule 179) Public utility tax.
458-20-180 (Rule 180) Motor transportation, urban transportation.
458-20-181 (Rule 181) Vessels, including log patrols, tugs and barges, operating upon waters in the state of Washington.
458-20-182 (Rule 182) Warehouses.
458-20-183 (Rule 183) Places of amusement or recreation.
458-20-184 (Rule 184) Tax on conveyances, general provisions.
458-20-185 (Rule 185) Tax on tobacco products—Definitions.
458-20-186 (Rule 186) Tax on cigarettes.
458-20-187 (Rule 187) Coin operated vending machines, amusement devices and service machines.
458-20-18801 (Rule 188) Prescription drugs.
458-20-189 (Rule 189) Sales to and by the state of Washington, counties, cities, school districts and other municipal subdivisions.
458-20-190 (Rule 190) Sales to and by the United States, its departments, institutions and instrumentalities sales to foreign governments.
458-20-191 (Rule 191) Federal reservations.
458-20-192 (Rule 192) Indians—Indian reservations.
458-20-193A (Rule 193—Part A) Sales of goods originating in Washington to persons in other states.
458-20-193B (Rule 193—Part B) Sales of goods originating in other states to persons in Washington.
458-20-193C (Rule 193—Part C) Imports and exports—Sales of goods from or to persons in foreign countries.
458-20-193D (Rule 193—Part D) Transportation, communication, public utility activities, or other services in interstate or foreign commerce.
458-20-194 (Rule 194) Doing business within and without the state.
458-20-195 (Rule 195) Taxes, deductibility.
458-20-196 (Rule 196) Credit losses, bad debts, recoveries.
458-20-197 (Rule 197) When tax liability arises.
458-20-198 (Rule 198) Conditional and installment sales, method of reporting.
458-20-199 (Rule 199) Accounting methods.
458-20-200 (Rule 200) Leased departments.
458-20-201 (Rule 201) Interdepartmental charges.
458-20-202 (Rule 202) Pool purchases.

458-20-203 (Rule 203) Corporations, Massachusetts trusts.
458-20-204 (Rule 204) Outdoor advertising and advertising display services.
458-20-205 (Rule 205) Sales of utility services by building companies.
458-20-206 (Rule 206) Use tax, fuel oil, oil products, other extracted products.
458-20-207 (Rule 207) Court costs, exclusion.
458-20-208 (Rule 208) Accommodation sales.
458-20-209 (Rule 209) Farming operations performed for hire.
458-20-210 (Rule 210) Sales of farm products by farmers producing the same.
458-20-211 (Rule 211) Leases or rentals of tangible personal property, bailments.
458-20-212 (Rule 212) Insurance adjusters.
458-20-213 (Rule 213) Oil company bulk station agents.
458-20-214 (Rule 214) Cooperative marketing associations and independent dealers acting as agents of others with respect to the sale of fruit and produce.
458-20-215 (Rule 215) Auditing out-of-state business.
458-20-216 (Rule 216) Successors, quitting business.
458-20-217 (Rule 217) Lien for taxes.
458-20-218 (Rule 218) Advertising agencies.
458-20-219 (Rule 219) Patronage dividends of cooperative associations, not deductible.
458-20-220 (Rule 220) Painting, paper hanging, and sign painting.
458-20-221 (Rule 221) Collection of use tax by retailers and selling agents.
458-20-222 (Rule 222) Veterinarians.
458-20-223 (Rule 223) Persons performing contracts on the basis of time and material, or cost-plus-fixed-fee.
458-20-224 (Rule 224) Service and other business activities.
458-20-225 (Rule 225) Pattern makers.
458-20-226 (Rule 226) Landscape gardeners.
458-20-227 (Rule 227) Community television antenna services.
458-20-228 (Rule 228) Returns, remittances, penalties, extensions.
458-20-229 (Rule 229) Refunds.
458-20-230 (Rule 230) Statutory limitations on assessments.
458-20-231 (Rule 231) Tax on wholesaling functions.
458-20-232 (Rule 232) Sales of intoxicating liquor.
458-20-233 (Rule 233) Tax liability of medical and hospital service bureaus and associations and similar health care organizations.
458-20-234 (Rule 234) Business tax on flour millers.
458-20-235 (Rule 235) Effect of rate changes on prior contracts and sales agreements.
458-20-236 (Rule 236) Baseball clubs and other sport organizations.
458-20-237 (Rule 237) Retail sales tax collection schedules.
458-20-238 (Rule 238) Sales to nonresidents of watercraft requiring Coast Guard registration.
458-20-239 (Rule 239) Sales to nonresidents of farm machinery or implements.
458-20-240 (Rule 240) Manufacturing, tax credits.
458-20-241 (Rule 241) Radio and television broadcasting.
458-20-242A (Rule 242—Part A) Pollution control exemption and/or credits for single purpose facilities added to existing production plants to meet pollution control requirements and which are separately identifiable equipment principally for pollution control.
458-20-242B (Rule 242—Part B) Pollution control exemption and/or credits for dual purpose facilities which are constructed to meet pollution control requirements and which achieve pollution control in the process of production of the plant's products.
Appendix The Buck Act
458-20-243 (Rule 243) Litter tax.
458-20-244 (Rule 244) Food products.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

458-20-188 (Rule 188) Slot machines, pinball machines and other mechanical devices wherein an element of skill or of chance involves a pay-out to the player. [Order ET 70-3, § 458-20-188, filed 5/29/70, effective 7/1/70.] Repealed by Order ET 73-1, filed 11/2/73. See chapter 218, Laws of 1973 1st ex. sess. for taxability of persons operating the machines or devices previously covered by this rule. See rule 187 [WAC 458-20-187.]

458-20-242 (Rule 242) Pollution control exemption and/or credits. [Recodified as WAC 458-20-242A and 458-20-242B.]

WAC 458-20-100 (Rule 100) Appeal procedures. 1. In any case of an account under audit where substantial agreement has not been reached between taxpayer and field auditor, the taxpayer is entitled to a preliminary conference with the auditor's immediate superior, the field audit unit supervisor, prior to finalization and submission to the audit report. Such conference is informal in nature, and is intended to clarify the issues in dispute resolving them where possible, and in any event effecting agreement cannot be reached at this level as to the tax interpretations applied, the report will be finalized and submitted to Olympia, from where, following review and approval of the recommendations of the report, an assessment will be issued.

2. Any person having been issued a notice of assessment of additional taxes, delinquent taxes, penalties or interest may petition the Department of Revenue in writing for a correction of the amount of the assessment and a conference for examination and review of the assessment. Petitions should be addressed: State of Washington, Department of Revenue, Olympia, Washington 98501.

3. Under the law the petition must be received by the Department of Revenue within twenty days after the issuance of the original notice of the amount of the deficiency, or within the period covered by any extension of the due date granted by the department. An extension of thirty days in the due date of the assessment will be granted if additional time is required for preparation of the appeal and such extension is requested prior to expiration of the twenty day period. If no petition is filed within these time periods, the assessment covered by the notice shall become final.

4. Petitions for correction of assessment shall be in writing and shall set forth the reasons why the correction should be granted and the amount of tax, or of interest and penalties, as the case may be, which the petitioner believes to be due.

5. Any person having paid any tax, original assessment or corrected assessment of any tax may apply to the department within the time limitation for refund provided in RCW 82.32.060, by petition in writing for a correction of the amount paid and a conference for examination and review of the tax liability.

6. Petitions for refund shall be in writing and shall set forth the amount of the tax believed to have been overpaid, the date of payment, the periods for which such tax was paid and the reasons why the petitioner believes that a refund should be granted.

7. Petitions for correction of assessment and petitions for refund may be granted or denied by the Department of Revenue. If the petition is denied, the petitioner shall immediately be notified by mail.

8. The department may grant a conference for review of such petitions, fixing the time and place therefor and notifying the petitioner by mail.

9. Such conferences will be conducted by a Hearing Officer of the Department of Revenue, an employee especially trained in interpretation of the Revenue Act and the precedents established by prior departmental rulings and by the courts. Other departmental employees may be in attendance. The petitioner may appear personally or may be represented by an attorney, accountant or any other person competent to present his case. At the discretion of the department the conference may be scheduled before the Director or an Assistant Director.

10. All conferences before the Hearing Officers will be conducted informally.

11. Conferences before Hearing Officers will be held at district offices of the Department of Revenue, located so as to be as convenient as possible for the petitioner.

12. Following the conference, the Hearing Officer will make such determination as may appear to him just and lawful and in accordance with the rules, principles and precedents established by the Department of Revenue, and shall notify the taxpayer in writing of his decision.

13. The determination of the Hearing Officer shall be deemed to represent the official position of the Department of Revenue and shall be binding upon the taxpayer unless timely appealed.

14. If the petition was denied without a hearing or if the taxpayer believes that an error has been made in the determination of the Hearing Officer, he may, within twenty days after the date of the petition denial or of the determination, or within the period of any extension of the due date of the tax deficiency assessment, appeal in writing to the Director of Revenue for a review. The appeal shall indicate his reasons for thinking that the decision should be set aside.

15. The Director shall decide whether or not the decision is in error and may grant or deny a conference. If denied, the taxpayer shall receive written notice of such determination. If a conference is granted, it shall be held before the Director or an Assistant Director, shall be conducted informally, and shall be held at the departmental offices in Olympia. The determination of the Director or an Assistant Director shall be transmitted to the taxpayer in writing and shall represent the final determination of the Department of Revenue.

16. Appeals from determinations of the Department of Revenue on petitions for correction of assessment and petitions for refund may be taken to the Tax Appeals Board pursuant to the rules of the Board. Petitions for hearing before the Tax Appeals Board must be filed with the Tax Appeals Board and a copy thereof served upon the Interpretations and Appeals Division of the Department within thirty days after final action by the Department of Revenue. A taxpayer filing a petition for correction of assessment with the Tax Appeals Board must make payment of the assessment by the due date thereof unless arrangements are made with the Department of Revenue for a stay of collection pursuant to RCW 82.32.200. This statute gives the Department discretion to grant a stay upon the filing of a suitable bond in an amount up to twice the amount on which such a stay is requested along with satisfactory sureties to cover such amounts plus interest at the rate of 1% per month thereon for the duration of the requested stay. Upon the receipt of an offer of such a bond and sureties the Department will grant a stay only upon a determination that to do so would be in the best interest of the state.

17. Any taxpayer having paid any tax and feeling aggrieved by the amount of the tax may appeal directly to the Superior Court of Thurston County within the time limitation for refund provided in chapter 82.32 RCW. (See RCW 82.32.180 for statutory requirements as to such appeals.)

18. Any taxpayer may petition the Department of Revenue for a prior determination of tax liability. Such petition shall contain all pertinent facts concerning the question presented and may contain a statement of the taxpayer's views concerning the correct application of the law. The department may grant or deny a conference in respect to such petition, but shall advise the taxpayer in writing of its determination, and such determinations shall be binding upon both the taxpayer and the department under identical facts, and any future change in such determination shall have prospective application only.

19. All rules, determinations, orders, bulletins, and other similar interpretations of the law which have heretofore been issued by the Tax Commission and which are in effect June 30, 1967, shall be deemed to be interpretations by the Department of Revenue and shall be binding upon the department and on taxpayers to the same extent as if such interpretations had been made by the Department of Revenue.

Revised

Effective [Order ET 75-1, § 458-20-100, filed 5/2/75; Order ET 70-3, § 458-20-100, filed 5/29/70, effective 7/1/70.]

WAC 458-20-101 (Rule 101) Certificates of registration.

CERTIFICATES OF REGISTRATION

PERSONS REQUIRED TO OBTAIN CERTIFICATES. Every person who is required by law to collect and account for tax, or who shall engage in any business for which a tax is imposed under the Revenue Act, shall, whether taxable or not, apply for and obtain a Certificate of Registration from the Department of Revenue upon the payment of a fee of one dollar. A registration certificate is personal and nontransferable and is valid for as long as the taxpayer continues in business.

LEASED DEPARTMENTS. Operators of leased departments or concessions are permitted under certain conditions to include their tax liability on the returns of the lessor, or grantor of the concession, instead of filing separate returns; nevertheless such operators must apply for and obtain a Certificate of Registration.

ORIGINAL AND BRANCH CERTIFICATES. Whenever a taxpayer transacts business at two or more separate places in the state, a separate Certificate of Registration shall be required for each place at which

business is transacted. An original certificate shall be obtained for the main office or principal place of business from which returns are to be filed and a branch certificate shall be obtained for each other place of business in this state. Where the taxpayer's principal place of business is outside the state, the original certificate will be issued for such place and a branch certificate for each place of business within this state. No additional fee is required for branch certificates. The term "place of business" means:

1. any separate establishment, office, stand, cigarette vending machine or other fixed location; or

2. any vessel, train or the like,

at any of which the taxpayer solicits or makes sales of tangible personal property or contracts for or renders services in this state or otherwise transacts business with customers.

SEPARATE CERTIFICATE FOR BRANCH. A taxpayer desiring to make a separate return covering a branch location, or for a specific construction contract, may apply for and receive without charge a separate Certificate of Registration therefor, in addition to his original certificate. Application may be made on Form 2401, or by letter and should show the number of taxpayer's original certificate, a description of the particular branch or contract for which the separate certificate is to be issued, and the address to which tax return forms shall be forwarded.

USE TAX CERTIFICATE OF REGISTRATION. Out–of–state vendors must register and collect use tax upon all of their sales in this state if any of the following circumstances prevail:

1. The vendor regularly solicits orders here whether or not such orders are accepted in this state, unless the activity in this state consists solely of advertising or of solicitation by direct mail; or

2. The vendor regularly engages in the delivery of property in this state other than by common carrier or U.S. mail; or

3. The vendor regularly engages in any activity in connection with the leasing or servicing of property located within this state.

Also, all other out–of–state vendors making sales in any manner who elect to collect the use tax from their retail buyers in this state must first apply for and obtain a Use Tax Certificate of Registration. See WAC 458–20–193B and WAC 458–20–221. The necessary forms will be furnished on request.

TEMPORARY CERTIFICATE OF REGISTRATION. A temporary Certificate of Registration may be issued to any person who operates a business of a temporary nature, such as operators of Christmas tree stands, Christmas card salesmen and operators of fireworks stands. These certificates are issued without charge and may be obtained by making application to any office of the Department of Revenue. These are not issued to carnivals or to any business which should be issued a regular Certificate of Registration due to the scope or extent of the business activity.

DISPLAY OF CERTIFICATE. The taxpayer is required to display the Certificate of Registration in a conspicuous place at the business location for which it is issued.

CHANGE IN OWNERSHIP. Whenever there is a change in ownership of a business, the Certificate of Registration previously issued to the withdrawing owner, or owners, must be surrendered to the department for cancellation. The new owner shall apply for and obtain a new Certificate of Registration upon the payment of the registration fee of $1.00.

A "change in ownership" for purposes of registration occurs upon the sale of a business by one individual, firm or corporation to another individual, firm or corporation; upon the dissolution and winding up of a partnership; upon incorporation of a business previously operated as a partnership or sole proprietorship; or upon changing from a corporation to a partnership or sole proprietorship.

For the purposes of this rule the withdrawal of one or more partners or the substitution or addition of one or more partners will not be considered as a "change in ownership" where the partnership continues as a business organization. In such cases the partnership, upon notifying the department in writing of its reorganization, may continue operation under the Certificate of Registration previously issued.

No "change in ownership" occurs upon the transfer of assets to an assignee for the benefit of creditors or upon the appointment of a receiver or trustee in bankruptcy. Furthermore, no "change in ownership" occurs upon the death of a sole proprietor in those cases where there will be a continuous operation of the business by the executor, administrator, or trustee of his estate or, where the business was owned by a marital community, by the surviving spouse of the deceased owner.

CHANGE IN LOCATION OR NAME. Whenever the place of business is moved to a new location, or the name under which business is conducted is changed, without change in ownership, the taxpayer must notify the department in writing of such change. New certificates will be issued upon request, and without charge.

LOST CERTIFICATES. If any Certificate of Registration is lost, destroyed or defaced as a result of accident or of natural wear and tear, a new certificate will be issued to the taxpayer free of charge upon request.

REVOKING AND REINSTATING CERTIFICATES OF REGISTRATION. The Department of Revenue may, by order, revoke a Certificate of Registration for the following reasons: (1) if any tax warrant issued under the provisions of RCW 82.32.210 is not paid within thirty days after it has been filed with the clerk of the superior court or (2) if any taxpayer is delinquent for three consecutive periods in reporting and paying retail sales tax collected by him. The revocation order will be posted in a conspicuous place at the main entrance to the taxpayer's place of business and must remain posted until the Certificate has been reinstated. A revoked Certificate will not be reinstated until (1) the amount due on the warrant has been paid, or satisfactory arrangements for payment have been approved by the department and (2) the taxpayer has posted with the department a bond or other security in an amount not

exceeding one half the estimated average annual liability of the taxpayer. It is unlawful for any taxpayer to engage in business after his Certificate of Registration has been revoked.

PENALTIES FOR NONCOMPLIANCE. The act provides that it shall be unlawful for any person to engage in any taxable business without having obtained a Certificate of Registration or to engage in business after such Certificate of Registration shall have been revoked by the department. Any person violating this provision shall be guilty of a gross misdemeanor and punishable in the manner provided by law.

Where a Certificate of Registration has been revoked by the department for failure to pay any warrant issued against the taxpayer, the act also provides that his certificate shall not be reinstated or a new certificate issued until the taxpayer has made satisfactory arrangements for the payment of the warrant and, in addition, has deposited with the department a bond guaranteeing the payment of his tax liability which will accrue in the future. [Order ET 73-1, § 458-20-101, filed 11/2/73; Order ET 71-1, § 458-20-101, filed 7/22/71; Order ET 70-3, § 458-20-101, filed 5/29/70, effective 7/1/70.]

WAC 458-20-102 (Rule 102) Resale certificates. Except as hereinafter noted, all sales are deemed to be retail sales unless the seller takes from the buyer a resale certificate signed by and bearing the registration number and address of the buyer, to the effect that the property purchased is:

1. For resale in the regular course of business, or
2. To be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or
3. A chemical to be used in processing an article to be produced for sale.

When a vendor receives and accepts in good faith from a purchaser a resale certificate as described in this rule, the vendor is relieved of liability for retail sales tax with respect to the transaction. When a vendor has not secured such a resale certificate he is personally liable for the tax due unless he can sustain the burden of proving (1) that the property was sold for one of the three purposes set forth above and (2) that the purchaser was eligible to give a bona fide resale certificate under the provisions of this rule.

Any purchaser who fraudulently signs a resale certificate with intent to avoid payment of tax is guilty of a gross misdemeanor.

No prescribed form of resale certificate is required. Any written statement to the effect that the tangible personal property is purchased for resale signed by and bearing the name, address, and registration number of the buyer is sufficient. Such statement may be written or stamped upon the purchase order or may be upon a separate paper. It should be in substantially the following form:

"I hereby certify that this purchase is for resale in the regular course of business, or is to be used as an ingredient or component part of a new article of tangible personal property to be produced for sale, or is a chemical to be used in processing an article to be produced for sale.
Registration No. _____ Name as Registered _____
Firm Name _____ Address _____
Type of Business _____
Authorized Signature _____
Title _____ Date _____"

Blanket resale certificates may be given in advance by known wholesalers, jobbers or retailers. These certificates should be substantially in the following form:

"I hereby certify that all the tangible personal property which I will purchase from _____ will be purchased for resale in the regular course of business, or for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property of which the property purchased will be an ingredient, or a chemical used in processing the same. This certificate shall be considered a part of each order which I may hereafter give to you, unless otherwise specified, and shall be valid until revoked by me in writing.
Registration No. _____ Name as Registered _____
Firm Name _____ Address _____
Type of Business _____
Authorized Signature _____
Title _____ Date _____"

Blanket resale certificates remain valid only so long as the registration number shown thereon has not been cancelled or revoked. Therefore, blanket resale certificates must be renewed whenever a change occurs in the ownership of a purchaser's business and a new Certificate of Registration is required. All blanket resale certificates must be renewed at intervals not to exceed four years.

EXCEPTION AS TO NONRESIDENT BUYERS. In case the purchaser is a nonresident who is not engaged in business in this state, but buys articles here for the purpose of resale in his regular course of business outside this state, the seller should take from such a purchaser a resale certificate substantially in the above form, omitting a registration number, but including a statement to the effect that the articles purchased are for resale by him in his regular course of business at the place of his domicile.

EXCEPTION AS TO FARMERS. The word "farmer" as used in this rule means any person engaged in the business of growing or producing for sale upon his own lands, or upon lands in which he has a present right of possession, any agricultural or horticultural product or crop, including the raising for sale of any animal, bird or insect or the milk, eggs, wool, fur, meat, honey or other substance obtained therefrom. It does not mean a person raising any animal, agricultural or horticultural product primarily for his own use or consumption, nor does it mean any person in respect to the dealing in livestock primarily as an operator of a stockyard, slaughter or packing house.

Farmers who do not sell at retail are not required to register. Sales of feed, seed, fertilizer, and spray materials to farmers for the purpose of producing for sale any

agricultural product whatsoever are not subject to the retail sales tax. Farmers also purchase livestock for the purpose of fattening and later reselling the same, and such sales are wholesale sales and not subject to the retail sales tax. Upon sales of any such articles to farmers (including farmers operating in other states), the seller should take from the farmer a resale certificate showing the farmer's name and address and a statement to the effect that his purchase of feed, seed, fertilizer, spray materials is made for the purpose of producing for sale an agricultural product, or that his purchase of livestock is made for the purpose of resale. (For sales to farmers of feed, seed, fertilizer and spray materials, see WAC 458-20-122.)

PURCHASES FOR DUAL PURPOSE. It may happen that a buyer normally is engaged in both consuming and reselling certain types of articles of tangible personal property and is not able to determine at the time of purchase whether the particular property acquired will be consumed or resold. In such cases, the buyer should purchase according to the general nature of his business; that is, if principally he consumes the articles in question, he should not give a resale certificate for any portion thereof, but if, on the other hand, he principally resells at retail such articles, he may sign a resale certificate for the whole amount of his purchases.

If the buyer gives a resale certificate for all purchases and thereafter consumes some of the articles purchased, he must set up in his books of account the value thereof and remit to the Department of Revenue the deferred sales tax payable thereon. Such tax should be reported on Form 2406 under use tax.

On the other hand, if the buyer has not given a resale certificate but has paid tax on all purchases of such articles and subsequently resells at retail a portion thereof, he must, nevertheless, collect the tax from the purchaser and report such sales in making his tax returns. However, in such case, the buyer may take a deduction on his return representing his cost of the property thus resold on which sales tax was paid.

Such deduction shall be designated as "Resale Purchases on Which Tax Was Paid" and listed under sales tax deductions on the back of the tax return form. Claim for deduction will be allowed only if the taxpayer keeps and preserves records in support thereof which show the names of the persons from whom such articles were purchased, the date of the purchase, the type of articles, the amount of the purchase and the tax which was paid. (See WAC 458-20-174, 458-20-175 and 458-20-176 for exemption certificates concerning certain sales made to persons engaged in interstate or foreign commerce or in deep sea fishing operations.)

Revised June 1, 1970. [Order ET 70-3, § 458-20-102, filed 5/29/70, effective 7/1/70.]

WAC 458-20-103 (Rule 103) Time and place of sale. Under the Revenue Act of 1935, as amended, the word "sale" means any transfer of the ownership of, title to, or possession of, property for a valuable consideration, and includes the sale or charge made for performing certain services.

For the purpose of determining tax liability of persons selling tangible personal property, a sale takes place in this state when the goods sold are delivered to the buyer in this state, irrespective of whether title to the goods passes to the buyer at a point within or without this state.

With respect to the charge made for performing services which constitute sales as defined in RCW 82.04-.040 and 82.04.050, a sale takes place in this state when the services are performed herein. With respect to the charge made for renting or leasing tangible personal property, a sale takes place in this state when the property is used in this state by the lessee.

Where certificates are sold which will be redeemed in merchandise, or in services which are defined by the Revenue Act as retail sales, the retail sales tax shall be collected at the time the certificate is sold, based on the sales price of the certificate. (See WAC 458-20-235 for effect of rate changes on prior contracts and sales agreements. See also WAC 458-20-131 which deals with merchandising games, and which covers the situation where certificates or trade checks are issued which may be redeemed for services which are not retail sales, such as barber services, admissions, etc.)

Revised June 1, 1970. [Order ET 70-3, § 458-20-103, filed 5/29/70, effective 7/1/70.]

WAC 458-20-104 (Rule 104) Exemptions--Volume of business.

BUSINESS AND OCCUPATION TAX

Persons subject to the business and occupation tax are exempt from the payment of this tax for any reporting period in which the taxable amount reported under the combined total of all business and occupation tax classifications does not equal or exceed the minimum taxable amount for the reporting periods assigned to such persons, according to the following schedule.

Monthly reporting basis ..... $300 per month
Quarterly reporting basis ..... $900 per quarter
Annual reporting basis ..... $3,600 per annum

When the taxable amount for a reporting period equals or exceeds the minimum taxable amount, tax must be paid on the full taxable amount and no deduction or offset is allowed for the amount of the minimum. The deduction for minimum taxable amounts is applicable to taxable amounts for the entire reporting period, regardless of the fact that the business may not have been operated during the entire period.

RETAIL SALES TAX

No exemption from tax is allowed under the retail sales tax to any person engaged in the business of making taxable retail sales by reason of the volume of such sales.

PUBLIC UTILITY TAX

Persons subject to the public utility tax are exempt from the payment of this tax for any reporting period in which the taxable amount reported under the combined

total of all public utility tax classifications does not equal or exceed the minimum taxable amount for the reporting periods assigned to such persons, according to the following schedule.

Monthly reporting basis ..... $500 per month
Quarterly reporting basis ..... $1,500 per quarter
Annual reporting basis ..... $6,000 per annum

(See subhead Business and Occupation Tax, above, for limitations which apply equally to public utility tax.)

Revised April 1, 1959. [Order ET 70-3, § 458-20-104, filed 5/29/70, effective 7/1/70.]

WAC 458-20-105 (Rule 105) Employees distinguished from persons engaging in business. The Revenue Act imposes taxes upon persons engaged in business but not upon persons acting solely in the capacity of employees or servants.

The question of whether a person is engaged in business or is acting in the capacity of an employee is not always readily determinable. The following rules may, however, be accepted as a guide but are not necessarily controlling in individual cases. In cases of doubt all the facts should be submitted to the Department of Revenue for a specific ruling.

PERSONS ENGAGING IN BUSINESS. A person engaging in business is generally one who holds himself out to the public as engaging in business either in respect to dealing in real or personal property or in respect to the rendition of services; one to whom gross income of the business inures; one upon whom liability for losses lies or who bears the expense of conducting a business; one, generally, acting in an independent capacity, whether or not subject to immediate control and supervision by a superior, or one who acts as an employer and has employees subject to his control and supervision.

Persons employed by retailers or wholesalers, and selling on their own account tangible personal property of a type sold by their employers, are deemed to be engaging in business and must apply for and obtain a certificate of registration and collect and remit the retail sales tax and pay the business and occupation tax upon sales made by them, irrespective of the amount or frequency of such sales.

EMPLOYEES AND SERVANTS. An employee or servant is an individual whose entire compensation is fixed at a certain rate per day, week or month, or at a certain percentage of the business obtained by such employee or servant, payable in all events; one who has no direct interest in the income or profits of the business other than a wage or commission; one who has no liability for the expenses of maintaining an office or place of business, for other overhead or for compensation of employees; one who has no liability for losses or indebtedness incurred in conducting the business; one whose conduct with respect to services rendered, obtaining of, or transacting business, is supervised or controlled by the employer. A corporation, joint venture, or any group of individuals acting as a unit, is not an employee or servant.

Persons who furnish equipment on a rental basis and also furnish operators therefor, are presumed to be engaging in business and not to be employees or servants. Likewise, persons who furnish materials and the labor necessary in the placing or fabricating thereof are also presumed to be engaging in business and not to be employees or servants. The burden of proof will be upon such persons to show otherwise.

The fact that a person is construed to be an employee under the provisions of the State Employment Security Act or the Federal Social Security Act, does not conclusively establish such persons as an employee within the provisions of the Revenue Act. However, where a person is not construed to be an employee under the State Employment Security Act or the Federal Social Security Act, such person will not be considered an employee under the Revenue Act.

BUILDING TRADES. Persons regularly performing odd job carpentry, painting or paperhanging, plumbing, bricklaying, electrical work, etc., for the public generally are presumed to be engaging in business. The burden of proof is upon such persons to show otherwise. Here it is immaterial whether the workman is paid by the job, by the day or by the hour. It is likewise immaterial that the workman may supply labor only, any materials used being supplied by the property owner.

Revised March 1, 1954. [Order ET 70-3, § 458-20-105, filed 5/29/70, effective 7/1/70.]

WAC 458-20-106 (Rule 106) Casual or isolated sales--Business reorganizations. A casual or isolated sale is defined by RCW 82.04.040 as a sale made by a person who is not engaged in the business of selling the type of property involved. Any sales which are routine and continuous must be considered to be an integral part of the business operation and are not casual or isolated sales.

Furthermore, persons who hold themselves out to the public as making sales at retail or wholesale are deemed to be engaged in the business of selling, and sales made by them of the type of property which they hold themselves out as selling, are not casual or isolated sales even though such sales are not made frequently.

In addition the sale at retail by a manufacturer or wholesaler of an article of merchandise manufactured or wholesaled by him is not a casual or isolated sale, even though he may make but one such retail sale.

BUSINESS AND OCCUPATION TAX

The business and occupation tax does not apply to casual or isolated sales.

RETAIL SALES TAX

The retail sales tax applies to all casual or isolated retail sales made by a person who is engaged in the business activity; that is, a person required to be registered under Rule 101 [WAC 458-20-101]. Persons not engaged in any business activity, that is, persons not required to be registered under Rule 101 [WAC 458-20-101], are not required to collect the retail sales tax upon casual or isolated sales.

However, persons in business as selling agents who are authorized, engaged or employed to sell or call for bids on tangible personal property belonging to another, and so selling or calling, are deemed to be sellers, and shall collect the retail sales tax upon all retail sales made by them. The tax applies to all such sales even though the sales would have been casual or isolated sales if made directly by the owner of the property sold.

NOTE: Retail sales tax does not apply to certain specified sales whether or not casual or isolated. See RCW 82.08.030.

A transfer of capital assets to or by a business is deemed not taxable to the extent the transfer is accomplished through an adjustment of the beneficial interest in the business. The following examples are instances when the tax will not apply.

1. Transfers of capital assets between a corporation and a wholly–owned subsidiary, or between wholly–owned subsidiaries of the same corporation.

2. Transfers of capital assets by an individual or by a partnership to a corporation, or by a corporation to another corporation in exchange for capital stock therein.

3. Transfers of capital assets by a corporation to its stockholders in exchange for surrender of capital stock.

4. Transfers of capital assets pursuant to a reorganization under Section 368 of the Internal Revenue Code, when capital gain or ordinary income is not realized.

5. Transfers of capital assets to a partnership or joint venture in exchange for an interest in the partnership or joint venture; or by a partnership or joint venture to its members in exchange for a proportional reduction of the transferee's interest in the partnership or joint venture.

6. Transfer of an interest in a partnership by one partner to another; and transfers of interests in a partnership to third parties, when one or more of the original partners continues as a partner, or owner.

The burden is upon the taxpayer to establish the facts concerning the adjustment of the beneficial interest in the business when exemption is claimed.

USE TAX

The use tax applies upon the use of any property purchased at a casual retail sale without payment of the retail sales tax, unless exempt by law. Uses which are exempt from the use tax are set out in RCW 82.12.030.

Where there has been a transfer of the capital assets to or by a business, the use of such property is not deemed taxable to the extent the transfer was accomplished through an adjustment of the beneficial interest in the business, provided, the transferor previously paid sales or use tax on the property transferred. (See the exempt situations listed under the Retail Sales Tax subdivision of this rule.)

Revised [Order ET 75–1, § 458–20–106, filed 5/2/75; Order ET 74–1, § 458–20–106, filed 5/7/74; Order ET 70–3, § 458–20–106, filed 5/29/70, effective 7/1/70.]

WAC 458–20–107 (Rule 107) Selling price, gross proceeds of sales, trade–ins. "The term 'selling price' means the consideration, whether money, credits, rights, or other property, expressed in the terms of money, paid or delivered by a buyer to a seller, 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 expenses whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.08.010.)

"The term 'gross proceeds of sales' means the value proceeding or accruing from the sale of tangible personal property . . . without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.04.070.)

When tangible personal property is rented or leased, the "selling price" includes all charges to the renter or lessee for the use of the property rented or leased, including charges designated as insurance, interest and other costs recovered stated separately from the regular rental fee. When tangible personal property is rented or leased under circumstances that the consideration paid does not represent a reasonable rental for the use of the articles so rented or leased, the "selling price" must be determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character. In cases of doubt, all of the pertinent facts should be submitted to the Department of Revenue for an advisory determination.

The terms "selling price" and "gross proceeds of sales" include items of cost which are the direct obligation of the seller but which he may invoice separately to his customer. Examples of such costs are the cost of the contractor's performance bond, the cost of city or state business and occupation taxes or public utility taxes, the cost of insurance protecting the seller and the cost of freight in.

TRADE–INS. The selling price or gross proceeds of sales includes the full consideration whether in money or property or both expressed in terms of money. If traded–in property is subsequently resold at retail, the retail sales tax must be collected on the selling price thereof and the amount of such selling price must be reported by the seller as gross proceeds of sales.

To illustrate: An automobile is sold at retail for $1,000.00. The purchaser pays $600.00 in cash and is allowed $400.00 as the trade–in value of a used automobile. The selling price, upon which the sales tax must be collected and the amount to be reported as gross proceeds of sales, is $1,000.00. If the automobile traded in is later sold for $500.00 the sales tax must be collected on such selling price, and the amount of such selling price must be reported as gross proceeds of sales.

In some industries it is customary to quote the purchaser an "exchange" price, i.e., a reduced price quoted in the expectation that the purchaser will trade in, or "exchange" a used article of the same type. In such case the selling price is the exchange price plus the value of the article exchanged.

Revised June 1, 1970. [Order ET 70–3, § 458–20–107, filed 5/29/70, effective 7/1/70.]

WAC 458-20-108 (Rule 108) Returned goods, allowances, cash discounts. When a contract of sale is made subject to cancellation at the option of one of the parties or to revision in the event the goods sold are defective or if the sale is made subject to cash or trade discount, the gross proceeds actually derived from the contract and the selling price are determined by the transaction as finally completed.

RETURNED GOODS. When sales are made either upon approval or upon a sale and return basis, and the purchaser returns the property purchased and the entire selling price is refunded or credited to the purchaser, the seller may deduct an amount equal to the selling price from gross proceeds of sales in computing tax liability, if the amount of sales tax previously collected from the buyer has been refunded by the seller to the buyer. If the property purchased is not returned within the guaranty period as established by contract or by customs of the trade, or if the full selling price is not refunded or credited to the purchaser, a presumption is raised that the property returned is not returned goods but is an exchange or a repurchase by the vendor.

To Illustrate: S sells an article for $60.00 and credits his sales account therewith. The purchaser returns the article purchased within the guaranty period and the purchase price and the sales tax theretofore paid by the buyer is refunded or credited to him. S may deduct $60.00 from the Gross Amount reported on his tax return.

DEFECTIVE GOODS. When bona fide refunds, credits or allowances are given within the guarantee period by a seller to a purchaser on account of defects in goods sold, the amount of such refunds, credits or allowances may be deducted by the seller in computing tax liability, if the proportionate amount of the sales tax previously collected from the buyer has been refunded by the seller.

S sells an article to B for $60.00 and credits his sales account therewith. The article is later found to be defective.

a. S gives B credit of $50.00 on account of the defect, and also a credit of sales tax collectible on that amount. S may deduct $50.00 from the Gross Amount reported in his tax returns. This is true whether or not B retains the defective article.

b. B returns the article to S who gives B an allowance of $50.00 on a second article of the same kind which B purchases for an additional payment of $10.00, plus sales tax thereon. S may deduct $50.00 from the Gross Amount reported in his tax returns. The sale of the second article, however, must be reported for tax purposes as a $60.00 sale and included in the Gross Amount in his tax return.

c. B returns the article to S who replaces it with a new article of the same kind free of charge, and without sales tax. S may deduct $60.00 from the Gross Amount reported in his tax returns, but the $60.00 selling price of the substituted article must be reported in the Gross Amount.

No deduction is allowed from the Gross Amount reported for tax if S in "b" and "c" above, does not credit his sales account with the selling price of the new article furnished to replace the defective one, but instead merely credits the sales account with an amount equal to the additional payment received, if any. In such case, the allowance for the defect is already shown in the sales account by the reduced sales price of the new article.

DISCOUNTS. The selling price of a service or of an article of tangible personal property does not include the amount of bona fide discounts actually taken by the buyer and the amount of such discount may be deducted from gross proceeds of sales providing such amount has been included in the Gross Amount reported. Discounts are not deductible under the retail sales tax when such tax is collected upon the selling price before the discount is taken and no portion of the tax is refunded to the buyer. Discount deductions will be allowed under the Extracting or Manufacturing classifications only when the value of the products is determined from the gross proceeds of sales. Patronage dividends which are granted in the form of discounts in the selling price of specific articles (for example, a rebate of one cent per gallon on purchases of gasoline) are deductible. (Some types of patronage dividends are not deductible. See WAC 458-20-219.)

Revised June 1, 1970. [Order ET 70-3, § 458-20-108, filed 5/29/70, effective 7/1/70.]

WAC 458-20-109 (Rule 109) Finance charges, carrying charges, interest, penalties.

BUSINESS AND OCCUPATION TAX

Persons who receive finance charges, carrying charges, service charges, penalties and interest are taxable with respect thereto under the Service and Other Business Activities classification.

RETAIL SALES TAX

Finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other contracts providing for deferred payments of the purchase price are not considered a part of the selling price of such property subject to the retail sales tax, if (1) the amount of such finance charges, carrying charges, service charges or interest is in addition to the usual or established cash selling price, and (2) is segregated on the taxpayers' accounts, and (3) billed separately to customers. Amounts added to the base price, or agreed selling price on account of failure of the buyer to make any payment at the time specified in the agreement between the parties——amounts generally designated as "penalties"——are not a part of the selling price and are not subject to the retail sales tax.

As to contracts providing for the renting or leasing of tangible personal property, amounts designated as finance charges, carrying charges, service charges or interest must be included in the measure of retail sales tax regardless of the fact that such charges may be billed separately to customers.

Revised June 1, 1970. [Order ET 70-3, § 458-20-109, filed 5/29/70, effective 7/1/70.]

WAC 458-20-110 (Rule 110) Freight and delivery charges. Amounts received by a seller from a purchaser for freight and delivery costs incurred by the seller prior to completion of sale constitute recovery of costs of doing business and must be included in the selling price or gross proceeds of sales reported by the seller regardless of whether charges for such costs are billed separately and regardless of whether the seller is also the carrier.

Freight and delivery costs incurred by a lessor, regardless of whether billed separately to a lessee or not, are costs of doing business to the lessor in every case and must be included in the selling price or gross proceeds of sales reported by the lessor.

"Reimbursements" received by a seller for the actual amount of freight and delivery costs advanced for a purchaser after completion of sale are deductible from the selling price or gross proceeds of sales. (See WAC 458-20-111.)

Where the seller is the carrier and separate delivery charges, in addition to the selling price, are made to a purchaser after completion of sale, such charges may be deducted by the seller from the selling price. In such case the delivery charges are taxable to the seller under the appropriate classification of the public utility tax. (See WAC 458-20-180.)

Note: See WAC 458-20-112 for the deduction of out-of-state freight and delivery charges from "value of products."

Revised June 1, 1970. [Order ET 70-3, § 458-20-110, filed 5/29/70, effective 7/1/70.]

WAC 458-20-111 (Rule 111) Advances and reimbursements. The word "advance" as used herein, means money or credits received by a taxpayer from a customer or client with which the taxpayer is to pay costs or fees for the customer or client.

The word "reimbursement" as used herein, means money or credits received from a customer or client to repay the taxpayer for money or credits expended by the taxpayer in payment of costs or fees for the client.

The words "advance" and "reimbursement" apply only when the customer or client alone is liable for the payment of the fees or costs and when the taxpayer making the payment has no personal liability therefor, either primarily or secondarily, other than as agent for the customer or client.

There may be excluded from the measure of tax amounts representing money or credit received by a taxpayer as reimbursement of an advance in accordance with the regular and usual custom of his business or profession.

The foregoing is limited to cases wherein the taxpayer, as an incident to the business, undertakes, on behalf of the customer, guest or client, the payment of money, either upon an obligation owing by the customer, guest or client to a third person, or in procuring a service for the customer, guest or client which the taxpayer does not or cannot render and for which no liability attaches to the taxpayer. It does not apply to cases where the customer, guest or client makes advances to the taxpayer upon services to be rendered by the taxpayer or upon goods to be purchased by the taxpayer in carrying on the business in which the taxpayer engages.

For example, where a taxpayer engaging in the business of selling automobiles at retail collects from a customer, in addition to the purchase price, an amount sufficient to pay the fees for automobile license, tax and registration of title, the amount so collected is not properly a part of the gross sales of the taxpayer but is merely an advance and should be excluded from gross proceeds of sales. Likewise, where an attorney pays filing fees or court costs in any litigation, such fees and costs are paid as agent for the client and should be excluded from the gross income of the attorney.

On the other hand, no charge which represents an advance payment on the purchase price of an article or a cost of doing or obtaining business, even though such charge is made as a separate item, will be construed as an advance or reimbursement. Money so received constitutes a part of gross sales or gross income of the business, as the case may be. For example, no exclusion is allowed with respect to amounts received by (1) a doctor for furnishing medicine or drugs as a part of his treatment; (2) a dentist for furnishing gold, silver or other property in conjunction with his services; (3) a garage for furnishing parts in connection with repairs; (4) a manufacturer or contractor for materials purchased in his own name or in the name of his customer if the manufacturer or contractor is obligated to the vendor for the payment of the purchase price, regardless of whether the customer may also be so obligated; (5) any person engaging in a service business or in the business of installing or repairing tangible personal property for charges made separately for transportation or traveling expense.

Revised May 1, 1947. [Order ET 70-3, § 458-20-111, filed 5/29/70, effective 7/1/70.]

WAC 458-20-112 (Rule 112) Value of products. The term "value of products" includes the value of by-products, and except as provided herein, shall be determined by "gross proceeds of sales" whether such sales are at wholesale or at retail, to which shall be added all subsidies and bonuses received with respect to the extraction, manufacture, or sale thereof.

"The term 'gross proceeds of sales' means the value proceeding or accruing from the sale of tangible personal property . . . without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes, or any other expense whatsoever paid or accrued and without any deduction on account of losses." (RCW 82.04.070.)

IN THE CASE OF BONA FIDE SALES OF PRODUCTS. The law provides (RCW 82.04.450), that under the Extracting and Manufacturing classifications of the business and occupation tax the value of products extracted or manufactured shall be determined by the gross proceeds of sales in every instance in which a bona fide sale of such products is made, and whether sold at wholesale or at retail.

SALES TO POINTS OUTSIDE THE STATE. In determining the value of products delivered to points

outside the state there may be deducted from the gross proceeds of sales so much thereof as the taxpayer can show to be actual transportation costs from the point at which the shipment originates in this state to the point of delivery outside the state.

ALL OTHER CASES. The law provides that where products extracted or manufactured are

1. For commercial or industrial use (by the extractor or manufacturer—see WAC 458-20-134); or

2. Transported out of the state, or to another person without prior sale; or

3. Sold under circumstances such that the stated gross proceeds from the sale are not indicative of the true value of the subject matter of the sale; the value shall correspond as nearly as possible to the gross proceeds from other sales at comparable locations in this state of similar products of like quality and character, in similar quantities, under comparable conditions of sale, to comparable purchasers, and shall include subsidies and bonuses.

In the absence of sales of similar products as a guide to value, such value may be determined upon a cost basis. In such cases, there shall be included every item of cost attributable to the particular article or article extracted or manufactured, including direct and indirect overhead costs.

Revised June 1, 1970. [Order ET 70-3, § 458-20-112, filed 5/29/70, effective 7/1/70.]

WAC 458-20-113 (Rule 113) Ingredients or components, chemicals used in processing new articles for sale. The term "retail sale" means "every sale of tangible personal property . . . other than a sale to one who purchases for the purpose of resale . . . or for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale . . . (RCW 82.04.050.)

INGREDIENTS OR COMPONENTS. The sale of articles of tangible personal property which physically enter into and form a part of a new article or substance produced for sale does not constitute a retail sale. This does not exempt from the retail sales tax the sale of articles consumed in a manufacturing process which do not enter into and become a physical part of the new article produced for sale, such as fuel used for heating purposes, oil for machinery, sandpaper, etc.

ARTICLES PURCHASED FOR DUAL PURPOSES. Where an article purchased serves a dual purpose, tax liability under the retail sales tax is determined by the primary purpose for which the article is purchased. The fact that a portion of the article purchased actually becomes a physical part of the new article produced for sale is not in itself sufficient to constitute the sale thereof a sale at wholesale, unless such use is the primary purpose for which the article was purchased. Thus, the sale of coal to a cement manufacturer which is used primarily as a fuel for producing heat is a taxable retail sale even though the ash from the burned coal is blown into the cement mixture and actually remains an ingredient thereof. Likewise the sale of coke to a foundry to produce heat for melting iron or steel is a taxable retail sale, although a secondary purpose in using coke is to introduce carbon into the metal.

CHEMICALS USED IN PROCESSING. Sales of chemicals to a person for use in processing articles produced for sale are not retail sales, and therefore are not subject to the retail sales tax.

"Chemicals used in processing" carries its common restricted meaning in commercial usage. It includes only chemical substances which are used by the purchaser to unite with other chemical substances, present as ingredients or components of the articles or substances being processed, to produce a chemical reaction therewith, as contrasted with merely a physical change therein. A chemical reaction is one in which there takes place a permanent change of certain properties, with the formation of new substances which differ in chemical composition and properties from the substances originally present, and usually differ from them in appearance as well. It is not necessary that all of the new substances which are formed be present in the final completed article or substance which is sold; one or more of such new substances resulting from the chemical reaction may be removed or drawn off in the processing.

To illustrate: Sales of chemicals to a pulp mill for use in the digesting and bleaching of pulp are not subject to the retail sales tax because such chemicals react chemically with the cellulose in the pulp fiber which, in turn, becomes a major ingredient of the final product, paper. Similarly, sales of carbon to an aluminum reduction plant for the primary purpose of forming a chemical reaction with alumina to remove its oxygen content are not retail sales.

Conversely, sales of water purifiers and wetting agents to a pulp mill are taxable sales. The treated water acts primarily as a conveyor or carrier of the pulp fibers and only an insignificant part of the water becomes an ingredient of the final product. Similarly, sales of caustic soda to potato processors to remove peelings from potatoes are retail sales because the chemical reacts only with the peelings which are removed as waste, and not with the potatoes which are sold as the final product.

Sales of diesel or fuel oil to a steel mill or foundry, for use or consumption primarily in generating heat, are retail sales and subject to the retail sales tax, notwithstanding the fact that some portion of the oil may cause a chemical reaction and to some extent alter the character of the article being manufactured or processed.

In special cases where doubt exists, a special ruling will be made by the Department of Revenue upon submission of all the pertinent facts relative to the nature of the chemical substances concerned and the use made thereof by the purchaser.

Revised June 1, 1970. [Order ET 70-3, § 458-20-113, filed 5/29/70, effective 7/1/70.]

WAC 458-20-114 (Rule 114) Bona fide initiation fees, dues contributions, donations, tuition fees and endowment funds. Amounts derived from bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds may be deducted from the measure of tax under the business and occupation tax. (RCW 82.04.430(2)) [RCW 82.04.4282]. This deduction is construed strictly and such amounts may be deducted only if:

1. They are bona fide, and

2. They have been included in the Gross Amount reported under the classification with respect to which the deduction is sought, and

3. They have not been otherwise deducted through inclusion in the amount of an allowable deduction taken under such classification for another reason, and

4. They do not exceed the limitations hereinafter set forth.

Amounts which may be deducted as initiation fees are those amounts only which are actually required to be paid by a person to a club or similar organization for the sole privilege of joining such club or similar organization.

Amounts which may be deducted as dues are those amounts only which a member must pay toward the support of a club or similar organization in order to retain membership therein. Amounts which are for, or graduated upon, the amount of services rendered to a member of such club or organization may not be deducted. The terms "dues" and "initiation fees" must be given their ordinary meaning and do not include, for example, amounts paid to trade or industry associations for services rendered and such payments are proportional to the size and volume of the member's business or manufacturing operations.

The term "tuition fees" refers only to fees charged by educational institutions, and, in addition to instruction fees, includes library, laboratory, health and other special fees and amounts charged for room and board when the property or service for which such charges are made is furnished exclusively to the students or faculty of such institutions.

"Educational institutions" which may deduct "tuition fees" are those which have been created or generally accredited as such by the state and which offer to students an educational program of a general academic nature and those institutions which are not operated for profit and which are privately endowed under a deed of trust to offer instruction in trade, industry and agriculture, but not including specialty schools, business colleges, other trade schools or similar institutions. Educational institutions which are entitled to the deduction include the following:

a. The common schools, the state normal schools, the University of Washington, the Washington State University and such other schools which are or may be established by law and maintained at public expense as part of the "uniform school system" provided for in RCW 28.02.010;

b. Parochial schools and private schools accredited to schools of the "uniform school system" by the State Board of Education or the State Department of Education, and which are not specialty schools, business colleges, other trade schools or similar institutions;

c. Schools whose students and credentials are accepted without examination by the schools referred to in "a" and "b" above, and which are not specialty schools, business colleges, other trade schools or similar institutions.

A business college, dancing school, music school or specialty school is not an "educational institution" within the meaning of that term as defined above. Tuition fees collected by such institutions are taxable under the Service and Other Business Activities classification of the business and occupation tax.

The right to deduct bona fide initiation fees, dues, contributions, donations, tuition fees and endowment funds does not exempt any person, association or society from tax liability upon selling tangible personal property or upon providing facilities or services for which a special charge is made to members or others.

Revised June 1, 1970. [Order ET 70-3, § 458-20-114, filed 5/29/70, effective 7/1/70.]

WAC 458-20-115 (Rule 115) Sales of packing materials and containers. The term "packing materials" means and includes all boxes, crates, bottles, cans, bags, drums, cartons, wrapping papers, cellophane, twines, gummed tapes, wire, bands, excelsior, waste paper, and all other materials in which tangible personal property may be contained or protected within a container, for transportation or delivery to a purchaser.

Sales of packing materials to persons who sell tangible personal property contained therein or protected thereby are sales for resale and are not subject to the retail sales tax if title thereto passes with the goods contained therein.

Sales of containers to persons who sell tangible personal property therein, but who retain title to such containers which are to be returned, are sales for consumption. The retail sales tax or the use tax must be paid upon the sale or use thereof. This class includes wooden or metal bottle cases, barrels, gas tanks, carboys, drums, bags and other items, when title thereto remains in the seller of the tangible personal property contained therein, and even though a deposit is not made for the containers, and when such articles are customarily returned to him. If a charge is made against a customer for the container, with the understanding that such charge will be cancelled or rebated when the container is returned, the amount charged is deemed to be made as security for the return of the container and is not part of the selling price for tax purposes.

Title to containers for beverages and food sold at retail, including beer, milk, soft drinks, mixers and the like, will be deemed to pass to the customer along with the contents. In such cases, amounts charged for the containers are part of the selling price and subject to retailing business tax. However, the retail sales tax does not apply to sales of returnable food and beverage containers and vendors may take a deduction from gross retail sales for the amount of such sales in reporting sales

tax due, providing (1) the seller separately states the charge for the container and (2) the separately stated charge is the amount the vendor will pay for a repurchase of the container. Return of the containers is a repurchase by the vendor and sales tax is not due on amounts paid to the customer on such repurchases, since the vendor will resell the containers in the regular course of his business.

Sales of packing materials to persons engaged in the business of custom or commercial packing are sales for consumption and are subject to the retail sales tax.

No deduction is allowed in computing tax under the retail sales tax classification where the retail sales tax is collected from the customer upon the charge for the container.

Revised June 24, 1974.

Effective July 1, 1974. [Order 74-2, § 458-20-115, filed 6/24/74; Order ET 70-3, § 458-20-115, filed 5/29/70, effective 7/1/70.]

WAC 458-20-116 (Rule 116) Labels, name plates, tags, premiums and advertising matter. Sales of labels and name plates to persons who attach the same to containers enclosing articles sold by them are sales for consumption when such persons retain title to the containers which are to be returned to the seller for re-use, and the retail sales tax applies to such sales.

Sales of all other labels and name plates, and sales of price tags and shipping tags to persons who attach same to containers or enclose them with articles therein sold by them, are sales for resale and the retail sales tax does not apply thereto.

The retail sales tax does not apply to sales of so-called premiums to persons who pass title thereto with other articles which are sold by them, when the passing of title to the premiums is not contingent upon the returning of coupons or other evidence of prior purchases of similar articles.

Sales of so-called premiums to persons who do not pass title thereto with other articles which are sold by them, but which are given as an inducement to perform a service, such as the soliciting of subscriptions, or are given upon the returning of coupons or other evidence of prior purchases of similar articles, are sales for consumption, and the retail sales tax applies thereto.

The retail sales tax does not apply to sales of advertising matter sold to persons who enclose the same with articles sold by them, when such advertising matter relates primarily to such articles with which they are enclosed. (For use tax liability on the use of advertising materials, see WAC 458-20-178.)

Issued May 1, 1943. [Order ET 70-3, § 458-20-116, filed 5/29/70, effective 7/1/70.]

WAC 458-20-117 (Rule 117) Sales of dunnage. The word "dunnage" means any material used for the purpose of protecting or holding in place cargo or freight during transportation by any carrier of property, and which is not an integral part of the carrier itself. Dunnage includes such things as wood blocks, stakes, separating strips, timber, double decks, false floors, door shields, bulkheads, and other bracing.

Sales to persons of any material to be used by them as dunnage are retail sales, and the retail sales tax applies thereto. (See WAC 458-20-175 concerning sales to certain interstate and foreign carriers.)

Issued May 1, 1943. [Order ET 70-3, § 458-20-117, filed 5/29/70, effective 7/1/70.]

WAC 458-20-118 (Rule 118) Rental of real estate, license to use real estate. Amounts derived from the sale and rental of real estate are exempt from taxation under the business and occupation tax. However, there is no exemption of amounts derived from engaging in any business wherein a mere license to use or enjoy real property is granted. Further, no exemption is allowed for amounts received as commissions for the sale or rental of real estate. (RCW 82.04.390.) For purposes of distinguishing the lease or rental of real estate from the granting of a license to use real estate (taxable under various other classifications of the business and occupation tax) the Department of Revenue will be guided by the following principles.

LEASE OR RENTAL OF REAL ESTATE. A lease or rental of real property conveys an estate or interest in a certain designated area of real property with an exclusive right in the lessee of continuous possession against the world, including the owner, and grants to the lessee the absolute right of control and occupancy during the term of the lease or rental agreement. An agreement will not be construed as a lease of real estate unless a relationship of "landlord and tenant" is created thereby. It is presumed that the sale of lodging by a hotel, motel, tourist court, etc., for a continuous period of thirty days or more is a rental of real estate. It is further presumed that all rentals of apartments and leased departments constitute rentals of real estate.

LICENSE TO USE REAL ESTATE. A license grants merely a right to use the real property of another but does not confer exclusive control or dominion over the same. Usually, where the grant conveys only a license to use, the owner controls such things as lighting, heating, cleaning, repairing and opening and closing the premises.

It will be presumed that license to use or enjoy real property is granted in the rental of the following:

1. Hotel rooms (for periods of less than 30 continuous days; See WAC 458-20-166).
2. Motels, tourist courts and trailer parks (for periods of less than 30 continuous days; See WAC 458-20-166).
3. Cold storage lockers (See WAC 458-20-133).
4. Safety deposit boxes.
5. Storage space (See WAC 458-20-182).
6. Space within park or fair grounds to a concessionaire.

Revised April 14, 1960. [Order ET 70-3, § 458-20-118, filed 5/29/70, effective 7/1/70.]

WAC 458-20-119 (Rule 119) Sales of meals.

BUSINESS AND OCCUPATION TAX

All persons making sales of meals, upon which the retail sales tax applies under the provisions set forth in this ruling, are required to pay the business and occupation tax under the Retailing classification upon the gross proceeds derived from such sales.

RETAIL SALES TAX

RESTAURANTS AND OTHER EATING PLACES. Sales of meals by hotels, restaurants, cafeterias, clubs, boarding houses and other eating places are subject to the retail sales tax. Sales to such eating places of food and beverage products for use in preparing meals are sales for resale and are not subject to the tax.

In the case of boarding houses and American plan hotels the price of meals must be segregated from the charges made for rooms on bills rendered guests and on the books of the taxpayer. (See WAC 458-20-124—Restaurants, etc.)

RAILROAD, PULLMAN CAR, STEAMSHIP, AIRPLANE, OR OTHER TRANSPORTATION COMPANIES. Sales of meals by railroad, Pullman car, steamship, airplane, or other transportation companies served at fixed locations in this state, or served upon the carrier itself while within this state, are subject to the retail sales tax.

Where no specific charge is made for meals separate and apart from the transportation charge, the entire amount so charged is deemed a charge for transportation and the retail sales tax is not applicable to any portion thereof. In such case the transportation company will be liable to its vendors for retail sales tax upon the purchase of meals.

MEALS FURNISHED TO EMPLOYEES. Except as provided by WAC 458-20-244 (Rule 244), sales of meals by employers to employees are sales at retail and subject to the retail sales tax. This is true whether individual meals are sold, whether a flat charge is made, or whether meals are furnished as a part of the compensation for services rendered. Where no specific charge is made for each meal, the measure of the tax will be average cost per meal served, based upon the actual cost of the food, but in no event may such tax be reported on a value of less than 75¢ per meal. In view of the fact that it is often impracticable to collect the retail sales tax from employees on such sales, persons engaged in the business of furnishing meals to the public may, in lieu of collecting such tax from employees, pay the tax directly to the Department of Revenue, based upon a value of no less than 75¢ for each meal furnished. Where meals furnished are not recorded as sales the 75¢ value per meal shall be presumed to apply according to the following formula for determining meal count: (a) Those employees working shifts up to five hours, one meal: (b) Employees working shifts of more than five hours, two meals.

Persons engaged in the business of furnishing meals to the public, generally pay their employees a fixed cash wage and, in addition thereto, furnish one or more meals per day to such employees, as compensation for their services. The furnishing of such meals constitutes a retail sale, irrespective of whether or not a specific charge is made therefor. Where a specific charge is made, the retail sales tax must be collected and accounted for on the selling price.

HOSPITALS AND INSTITUTIONS. The serving of meals by hospitals, rest homes, sanitariums and similar institutions to patients as a part of the service rendered in the conduct of such institutions is not subject to the retail sales tax. See WAC 458-20-244 (Rule 244).

FRATERNITIES AND SORORITIES. Fraternities, sororities and other groups of individuals who reside in one place and jointly share the expenses of the household including expense of meals are not considered to be making sales when meals are furnished to members. See WAC 458-20-244 (Rule 244).

However, when such groups do not provide their own meals, but the meals are provided by caterers or concessionaires, the caterers or concessionaires are making retail sales subject to the tax. Sales to such caterers or concessionaires of food and beverage products for use in preparing meals are sales for resale and are not subject to the tax.

SCHOOL, COLLEGE, OR UNIVERSITY DINING ROOMS. Public schools, high schools, colleges, universities or private schools operating lunch rooms, cafeterias or dining rooms for the exclusive purpose of providing students and faculty with meals are not considered to be engaged in the business of making retail sales. See WAC 458-20-244 (Rule 244).

Where any such cafeteria, lunch or dining room caters to the public the school, college or university operating it is considered to be making retail sales and the retail sales tax must be collected from all persons to whom the meals are furnished.

SALES OF ALCOHOLIC BEVERAGES BY CLASS H LICENSEES, TAVERNS, AND CONCESSIONAIRES. Businesses authorized under license or permit issued by the Washington State Liquor Control Board to sell liquor, beer, and wine by the drink under conditions of business such as to render impracticable the separate collection of the retail sales tax may, upon compliance with the following requirements and conditions, include the retail sales tax in the selling price of the item sold: (a) The establishment must display a chart, in type large enough to be read by customers, posted in a conspicuous place, which separately lists each item by name, the selling price, sales tax, and total charge, and (b) the chart must be posted at a location where the customer can easily read the chart without being required to enter employee work areas or without special request that the chart be furnished to him. This procedure is permissible only for sale of alcoholic beverages and not to sales of meals or other menu items. A list of prices which merely shows number combinations which add up to even nickel or dime amounts does not meet the foregoing requirements. An operator who elects to report sales tax in the manner

herein provided but fails to follow the foregoing requirements shall be subject to business and occupation tax and retail sales tax upon gross receipts.

CLASS H LICENSE LOCATIONS. When an operator elects pursuant to the foregoing, to sell drinks at a price which, after addition of sales tax is rounded off to an even amount, this pricing method must be used in all areas of the location. This means that the price posting requirements must be met wherever drinks are sold so that the customer can identify readily the items billed inclusive of tax and those billed exclusive of tax. Therefore, drink totals and food totals must be shown separately so that all dinner checks involving both food and liquor charges shall be presented to the customer with amounts due shown in the following order: Food, sales tax on food, liquor, total. Persons who elect to post prices to show amounts of tax included but who fail to comply with these requirements are subject to business and occupation tax and retail sales tax measured by the gross bar and cocktail lounge receipts.

GRATUITIES. Tips or gratuities representing donations or gifts by customers under circumstances which are clearly voluntary are not part of the selling price subject to tax. However, mandatory additions to the price by the seller, whether labeled service charges, tips, gratuities or otherwise must be included in the selling price and are subject to both the Retailing classification of the business and occupation tax and the retail sales tax.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-119, filed 6/27/78; Order ET 74-1, § 458-20-119, filed 5/7/74; Order ET 70-3, § 458-20-119, filed 5/29/70, effective 7/1/70.]

WAC 458-20-120 (Rule 120) Sales of ice. Sales of ice to fishermen for the purpose of packing and preserving their fish during the trip from the fishing banks to their port of discharge are sales for consumption and are taxable under the retail sales tax.

Sales of ice to persons, other than railroad companies, for use in icing refrigerator cars are sales for consumption and are taxable under the retail sales tax.

The use of ice purchased or manufactured by interstate railroad companies for the purpose of icing within this state perishables or refrigerator cars or car cooling systems, is subject to use tax. (See WAC 458-20-175.)

Sales of ice to persons who sell fish, fruit, vegetables and other commodities are sales for resale and not subject to the retail sales tax when such ice is used for packing during shipment and title thereto passes to the purchaser along with the property sold.

Sales of ice to persons operating restaurants, soda fountains and the like are sales for resale and are not subject to the retail sales tax when such ice is used exclusively as crushed ice in drinks sold by such persons.

Sales of ice to persons operating creameries, beer parlors, restaurants, soda fountains and the like are sales for consumption and are taxable under the retail sales tax when such ice is used primarily for the purpose of cooling food products and is not for resale to customers.

Revised May 1, 1949. [Order ET 70-3, § 458-20-120, filed 5/29/70, effective 7/1/70.]

WAC 458-20-121 (Rule 121) Sales of steam. Persons engaging in the business of operating a plant for the production, distribution and sale of steam for heating or power purposes are subject to the provisions of the business and occupation tax and are taxable under the Service and Other Business Activities classification.

Revised May 1, 1937. [Order ET 70-3, § 458-20-121, filed 5/29/70, effective 7/1/70.]

WAC 458-20-122 (Rule 122) Sales of feed, seed, fertilizer and spray materials. As used in this ruling:

The word "feed" means a substance used as food for animals or poultry, and includes whole and processed grains or mixtures thereof, hay and forages or meals made therefrom, mill feeds and feeding concentrates, stock salt, hay salt, bone meal, cod liver oil, double purpose limestone grit, oyster shell and other similar substances used to sustain or improve livestock or poultry. The word does not include substances which do not contribute directly to a resulting agricultural product, such as peat moss or litter, nor does it include hormones or products which are used as medicines rather than as food.

The word "seed" means propagative portions of plants, commonly used for seeding or planting whether true seeds, bulbs, plants, seedlike fruits, seedlings or tubers.

The word "fertilizer" means a substance which increases the productivity of the soil by adding plant foods or nutrients which improve and stimulate plant growth.

The term "spray materials" means materials in liquid, powder or gaseous form used by agricultural producers as described in RCW 82.04.330 for the purpose of controlling or destroying insects, parasites, vermin, animals, fungi, weeds, pests or plants of a similar nature, deleterious to the growth or conservation of horticultural plants, animals, or products derived therefrom. It does not include mechanical devices for the elimination of pests nor does it include materials used for spraying forest trees by commercial timber producers.

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of selling feed, seed, fertilizer or spray materials are taxable under either the Retailing or Wholesaling classification on gross proceeds of sales. (See WAC 458-20-161 for special classification of sales of unprocessed wheat, oats, dry peas, corn or barley.)

Persons engaged in the business of spraying crops for hire are taxable under the Service and Other Business Activities classification on the gross income therefrom.

RETAIL SALES TAX

The retail sales tax applies upon the sale of all such articles, unless sold to a person for resale in the regular course of business, or unless sold to a person for the

purpose of commercial production of agricultural products.

The retail sales tax also applies upon sales of spray materials to persons engaged in the business of spraying crops for hire, unless purchased by such persons for the purpose of resale to others for a price separate and apart from the charge made for the actual spreading of the spray.

The retail sales tax does not apply upon sales of any such articles sold to persons for the purpose of producing for sale any agricultural product whatsoever, including substances obtained from animals, birds or insects.

Thus, sales of feed, however large the quantity, are taxable retail sales when sold to a riding club or race track operator, or for the purpose of feeding pets or work animals, or of producing poultry or eggs for home consumption. Likewise, sales of seed, fertilizer and spray materials, however large the quantity, are taxable retail sales when sold to persons for the growing or improving of lawns or home gardens, or for any use other than for resale or for commercial production.

The burden of proving that a sale of any of said articles was not a sale at retail is upon the seller, and all sales will be deemed retail sales unless the seller shall take from the purchaser, be he either a registered dealer or a farmer, a resale certificate in accordance with WAC 458-20-102.

Revised June 1, 1970. [Order ET 70-3, § 458-20-122, filed 5/29/70, effective 7/1/70.]

WAC 458-20-123 (Rule 123) Public and lending libraries.

DEFINITIONS.

The term "public libraries" as used herein means libraries operated by the state or by any governmental unit, as the term is defined by RCW 27.12.010.

The term "lending libraries" as used herein has reference to all libraries other than those operated by the state or by a governmental unit.

BUSINESS AND OCCUPATION TAX

RETAILING. Lending libraries are taxable under the Retailing classification upon the gross proceeds of sales and rentals of all books and periodicals.

Public libraries are not subject to the provisions of the business and occupation tax.

RETAIL SALES TAX

Lending libraries are not required to pay the retail sales tax upon the purchase of books and periodicals and newspapers loaned by them provided they supply their vendors with resale certificates in the usual form (See WAC 458-20-102). Public libraries are required to pay the retail sales tax on purchases of books and periodicals loaned by them.

Lending libraries are required to collect the retail sales tax from their patrons upon sales and rentals of all books and periodicals (excluding newspapers).

Revised April 1, 1959. [Order ET 70-3, § 458-20-123, filed 5/29/70, effective 7/1/70.]

WAC 458-20-124 (Rule 124) Restaurants, soda fountains, cocktail bars, beer parlors, etc. As used herein, the term "restaurants, soda fountains, cocktail bars, beer parlors, etc.," means every place where prepared foods and beverages are sold and served to individuals, generally for consumption on the premises where sold.

The retail sales tax applies upon all sales of foods and beverages made to consumers by persons operating restaurants, soda fountains, cocktail bars, beer parlors, etc.

The retail sales tax also applies upon all sales of dishes, kitchen utensils, linens, furniture and fixtures, and the like, made by supply houses to such operators.

The retail sales tax does not apply upon sales of foodstuffs and beverages made by supply houses to persons operating restaurants, soda fountains, cocktail bars, beer parlors, etc. Likewise, that tax does not apply upon sales to said persons of paper plates, paper cups, paper napkins, toothpicks, or any other articles which are furnished to customers, the first actual use of which renders such articles unfit for further use. (See WAC 458-20-119—Sales of Meals.)

Revised May 1, 1949. [Order ET 70-3, § 458-20-124, filed 5/29/70, effective 7/1/70.]

WAC 458-20-125 (Rule 125) Miscellaneous sales for farm use. Sales of tangible personal property to persons engaging in farming are wholesale sales and not subject to the retail sales tax when such property is purchased for resale or to become an ingredient of products produced for sale or when such property consists of, or will become parts of a container to be resold with such products. Thus, sales of grain sacks which are resold with grain produced, sack twine used in binding such sacks, wire for binding bales of hay and alfalfa which are sold, box shooks, fruit and vegetable wrappers and the like are wholesale sales. (See WAC 458-20-209 for applicability of retail sales tax to sales of these commodities to persons performing farming services for hire.)

Sales of tangible personal property to persons engaging in farming are retail sales and subject to the retail sales tax when such property is not resold, does not become an ingredient of products produced for sale, and does not consist of containers, or component parts thereof, to be resold with such products, except as provided in WAC 458-20-122. Thus the retail sales tax must be collected upon sales to such persons of machinery, tools, binder twine, pea twine, hop wire, cleaning materials, peat moss, litter of all kinds and the ingredients thereof, even though the litter after use is resold to a person engaged in commercial production for use as fertilizer.

The retail sales tax is not applicable to sales of pollen, sales of purebred livestock for breeding purposes where the animals are registered in a nationally recognized breeding association, to sales of beef and dairy cattle used on a farm, to sales of poultry for use in the production for sale of poultry or poultry products, nor to sales of semen for use in the artificial insemination of livestock.

Revised July 1, 1967. [Order ET 70-3, § 458-20-125, filed 5/29/70, effective 7/1/70.]

WAC 458-20-126 (Rule 126) Sales of motor vehicle fuel and special fuels.

SALES OF MOTOR FUEL AND SPECIAL FUELS

As used herein the term "vehicle fuel" means motor vehicle fuel as defined in chapter 82.36 RCW and special fuels as defined in chapter 82.38 RCW.

The retail sales tax does not apply to sales of motor vehicle fuel on which the tax of chapter 82.36 RCW is paid, nor to sales of special fuels when sold for use as fuel in propelling motor vehicles upon the public highways in this state and on which the special fuel tax imposed by chapter 82.38 RCW, is paid.

Persons selling special fuels on which the tax of chapter 82.38 RCW is not collected are required to collect the retail sales tax on retail sales thereof.

It is the intent of the law that all vehicle fuels will be subject to either the vehicle fuel taxes (chapter 82.36 RCW or chapter 82.38 RCW) or else the sales or use taxes of the Revenue Act (chapter 82.08 RCW or chapter 82.12 RCW). Therefore persons receiving refund of vehicle fuel taxes are subject to payment of the use tax of chapter 82.12 RCW on the value of the fuel. [Order ET 73-1, § 458-20-126, filed 11/2/73; Order ET 70-3, § 458-20-126, filed 5/29/70, effective 7/1/70.]

WAC 458-20-127 (Rule 127) Magazines and periodicals.

RETAIL SALES TAX

Sales of magazines and periodicals to the reading public by persons operating news stands, book stores, cigar stores, drug stores and the like are sales at retail and are subject to the retail sales tax. Sales to newsstands or stores are sales for resale and are not subject to the retail sales tax.

When magazines or periodicals are distributed to the final purchaser by a distributor who effects such distribution through organizers or captains, supervising boys, or others selling from house to house or upon the streets, the news company or distributor is the one responsible for the collection and payment of the retail sales tax.

Such news companies or distributors shall collect from the boys or others selling the magazines or periodicals the retail sales tax upon the gross retail selling price of all magazines and periodicals taken by such boys or others.

Registration certificates are not required for organizers or captains or for boys or other persons selling magazines or other periodicals under such circumstances. Branch certificates will be issued to the news company or magazine distributor for each of the local stations operated by such company.

Where subscriptions or renewals of subscriptions are mailed directly by purchasers to publishers outside the state and the publisher is a foreign vendor as defined in WAC 458-20-193 such subscriptions constitute transactions in interstate commerce of a type which are not subject to the retail sales tax. Because of circumstances peculiar to the magazine publishing industry, the degree of local activity in respect to interstate sales is either difficult or impossible to determine. For this reason, out-of-state vendors of magazines are relieved from liability for collecting either retail sales tax or use tax on sales of magazines or periodicals when such publications are published outside the state and delivered in interstate commerce to consumers in this state.

This rule does not apply to the sale of newspapers. The law expressly exempts the sale of newspapers from the retail sales tax. (RCW 82.08.030(3).)

USE TAX

Where no retail sales tax is paid upon the purchase of, or subscription to, a magazine or periodical, the use tax is subsequently payable upon the use of the magazine or periodical in this state by the purchaser or subscriber.

Revised June 1, 1965. [Order ET 70-3, § 458-20-127, filed 5/29/70, effective 7/1/70.]

WAC 458-20-128 (Rule 128) Real estate brokers and salesmen.

DEFINITIONS

As used herein:

The terms "real estate broker" and "real estate salesman" mean, respectively, a person licensed as such under the provisions of chapter 252, Laws of 1941, as amended [chapter 18.85 RCW].

BUSINESS AND OCCUPATION TAX

A real estate broker is engaged in business as an independent contractor and is taxable under the Service and Other Activities classification upon the gross income of the business.

The measure of the tax on real estate commissions earned by the real estate broker shall be the gross commission earned by the particular real estate brokerage office including that portion of the commission paid to salesmen or associate brokers in the same office on a particular transaction: *Provided, however,* That where a real estate commission is divided between an originating brokerage office and a cooperating brokerage office on a particular transaction, each brokerage office shall pay the tax only upon their respective shares of said commission; and provided further, that where the brokerage office has paid the tax as provided herein, salesmen or associated brokers within the same brokerage office shall not be required to pay a similar tax upon the same transaction. Chapter 82.04 RCW.

Thus, with the exception of cooperating brokerage offices, no deduction is allowed for commissions, fees or salaries paid by a broker to another broker or salesman, nor for other expenses of doing business.

The term "gross income of the business" includes gross income from commissions, fees and other emoluments however designated which the agent receives or becomes entitled to receive, but does not include amounts held in trust for others. (See also WAC 458-20-111, Advances and Reimbursements.) No deductions

are allowed for dues, charges and fees paid to multiple listing associations.

Real estate salesmen are presumed to be independent contractors. They are subject to the Service and Other Activities classification of the business and occupation tax on gross income from real estate commissions and fees earned where the brokerage office at which the real estate salesman's license is posted has not paid the tax on the gross commission.

Revised July 1, 1970. [Order ET 70-3, § 458-20-128, filed 5/29/70, effective 7/1/70.]

WAC 458-20-129 (Rule 129) Gasoline service stations.

GASOLINE SERVICE STATIONS
BUSINESS AND OCCUPATION TAX

RETAILING. Persons operating gasoline service stations are taxable under the Retailing classification upon the gross proceeds of sales of tangible personal property, from services rendered with respect to the cleaning or repair of such property, gross income from towing and gross income from automobile parking and storage. On computing tax there may be deducted from gross proceeds of sales the amount of state and federal gallonage tax on motor vehicle fuel included therein.

RETAIL SALES TAX

The retail sales tax applies upon the sale of tangible personal property (except vehicle fuel) on which the tax of either chapter 82.36 RCW or 82.38 RCW is paid and upon charges for towing, automobile parking and storage and the sale of services rendered with respect to the cleaning or repairing of tangible personal property.

Thus the tax applies upon the sale of tires, accessories, etc., upon sales of labor and materials in respect to lubricating, greasing, tire changing, etc., and also upon washing, battery charging and repair work. (See also WAC 458-20-126.) [Order ET 73-1, § 458-20-129, filed 11/2/73; Order ET 70-3, § 458-20-129, filed 5/29/70, effective 7/1/70.]

WAC 458-20-130 (Rule 130) Sales of real property, standing timber, minerals, natural resources.

BUSINESS AND OCCUPATION TAX-RETAIL SALES TAX

Amounts derived from the sale of real estate are not subject to tax under the business and occupation tax or the retail sales tax.

Sales of standing timber, minerals in place, and other natural resources in place are sales of real estate, and are not subject to tax under the business and occupation tax or the retail sales tax.

Timber, minerals, and other natural resources, after being severed from the real estate, lose their identity as real property, and sales thereof after severance are subject to the provisions of the business and occupation tax and the retail sales tax.

Any person who cuts timber, or who mines or quarries minerals, or who takes other natural resources is subject to tax as an extractor under the business and occupation tax. (See WAC 458-20-135.)

CONVEYANCE TAX

Where standing timber, minerals in place and other natural resources in place are sold and title conveyed by deed or other written instrument, the provisions of the conveyance tax apply if the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, and not removed by the sale, exceeds $100. The tax on conveyances is imposed at the rate of 50¢ for each $500, or fractional part thereof. The tax is paid by means of stamps to be affixed to the deed or instrument conveying the property by the person making, signing, issuing or accepting any such instrument.

In cases where no deed, instrument or other writing conveying standing timber, minerals in place and other natural resources in place is given by the seller to the purchaser, the provisions of the conveyance tax do not apply. (See also WAC 458-20-184.)

Revised May 1, 1939. [Order ET 70-3, § 458-20-130, filed 5/29/70, effective 7/1/70.]

WAC 458-20-131 (Rule 131) Merchandising games, games of chance and concessionaires.

BUSINESS AND OCCUPATION TAX-RETAIL SALES TAX

MERCHANDISING GAMES FOR STIMULATING TRADE. Persons conducting dice games and other games of chance which determine the amount the customer will pay for merchandise that he desires to purchase are taxable as follows: Under the Retailing classification with respect to the retail selling price of all merchandise sold to or won by customers, and under the Service and Other Business Activities classification upon the "increases" arising from the conduct of such games. As used herein the word "increases" means the winnings, gains or accumulations accruing daily over and above the retail selling price of all merchandise sold or won in any one day through such games. This method of reporting tax liability will be allowed only in those cases where the operator of the games, by proper accounting methods, accurately segregates the receipts accruing from such games. Where no such segregation is made, such persons are taxable under the Retailing classification with respect to the entire gross receipts from such games.

Punchboards which offer prizes of merchandise are considered as merchandising games, with the prizes being sold for the gross proceeds from the boards, and the gross income from such boards should therefore be reported under the Retailing classification. When such punchboards are consigned to a location under an arrangement for a split of the gross income between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for reporting gross receipts therefrom under the Retailing classification. Where the owner of the boards has not paid the tax due, however, the Department of Revenue

may proceed directly against the operator of the location for payment of the tax due.

GAMES OF CHANCE OTHER THAN MERCHANDISING GAMES. Persons conducting dice games, card games, bingo or keno games, "pools," or similar games of chance wherein players participate in such games with the opportunity of winning a certain sum of money, or a pool which accumulates or scrip, trade checks, or hickies, are taxable under the Service and Other Business Activities classification upon all "increases" arising from the conduct of such games. The word "increases" as used herein means the winnings, gains, or accumulations accruing from any one game over and above the amount put into the game by the operator; and, where redeemable scrip, trade checks, or hickies are issued to winning players, the word "increases" means the excess of the operator's cash income from the game over the amount of redeemable scrip, trade checks, or hickies issued.

It is essential to the classification of such revenues as income from Service and Other Business Activities that they be segregated properly from income derived from merchandising games. When the income from games of chance and amusement is not segregated properly from income from merchandising games, the income derived from both types of games will be taxable as income derived from sales at retail.

Punchboards which offer cash prizes are games of chance rather than merchandising games, and the "increases" (as defined above) therefrom should be reported under the Service and Other Business Activities classification. When such punchboards are consigned to a location under an arrangement for a split of the gross increases between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for reporting gross increases therefrom under the Service and Other Business Activities classification. Where the owner of the boards has not paid the tax due, however, the department may proceed directly against the operator of the location for payment of the tax due.

Each type of game is considered as a separate, taxable transaction. Thus, losses on one type of game may not be deducted from winnings on another type of game.

BETTING. "Increases" from bets on events of public interest, such as sporting events, election results, etc., are taxable under the Service and Other Business Activities classification, and should be reported as income of the taxing period in which the winner is determined.

CONCESSIONAIRES. Persons conducting games of chance at fairs, carnivals, expositions, bazaars, picnics and other similar places in which merchandise is delivered to players in the form of prizes and awards under certain conditions are taxable under the Service and Other Business Activities classification upon the gross income received from the operation of such games. The predominant characteristics of the business in such cases is chance and amusement, and the transfers of merchandise in the form of prizes and awards is relatively small and does not constitute sales of such merchandise.

RAFFLES. Persons regularly conducting raffles are subject to the business and occupation tax under the classification Service and Other Activities on gross income from the sale of chances.

REDEMPTION OF SCRIP, TRADE CHECKS, OR HICKIES. When scrip, trade checks, or hickies are redeemed in exchange for merchandise or for services which are defined by the law as retail sales, the value of the scrip, etc., so redeemed should be reported as income under the Retailing classification. When scrip, trade checks, or hickies are redeemed in exchange for services which are not defined by law as retail sales, e.g., haircuts, manicures, etc., the value of the scrip, etc., so redeemed should be reported as income under the Service and Other Business Activities classification.

MISCELLANEOUS. Revenues of card rooms, etc., from all activities other than those which are reportable under the Retailing classification, must be reported under the Service and Other Business Activities classification. Such revenues include income from the furnishing of playing facilities to card players, etc.

RETAIL SALES TAX

Persons making retail sales of tangible personal property through merchandising games are liable for the payment of the retail sales tax upon the full retail selling price of the merchandise sold to or won by the customer and whether the tax was actually collected from the customer or not. The retail sales tax does not apply to income from games of chance or amusement which are not merchandising games if that income is properly segregated upon the taxpayer's books and records from the income from merchandise sales or merchandising games. Where the income is not so segregated, it is subject to the retail sales tax.

MERCHANDISING GAMES FOR STIMULATING TRADE. Persons conducting dice games and other games of chance which determine the amount that the customer will pay for merchandise that he desires to purchase should collect the retail sales tax from the customer, measured by the amount that the customer actually pays for the merchandise as a result of the outcome of the game.

Punchboards which offer prizes of merchandise are considered as merchandising games, with the prizes being sold for the gross proceeds from the boards, and the retail sales tax is therefore payable on those gross proceeds. For practical reasons, the retail sales tax may be absorbed by the operator, at his option, but the latter will be liable nevertheless to the Department of Revenue for the full tax on the gross income from each punchboard. When such punchboards are consigned to a location under an arrangement for a split of the gross income between the owner of the boards and the person operating the location, the owner of the boards shall be responsible for collecting and reporting to the department the retail sales tax measured by the gross receipts from such boards. Where the owner of the boards has not paid the tax due, however, the department may proceed directly against the operator of the location for the

full amount of sales tax measured by the gross receipts from such boards.

When scrip, trade checks, or hickies are given, the sales tax should be collected when the scrip, trade checks, or hickies are exchanged for merchandise or for services that are defined by the law as retail sales.

For example:

a. MERCHANDISING GAMES. Dice are rolled for a 15¢ cigar. In the event that the player wins, a cigar is given to the player free of charge; in the event that the house wins, the player receives a cigar but pays 30¢.

When the player wins, no tax is payable. When the player loses and pays 30¢ for a single cigar, the retail sales tax applies to the latter amount.

b. PUNCHBOARDS. The price of each punch is 25¢. The operator may collect the sales tax on each punch, or at his option, may absorb the tax, but he will be required in either event to remit to the department the retail sales tax measured by the gross income from each board.

Sales to persons who conduct merchandising games of the merchandise delivered to persons, such as confections, tobacco, jewelry, radios, etc., are sales for resale, and, accordingly, the retail sales tax should not be collected thereon by the seller. When merchandise punchboards are sold outright to an operator, together with merchandise that will be offered as prizes, such sales are considered sales for resale of the boards and of the merchandise by the dealer to the operator. The sale of the board is considered incidental to the sale of the merchandise. When merchandise punchboards are sold outright without the merchandise that will be offered as prizes, such sales are sales at retail and are taxable as such. When money punchboards are sold outright, such sales are sales at retail and are taxable as such.

c. CARD GAMES. Persons conducting card games in card rooms, cigar stores, etc., wherein the players participating receive scrip, trade checks, or hickies which entitle them to the value thereof in merchandise or services shall collect the retail sales tax when such scrip, trade checks, or hickies are exchanged for merchandise or for services defined by the law as retail sales.

CONCESSIONAIRES AT FAIRS, CARNIVALS, ETC. Persons conducting games of chance at fairs, carnivals, expositions, bazaars, picnics, or other similar places and delivering merchandise to players in the form of prizes and awards under certain conditions are not making sales of tangible personal property at retail upon which they are required to collect the retail sales tax. The predominant characteristic of the business in such cases is chance and amusement, and the transfers of merchandise in the form of prizes and awards are relatively small and do not constitute sales of such merchandise. Sales to such persons of the merchandise delivered to the players in the form of prizes and awards are sales at retail upon which the retail sales tax must be collected by the seller. Sales to such persons of devices and other equipment used in the conduct of such games are also retail sales upon which the tax must be collected by the seller.

RAFFLES. Persons conducting raffles are not deemed to be making retail sales of the merchandise given away. Retail sales tax or use tax must be paid by the operator upon the acquisition of such property. Until the tax has been paid by one party, however, the department may hold both the operator and the winner liable for the tax.

Revised June 1, 1970. [Order ET 70-3, § 458-20-131, filed 5/29/70, effective 7/1/70.]

WAC 458-20-132 (Rule 132) Automobiles for demonstration purposes.

BUSINESS AND OCCUPATION TAX

Automobile dealers are taxable under the Retailing classification upon sales to their salesmen of automobiles for demonstration purposes.

RETAIL SALES TAX

The retail sales tax applies upon sales of automobiles and parts and accessories therefor made by dealers to their salesmen for use as demonstrators.

USE TAX

Where an automobile dealer purchases a passenger car or pickup truck without paying a retail sales tax in respect thereto, and uses such car or truck for personal use or demonstration purposes, the use tax is applicable irrespective of the fact that such personal car or demonstrator may later be sold by the dealer. As used in this rule the phrase "pickup truck" refers only to trucks having a commercial pickup body rated at one-half ton capacity or less.

COMPUTATION. For practical purposes, automobile dealers may elect to compute the use tax upon the use of demonstrators (but not on service cars) as follows:

The use of demonstrators is subject to the use tax on the basis of one demonstrator for each one hundred new automobiles and pickup trucks, or fractional part of such number, of all makes or models sold at retail during a calendar year. The use tax on each such demonstrator shall be measured by an average cost price to be based upon the total cost price, including transportation and factory installed accessories, of all makes and models of passenger cars and pickup trucks sold during the preceding calendar year divided by the number of such units sold.

The use tax shall be paid as of the date of the first sale in any calendar year and subsequently upon the sale of the one hundred and first automobile or pickup truck.

The foregoing method of computation is available only in respect to vehicles used for demonstration purposes and not primarily used for any other purpose. It applies only in respect to demonstrator vehicles operated under dealer plates or private licenses issued to the dealership. Demonstrator vehicles which are licensed otherwise than to the dealership are presumed to be used substantially for purposes other than demonstration and are subject to the use tax.

When an automobile dealer has elected to report the use tax as above provided, or upon the actual number of demonstrators used by him, he will not be permitted to

change the manner of reporting without the written consent of the Department of Revenue.

When a dealer or a person associated with a dealer (firm executive, corporate officer or partner) does not have a recent model car registered in his own name and regularly uses either one or various new cars from stock for personal driving (whether or not such cars are also used for demonstration purposes) the use tax will be applicable to the value of one such car for each two calendar years in addition to the tax otherwise applicable to demonstrator use. The term "recent model car" refers to a car of the current model year or of either of the two preceding model years. In such cases, the measure of the use tax shall be the same as the measure herein approved for the computation of use tax on demonstrator use.

The use tax is applicable to the value of vehicles which are loaned or donated to civic, religious, nonprofit or other organizations for continuous periods of use exceeding 72 hours, and such tax is in addition to the tax on the use of demonstrators as provided herein.

Revised January 1, 1963. [Order ET 70-3, § 458-20-132, filed 5/29/70, effective 7/1/70.]

WAC 458-20-133 (Rule 133) Frozen food lockers.

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of renting frozen food lockers are taxable under the Service and Other Business Activities classification upon the gross income from rentals thereof.

When such persons also engage in the activities of curing, smoking, cutting or wrapping meat of and for consumers, or do any other act through which such meat is altered or improved, they become taxable under the Retailing classification upon the gross charges made therefor.

RETAIL SALES TAX

The retail sales tax applies upon the charges made for curing, smoking, cutting or wrapping meat of and for consumers, or for any act through which such meat is altered or improved, and sellers are required to collect such tax from their customers.

The retail sales tax does not apply upon the charges made for the rental of frozen food lockers.

Issued May 1, 1949. [Order ET 70-3, § 458-20-133, filed 5/29/70, effective 7/1/70.]

WAC 458-20-134 (Rule 134) Commercial or industrial use. "The term 'commercial or industrial use' means the following uses of products, including by-products, by the extractor or manufacturer thereof: (1) Any use as a consumer; and (2) The manufacturing of articles, substances or commodities." (RCW 82.04.130).

Following are examples of commercial or industrial use:

1. The use of lumber by the manufacturer thereof to build a shed for his own use.

2. The use of a motor truck by the manufacturer thereof as a service truck for himself.

3. The use by a boat manufacturer of patterns, jigs and dies which he has manufactured.

4. The use by a contractor building or improving a publicly owned road of crushed rock which he has extracted.

BUSINESS AND OCCUPATION TAX

Persons manufacturing or extracting tangible personal property for commercial or industrial use are subject to tax under the classifications Manufacturing or Extracting, as the case may be. The tax is measured by the value of the product manufactured or extracted and used. (See Rule 112 for definition and explanation of value of products.)

USE TAX

Persons manufacturing or extracting tangible personal property for commercial or industrical use are subject to use tax on the value of the articles used. (See Rule 178 for further explanation of the use tax and definition of value of the article used.)

EXCEPTIONS. RCW 82.12.030(12) exempts from the use tax the use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same. (Example: The use of hog fuel to produce heat or power in the same plant which produced it.) RCW 82.12.010 provides that in the case of articles manufactured for commercial or industrial use by manufacturers selling to the U.S. Department of Defense, the value of the articles used shall be determined according to the value of the ingredients of such articles, rather than the full value of the manufactured articles as is normally the case.

Revised June 1, 1970. [Order ET 70-3, § 458-20-134, filed 5/29/70, effective 7/1/70.]

WAC 458-20-135 (Rule 135) Extracting natural products. "The word 'extractor' means every person who, from his 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, for sale or commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral or other natural resource product, or fells, cuts or takes timber, Christmas trees or other natural products, or takes, cultivates, or raises fish, shellfish, or other sea or inland water foods or products; it does not include persons performing under contract the necessary labor or mechanical services for others." (RCW 82.04.100.)

The following examples are illustrative of operations which are included within the extractive activity:

1. Logging operations, including the bucking, yarding, and loading of timber or logs after felling, as well as the actual cutting or severance of trees.

2. Mining and quarrying operations, including the activities incidental to the preparation of the products for market, such as screening, sorting, washing, crushing, etc.

3. Fishing operations, including the cultivating or raising, in fresh or salt water, of fish, shellfish, or other sea or inland water foods or products (whether on publicly or privately owned beds, and whether planted and cultivated or not) for sale or commercial use. It includes the removal of the meat from the shell, and the cleaning and icing of fish or sea products by the person catching or taking them.

BUSINESS AND OCCUPATION TAX

EXTRACTING–LOCAL SALES. Persons who extract products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification Retailing and those who sell such products at wholesale in this state are taxable under the classification Wholesaling–All Others. Persons taxable under the classification Retailing and Wholesaling–All Others are not taxable under the classification Extracting with respect to the extracting of products so sold within this state.

EXTRACTING–INTERSTATE OR FOREIGN SALES. Persons who extract products in this state and sell the same in interstate or foreign commerce are taxable under the classification Extracting upon the value of the products so sold, and are not taxable under Retailing or Wholesaling–All Others in respect to such sales. (See also WAC 458-20-193.)

EXTRACTING–FOR COMMERCIAL USE. Persons who extract products in this state and use the same as raw materials or ingredients of articles which they manufacture for sale are not taxable under Extracting. (For tax liability of such persons on the sale of manufactured products see WAC 458-20-136, Manufacturing, Processing for Hire, Fabricating.)

Persons who extract products in this state for any other commercial or industrial use are taxable under Extracting on the value of products extracted and so used. (See WAC 458-20-134 for definition of commercial or industrial use.)

EXTRACTING FOR OTHERS. Persons performing under contract, either as prime or subcontractors, the necessary labor or mechanical services for others who are engaged in the business as extractors, are taxable under the Extracting for Hire classification of the business and occupation tax upon their gross income from such service. If the contract includes the hauling of the products extracted over public or private roads, such persons are also taxable under the Motor Transportation classification of the public utility tax upon that portion of their gross income properly attributable to such hauling. (See WAC 458-20-180.)

RETAIL SALES TAX

The retail sales tax applies upon all sales of extracted products made at retail by the extractor thereof, except as provided by WAC 458-20-244 (Rule 244), food products.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-135, filed 6/27/78; Order ET 70-3, § 458-20-135, filed 5/29/70, effective 7/1/70.]

WAC 458-20-136 (Rule 136) Manufacturing, processing for hire, fabricating.

DEFINITIONS

"The term 'to manufacture' embraces all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful substance or article of tangible personal property is produced for sale or commercial or industrial use, and shall include the production or fabrication of special made or custom made articles." (RCW 82.04.120.) It means the business of producing articles for sale, or for commercial or industrial use from raw materials or prepared materials by giving these matters new forms, qualities, properties, or combinations. It includes such activities as making, fabricating, processing, refining, mixing, slaughtering, packing, curing, aging, canning, etc. It includes also the preparing, packaging and freezing of fresh fruits, vegetables, fish, meats and other food products, the making of custom made suits, dresses, and coats, and also awnings, blinds, boats, curtains, draperies, rugs, and tanks, and other articles constructed or made to order. It also includes the generation or production of electrical energy for resale or consumption outside the state.

The word "manufacturer" means every person who, from his own materials or ingredients manufactures for sale, or for commercial or industrial use any articles, substance or commodity either:

1. Directly, or

2. By contracting with others for the necessary labor or mechanical services.

However, a nonresident of the state of Washington who owns materials process for hire in this state is not deemed to be a manufacturer because of such processing. Further, any owner of materials from which a nuclear fuel assembly is fabricated in this state by a processor for hire is also not deemed to be a manufacturer because of such processing.

The term "to manufacture" does not include activities which are merely incidental to nonmanufacturing activities. Thus, the following do not constitute manufacturing: Washing and screening of coal, or the bucking and yarding of logs, by the extractors thereof; pasteurizing and bottling of milk by a dairy; cooking and serving of food by a restaurant; the mere cleaning and freezing of whole fish; repairing and reconditioning of tangible personal property for others, etc. Likewise, neither an artist, a portrait photographer, nor a prescription pharmacist is a manufacturer.

The term "processing for hire" means the performance of labor and mechanical services upon materials belonging to others so that as a result a new, different or useful article of tangible personal property is produced. Thus, a processor for hire is any person who would be a manufacturer if he were performing the labor and mechanical services upon his own materials.

BUSINESS AND OCCUPATION TAX

MANUFACTURING—LOCAL SALES. Persons who manufacture products in this state and sell the same at retail in this state are subject to the business and occupation tax under the classification Retailing and those who sell such products at wholesale in this state are taxable under the classification Wholesaling–All Others. Persons taxable under the classification Retailing and Wholesaling–All Others are not taxable under the classification Manufacturing with respect to the manufacturing of products so sold within this state.

MANUFACTURING—INTERSTATE OR FOREIGN SALES. Persons who manufacture products in this state and sell the same in interstate or foreign commerce are taxable under the classification Manufacturing upon the value of the products so sold, and are not taxable under Retailing or Wholesaling–All Others in respect to such sales. (See also WAC 458–20–193.) The generation or production of electrical energy for resale or consumption outside the state is subject to tax under the Manufacturing classification.

MANUFACTURING—SPECIAL CLASSIFICATIONS. The law provides several special classifications and rates for activities which constitute "manufacturing" as defined in this rule. These include manufacturing wheat into flour (RCW 82.04.260(2)); splitting or processing dried peas (RCW 82.04.260(3)); manufacturing seafood products which remain in a raw, raw frozen, or raw salted state (RCW 82.04.260(4)); manufacturing by canning, preserving, freezing or dehydrating fresh fruits and vegetables (RCW 82.04.260(5)); manufacturing aluminum pig, ingot, billet, plate, sheet (flat or coiled), rod, bar, wire, cable or extrusions (RCW 82.04.260(6)); and manufacturing nuclear fuel assemblies (RCW 82.04.260(10)[)]. In all such cases the principles set forth in the preceding paragraphs headed Manufacturing—Local Sales and Manufacturing—Interstate or Foreign Sales will be applicable. Local sales will be subject to the business and occupation tax only under the classifications Retailing or Wholesaling–All Others at the applicable rates for those classifications, while interstate or foreign sales will be taxable only under the classifications Manufacturing Wheat Into Flour, Splitting or Processing Dried Peas, Manufacturing Raw Seafood Products, Manufacturing Fresh Fruits and Vegetables, Manufacturing Aluminum, and manufacturing nuclear fuel assemblies, as the case may be. Local sales (at either retail or wholesale) of nuclear fuel assemblies by the manufacturer thereof are subject to business and occupation tax imposed at the rate .0025.

The special classification and rate for slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale (RCW 82.04.260(8)) combines manufacturing and nonmanufacturing activities. As to those activities which constitute "manufacturing" as defined in this rule, the statutory classification and rate are applicable to both local and interstate or foreign sales. As to those activities which involve the mere selling of perishable meat products not manufactured by the vendor, the statutory classification and rate are applicable to local sales only, and interstate or foreign sales are deductible from gross proceeds of sales.

MANUFACTURING FOR COMMERCIAL USE. Persons who manufacture products in this state for commercial or industrial use are taxable under the classification Manufacturing on the value of the products used. (See WAC 458–20–134 for definition of commercial or industrial use.)

PROCESSING FOR HIRE. Persons processing for hire for consumers or for persons other than consumers are taxable under the Processing for Hire classification upon the total charge made therefor.

MATERIALS FURNISHED IN PART BY CUSTOMER. In some instances, the person furnishing the labor and mechanical services undertakes to produce a new article, substance, or commodity from materials or ingredients furnished in part by him and in part by the customer. In such instances, tax liability is as follows:

1. The person furnishing the labor and mechanical services will be presumed to be the manufacturer if the value of the materials or ingredients furnished by him is equal to or exceeds 20% of the total value of all materials or ingredients which become a part of the finished product.

2. If the person furnishing the labor and mechanical services furnishes materials constituting less than 20% of the value of all of the materials which become a part of the finished product, such person will be presumed to be processing for hire. The person for whom the work is performed is the manufacturer in that situation, and will be taxable as such.

In cases where the person furnishing the labor and mechanical services supplies, sells, or furnishes to the customer, or purchases for the account of the customer, before processing, 20% or more in value of the materials from which the finished product is made, the person furnishing the labor and mechanical services will be deemed to be the owner of the materials and taxable as a manufacturer.

RETAIL SALES TAX

Persons taxable as engaging in the business of manufacturing and selling at retail any of the products manufactured and persons manufacturing, fabricating, or processing for hire tangible personal property for consumers shall collect the retail sales tax upon the total charge made to their customers.

Sales to processors for hire and to manufacturers of articles of tangible personal property which do not become an ingredient or component part of a new article produced, or are not chemicals used in processing the same, are retail sales, and the retail sales tax must be collected thereon.

USE TAX

Manufacturers are taxable under the use tax upon the use of articles manufactured by them for their own use in this state.

See WAC 458–20–244 (Rule 244) for sales and use tax on food products.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-136, filed 6/27/78; Order ET 71-1, § 458-20-136, filed 7/22/71; Order ET 70-3, § 458-20-136, filed 5/29/70, effective 7/1/70.]

WAC 458-20-137 (Rule 137) Articles manufactured and installed. Persons engaged in the business of manufacturing in this state boilers, cabinets and mill work, cement blocks and pipes, conduits, heating equipment, lighting fixtures, sheet metal articles, venetian blinds, window drapes and shades, or other articles, and who also install such articles after manufacture, are taxable as follows:

BUSINESS AND OCCUPATION TAX

Taxable under the Retailing classification in respect to the total charge for selling and installing when for consumers.

Taxable under the Wholesaling classification in respect to the total charge for selling and installing when for persons other than consumers.

Persons who manufacture articles in this state and install the same for customers in other states are taxable under the Manufacturing classification on the value (at the place of manufacture) of the article so installed.

Persons who manufacture articles outside this state and install the same for consumers in this state are taxable under the Retailing classification upon the total charge made therefor, irrespective of whether or not a segregation is made between the charge for the article manufactured and the charge for installing the same.

RETAIL SALES TAX

The retail sales tax applies upon both the sale and installation of such articles when made to or for consumers.

It is immaterial whether such articles remain personal property after installation or whether the same become a part of real property. In either event, the retail sales tax applies.

Revised August 1, 1950. [Order ET 70-3, § 458-20-137, filed 5/29/70, effective 7/1/70.]

WAC 458-20-138 (Rule 138) Personal services rendered to others. The term "personal services," as used herein, refers generally to the activity of rendering services as distinct from making sales of tangible personal property or of services which have been defined in the law as "sales" or "sales at retail." (See RCW 82.04.040 and 82.04.050.)

The following are illustrative of persons performing personal services which are within the scope of this rule: attorneys, doctors, dentists, architects, engineers, public accountants, public stenographers, barbers, beauty shop operators. (See also WAC 458-20-224.)

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of rendering personal services to others are taxable under the Service and Other Activities classification upon the gross income of such business.

There must be included within gross amounts reported for tax all fees for services rendered and all charges recovered for expenses incurred in connection therewith, such as transportation costs, hotel, restaurant, telephone and telegraph charges, etc.

RETAIL SALES TAX

The retail sales tax does not apply to the amount charged or received for the rendition of personal services to others, even though some tangible personal property in the form of materials and supplies is furnished or used in connection with such services.

Persons performing such services are consumers of all materials and supplies used in connection therewith and must pay the retail sales tax upon the purchase of such material and supplies.

If persons engaged in a personal service business sell articles of tangible personal property apart from the rendition of personal services, the retail sales tax must be collected upon the sale of such articles.

Revised June 1, 1970. [Order ET 70-3, § 458-20-138, filed 5/29/70, effective 7/1/70.]

WAC 458-20-139 (Rule 139) Trade shops--Printing plate makers, typesetters, and trade binderies. (Note: This rule covers all the material previously included in WAC 458-20-139 and 458-20-146.)

The term "printing plate makers" includes, among others, photoengravers, electrotypers, stereotypers, and lithographic plate makers.

BUSINESS AND OCCUPATION TAX

Printing plate makers, typesetters and trade binderies (referred to in the trade as "trade shops") are primarily engaged in the business of altering or improving tangible personal property owned by them for sale or altering or improving tangible personal property owned by their customers. In either case the gross proceeds (including the value of any property exchanged by the customer in kind) from sales of, or services rendered to, plates, mats, engravings, type, etc., which are delivered in this state are taxable under Retailing if the sale is to a "consumer" or Wholesaling-All Others if the sale is to one who will resell the property in the regular course of business without intervening "use." (See WAC 458-20-102). Neither of these classifications is applicable however, if the article sold is delivered to an out-of-state customer at an out-of-state point or if an article is produced for commercial or industrial use (See WAC 458-20-134). In these cases tax is due under the Manufacturing classification on the "value of products."

RETAIL SALES TAX

Sales to the printing industry and others of tangible personal property, or of services of altering or improving tangible personal property, by printing plate makers,

typesetters, and trade binderies are sales at retail and subject to the retail sales tax unless the purchaser resells the article in the regular course of business without any intervening "use." For example, a trade shop must collect and account for the retail sales tax where a printing plate is sold to a printer who uses the plate to produce copy for a customer, even though he subsequently sells and delivers both the plate and the copy to the customer. In this situation the printer has made "intervening use" of the plate as a printing tool and is a "consumer" liable for payment of the retail sales tax to the trade shop.

Sales of plates, engravings, etc., to advertising agencies are retail sales and subject to the retail sales tax.

Sales by supply houses to trade shops of metal or other materials becoming a component part of an article produced for sale are not subject to the retail sales tax. As evidence of this, trade shops are required to furnish their vendors resale certificates in the usual form. On the other hand, sales to trade shops of items for use such as machinery, equipment, tools, and other articles or materials, including chemicals which are used in the production of plates, mats, engravings, type, etc., are retail sales subject to the retail sales tax.

Revised June 1, 1970. [Order ET 70-3, § 458-20-139, filed 5/29/70, effective 7/1/70.]

WAC 458-20-140 (Rule 140) Photofinishers and photographers.

BUSINESS AND OCCUPATION TAX

RETAILING. The gross proceeds of all sales taxable under the retail sales tax are taxable under the Retailing classification.

WHOLESALING. Taxable under the Wholesaling classification upon the gross proceeds from sales for resale.

SERVICE. Taxable under the Service and Other Activities classification upon gross income from sales to publishers of newspapers, magazines and other publications of the right to publish photographs.

RETAIL SALES TAX

PHOTOFINISHERS. Photofinishers developing films and selling to consumers the prints made therefrom are making taxable retail sales, and the retail sales tax must be collected upon the full charge made to the customer. Photofinishers developing films and selling to other than consumers the prints made therefrom are sales for resale and not subject to the retail sales tax.

Sales by supply houses to photofinishers of paper upon which prints are made and of chemicals which are to be used in making the prints are sales for resale and are not taxable under the retail sales tax. Sales by supply houses to photofinishers of equipment and materials which do not become a component part of the prints are taxable under the retail sales tax.

PORTRAIT AND COMMERCIAL PHOTOGRAPHERS. Photographers who make negatives on special order and sell photographs to customers (other than dealers for resale) must collect the retail sales tax upon such sales.

Sales by supply houses to a portrait or commercial photographer of the paper upon which such photographs are printed are not taxable because such material becomes an ingredient of the final product sold for consumption. Sales of chemicals, such as developing agents, fixing solutions, etc., for use in such process are also nontaxable. However, sales to a photographer of materials and equipment used in processing, whenever such materials do not become a component part of the final photograph or are not chemicals used in processing are taxable under the retail sales tax.

Sales to consumers by photographers of pictures, frames, camera films and other articles are subject to the retail sales tax.

Sales by photographers of the right to publish photographs are primarily licenses to use and not sales of tangible personal property. Such sales are not subject to the retail sales tax.

Photographers tinting and coloring pictures or prints belonging to customers are making retail sales upon which the retail sales tax applies to the total charge made therefor. Sales of oil and water colors to a photographer for use in tinting and coloring pictures or prints belonging to a customer are sales for resale and are not subject to the retail sales tax.

Revised March 1, 1954. [Order ET 70-3, § 458-20-140, filed 5/29/70, effective 7/1/70.]

WAC 458-20-141 (Rule 141) Duplicating industry and mailing bureaus. (Note: This rule contains material previously included in WAC 458-20-145 which is not currently incorporated in WAC 458-20-144.)

The phrase "duplicating industry" includes activities involving photostating, blueprinting, xeroxing, and other reproduction processes.

BUSINESS AND OCCUPATION TAX

Duplicators are taxable under the Retailing classification upon the gross proceeds received from sales of photostats, blueprints, copies, etc., to consumers, whether the tangible personal property on which the work is recorded is owned by the duplicator or customer.

The Wholesaling–All Other classification applies to sales for resale in the regular course of the purchaser's business. The duplicator must secure a resale certificate in the usual form.

Neither of these classifications is applicable, however, if the article sold is delivered to an out-of-state customer at an out-of-state point or if an article is produced for commercial or industrial use (See WAC 458-20-134.) In these cases tax is due under the Manufacturing classification on the "value of products."

Mailing bureaus mail material for the publishing industry and also mail folders, bulletins, form letters, advertising publications, flyers, and similar material for other customers. As part of these services, the bureaus also label, fold, enclose and seal. All of these activities come within the definition of "sale at retail" (RCW 82-.04.050) as constituting "labor and services rendered in respect to . . . the . . . altering, imprinting or improving of tangible personal property of or for consumers."

The gross proceeds received by mailing bureaus from charges made to consumers, whether such charges are itemized or lump sum, are taxable under the Retailing classification. The gross proceeds are taxable under the Wholesaling–All Other classification where charges (lump sum or itemized) are for tangible personal property resold as such the purchaser or for services rendered to tangible personal property which becomes a component of an article for resale in the regular course of the purchaser's business. In either case mailing bureaus must secure resale certificates in the usual form.

Where a mailing bureau purchases stamps, government postals or stamped envelopes and the customer is charged therefor, the amount of the postage may be deducted from the measure of the business and occupation tax.

RETAIL SALES TAX

Sales by duplicators and mailing bureaus of tangible personal property (for example, photostats, blueprints, copies, mailing lists, "Dick" strips, etc.) and/or services rendered to tangible personal property of or for consumers are subject to the retail sales tax. Examples of persons purchasing as "consumers" are, among others, architects, engineers, and advertising agencies.

Where a mailing bureau purchases stamps, government postals or stamped envelopes and the customer is charged therefor, the amount of the postage may be deducted from the measure of the retail sales tax due.

Vendors selling tangible personal property to duplicators and mailing bureaus which will be resold, without any intervening use, are not required to collect the retail sales tax upon taking a resale certificate in the usual form.

On the other hand, vendors selling to duplicators and mailing bureaus, equipment, supplies or materials which do not become a component part of an article produced for sale, or selling items which are subjected to intervening use before resale, are making retail sales and must collect the retail sales tax.

Revised June 1, 1970. [Order ET 70–3, § 458–20–141, filed 5/29/70, effective 7/1/70.]

WAC 458–20–142 (Rule 142) Photographic equipment and supplies. Sales of tangible personal property by a photographic supply house to persons who purchase such property for personal consumption or use are subject to the retail sales tax. Illustrative of such sales are the following:

Photographic films, paper, chemicals, frames, repair parts for cameras and other equipment sold to customers for personal use.

X–ray materials and equipment sold to doctors, dentists, hospitals, dental and X–ray laboratories.

Equipment sold to photofinishers, portrait and commercial photographers and photoengravers such as cameras, lenses, backgrounds, graduates, trays, utensils, lamps, retouching dope, leads, pencils and sundry materials which do not become an ingredient or component part of the pictures produced for sale.

Photographic films, chemicals and equipment sold to a newspaper publisher.

Photographic films sold to portrait and commercial photographers for use in their business, since in such business negatives ordinarily remain the property of the photographer.

Sales of tangible personal property by a photographic supply house to persons who resell such property in the regular course of business or consume the same in producing for sale a new article of which such property is an ingredient or component, or a chemical used in processing the same, are not subject to the retail sales tax. Illustrative of such sales are the following:

Photographic films, photo mailers, cameras, art–corners, etc., sold to a dealer or photographer for the purpose of resale;

Photographic paper, mounts, frames, adhesives, card board, oil and water colors, India ink sold to a photofinisher, portrait or commercial photographer or photoengraver to be used in producing photographic prints for sale.

Envelopes, paper and twine sold to a photographer or photofinisher for use in delivering photographic prints sold.

Chemicals, such as developing agents, fixing agents, etc., sold to a photofinisher, portrait or commercial photographer or photoengraver, which chemicals are used in producing pictures for sale.

The retail sales tax applies upon the charge made for repairing cameras and other equipment, the retouching or alteration of photographs or films, when done for consumers.

Revised May 1, 1947. [Order ET 70–3, § 458–20–142, filed 5/29/70, effective 7/1/70.]

WAC 458–20–143 (Rule 143) Publishers of newspapers, magazines, periodicals.

BUSINESS AND OCCUPATION TAX

PRINTING AND PUBLISHING. Publishers of newspapers, magazines and periodicals are taxable under the Printing and Publishing classification upon the gross income derived from the publishing business.

Persons who both print and publish books, music, circulars, etc., or any other item, are likewise taxable under the Printing and Publishing classification. However, persons, other than publishers of newspapers, magazines or periodicals, who publish such things and do not print the same, are taxable under either the Wholesaling or Retailing classification, measured by gross sales, and taxable under the Service classification, measured by the gross income received from advertising.

RETAIL SALES TAX

Sales of newspapers, whether by publishers or others, are specifically exempt from the retail sales tax.

However, sales of magazines, periodicals, racing forms and all publications other than newspapers are subject to the retail sales tax when made to consumers.

"NEWSPAPER" DEFINED. The word "newspaper" means a publication of general circulation bearing a title, issued regularly at stated intervals of at least once every two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include racing forms or other similar publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of publication, where such newspapers are distributed regularly to a paid subscription list.

Sales to newspapers, magazine and periodical publishers of paper and printers ink which become a part of the publications sold, and sales by printers of printed publications to publishers for sale, are sales for resale and are not subject to the retail sales tax.

With respect to community newspapers which are distributed free of charge, where the publisher has a contract with his advertisers to distribute the newspaper to the subscriber in consideration for the payments made by the advertisers, it will be construed that the publisher sells the newspaper to the advertiser, and, therefore, the retail sales tax will not apply with respect to the charge made by the printer to the publisher for printing the newspaper or with respect to the purchase of ink and paper when the publisher prints his own newspaper.

Sales to newspaper, magazine or periodical publishers of equipment and of supplies and materials which do not become a part of the finished publication which is sold are subject to the retail sales tax. This includes, among others, sales of engravings, fuel, furniture, lubricants, machinery, photographs, stationery and writing ink. Sales of engravings to publishers are subject to the retail sales tax unless the publisher resells such engravings without intervening use.

Sales to newspaper, magazine or periodical publishers of baseball bats, bicycles, dolls and other articles of tangible personal property which are to be distributed by the publisher as gifts, premiums or prizes are sales for consumption and subject to the retail sales tax.

So-called "sales" by authors and artists to publishers of the right to publish scripts, paintings, illustrations and cartoons are mere licenses to use, not sales of tangible personal property and, therefore, are not subject to the retail sales tax.

USE TAX

Publishers of newspapers, magazines and periodicals are subject to tax upon the value of articles printed or produced for use in conducting such business.

Revised June 1, 1970. [Order ET 70-4, § 458-20-143, filed 6/12/70, effective 7/12/70.]

WAC 458-20-144 (Rule 144) Printing industry. (Note: This rule contains the material previously included in WAC 458-20-145 which is not currently incorporated in WAC 458-20-141.)

DEFINITION

The phrase "printing industry" includes letterpress, offset-lithography, and gravure processes as well as multigraph, mimeograph, autotyping, addressographing and similar activities.

BUSINESS AND OCCUPATION TAX

Printers are subject to the business and occupation tax under the Printing and Publishing classification upon the gross income of the business.

RETAIL SALES TAX

The printing or imprinting of advertising circulars, books, briefs, envelopes, folders, posters, racing forms, tickets, and other printed matter, whether upon special order or upon materials furnished either directly or indirectly by the customer is a retail sale and subject to the retail sales tax, providing the customer either consumes, or distributes such articles free of charge, and does not resell such articles in the regular course of business. The retail sales tax is computed upon the total charge for printing, and the printer may not deduct the cost of labor, author's alterations, or other service charges in performing the printing, even though such charges may be stated or shown separately on invoices.

Where stamped envelopes or government postals are purchased and printed for customers or where stamps are provided, the amount of the postage may be deducted from the total charge to the customer in determining the selling price for business tax and sales tax.

Sales of printed matter to advertising agencies who purchase for their own use or for the use of their clients, and not for resale in the regular course of business, are sales for consumption and subject to the retail sales tax.

Sales of tickets to theater owners, amusement operators, transportation companies and others are sales for consumption and subject to the retail sales tax. Such tickets are not resold by the theater owners or amusement proprietors as tangible personal property but are used merely as a receipt to the patrons for payment and as evidence of the right to admission or transportation.

Sales of school annuals and similar publications by printers to school districts, private schools or student organizations therein are subject to the retail sales tax.

Sales by printers of books, envelopes, folders, posters, racing forms, stationery, tickets and other printed matter to dealers for resale in the regular course of business are wholesale sales and are not subject to the retail sales tax.

Charges made by bookbinders or printers for imprinting, binding or rebinding of materials for consumers are subject to the retail sales tax.

Sales to printers of equipment, supplies and materials which do not become a component part or ingredient of the finished printed matter sold or which are put to "intervening use" before being resold are subject to the retail sales tax. This includes, among others, sales of fuel, furniture, lubricants, machinery, type, lead, slugs and mats.

Sales to printers of paper stock and ink which become a part of the printed matter sold are sales for resale and are not subject to retail sales tax.

COMMISSIONS AND DISCOUNTS. There is a general trade practice in the printing industry of making allowances to advertising agencies of a certain percentage of the gross charge made for printed matter ordered by the agency either in its own name or in the name of the advertiser. This allowance may be a "commission" or may be a "discount."

A "commission" paid by a seller constitutes an expense of doing business and is not deductible from the measure of tax under either business and occupation tax or retail sales tax. On the other hand, a "discount" is a deduction from an established selling price allowed to buyers, and a bona fide discount is deductible under both these classifications.

In order that there may be a definite understanding, printers, advertising agencies and advertisers are advised that tax liability in such cases is as follows:

1. The allowance taken by an advertising agency will be deductible as a discount in the computation of the printer's liability only in the event that the printer bills the charge on a net basis; i.e., less the discount.

2. Where the printer bills the gross charge to the agency, and the advertiser pays the sales tax measured by the gross charge, no deduction will be allowed, irrespective of the fact that in payment of the account the printer actually receives from the agency the net amount only; i.e., the gross billing, less the commission retained by the agency. In all cases the commission received is taxable to the agency.

Revised June 1, 1970. [Order ET 70-4, § 458-20-144, filed 6/12/70, effective 7/12/70.]

WAC 458-20-145 (Rule 145) Local sales and use tax. Effective April 1, 1970, a .5% (1/2%) sales and use tax was imposed in several counties and cities. Effective January 1, 1973, a .3% sales and use tax ("Metro"), as authorized in the Revenue Act, was adopted in King County for purpose of financing public transportation. A new section, effective May 5, 1974 amended chapter 82-.14 RCW to allow all Washington counties to elect to impose a .3% sales and use tax for public transportation financing. Wherever adopted, these taxes are to be collected along with the state tax of 4.5%, making a total combined tax of either 5% or, in the case of King County and any other eligible county, 5.3%.

As used herein the terms "local tax" shall include either or both the .5% and .3% sales and/or use taxes. The rule and examples in this administrative rule apply equally to all locally imposed sales and use taxes since the statutory provisions of RCW 82.14.020 apply to both the .5% and .3% rate taxes.

The total tax is to be reported and paid to the state. The local tax portion will be rebated to local governments according to information which retailers show on tax returns. If a business is such that a local tax will be collected for more than one taxing jurisdiction, it is necessary to keep a record of retail sales taxable to each such county or city. Vendors are responsible for determining the appropriate tax rate for each locality in which sales are made and for collecting from their purchasers the correct amount of tax due upon each sale.

"Place of sale" for purposes of local sales tax:

RULE I. Retailers of goods and merchandise: The sale occurs at the retail outlet at which or from which delivery is made to the consumer.

RULE II. Retailers of labor and services (e.g., construction contractors, repairmen, painters, plumbers, laundries, earth movers, fumigators, house wreckers or movers, tow truck operators, hotels, motels, tourist courts, trailer camps, amusement and recreation businesses listed in Rule 183 [WAC 458-20-183]; abstract, title insurance, escrow, credit bureau, auto parking, and storage garage businesses): The retail sales occurs where the labor and services are primarily performed.

RULE III. Retailers leasing or renting tangible personal property: The sale occurs at the place of first use by the lessee or renter. For practical purposes the place of business of the lessor will be deemed the place of first use for ordinary, short term rentals. If the rental or lease calls for periodic rental payments, then the place of sale is the primary place of use by the lessee or renter for each period covered by each payment.

"Place of use" for purposes of the use tax:

RULE IV. Whenever the state use tax is due, the local use tax will also apply where the property is first used in a county or city levying the local tax.

The following illustrates the application of these rules in various situations:

RULE I.

A. This rule applies to retail sales consisting solely of tangible personal property (i.e., goods or merchandise). If retail labor and services are also involved Rule II applies to the entire sale. Secondly, the total tax is determined by the place at which or from which delivery is made. For most retailers the location of his place of business governs the local tax application. He collects the tax if his place of business is in a jurisdiction levying the local tax, even though he may deliver the goods sold to his customer to a location in the state not levying the tax. On the other hand a merchant whose place of business is in a jurisdiction not levying the local tax collects only the 4.5% state tax, irrespective of whether delivery is made into a jurisdiction levying the local tax.

To sum up this part of the rule: the origin of the goods determines the local tax and destination or fact of delivery elsewhere in the state are immaterial.

B. Special applications of the rules for goods located outside the state:

1. When the state business and occupation tax applies to a sale in which the goods are delivered into Washington from a point outside the state this means a local in-state facility, office, outlet, agent or other representative even though not formally characterized as a "salesman" of the seller participated in the transaction in some way, such as by taking the order, then the location of the local facility, etc., will determine the place of sale for purposes of the local sales tax. However, if the seller, his agent or representative maintains no local in-state facility, office, outlet or residence from which business in some manner is conducted, the local tax shall be determined by the location of the customer.

2. If the state business and occupation tax does not apply because there was no in–state activity in connection with the sale (e.g., an order was sent by a Washington consumer directly to a seller's out–of–state branch) the state tax due is use tax and the destination–address of the consumer–determines the applicable local use tax.

Rule I Examples:

1. A resident of Everett purchases a sofa from a furniture dealer in Seattle. The dealer delivers the sofa to the customer's home in Everett. The Seattle local sales tax applies, being the place from which the goods were delivered.

2. A resident of Olympia purchases a refrigerator from a merchant in Tekoa. If Tekoa has not levied the local sales tax, the merchant will collect only the state 4.5% sales tax. Olympia's .5% use tax is not due even though the property will be used there. Reason: The law makes the local tax collectible at time of the taxable event for the state tax.

RULE II.

This rule applies to retail sales of labor or services and also applies to sales of tangible personal property when labor and services are rendered in conjunction therewith. The local tax is governed by the place where the labor and services are primarily performed.

A. Retailers who primarily render their services at their place of business will collect the local sales tax if they are located in a jurisdiction which levies the tax. Examples of retailers normally falling in this class: auto repair shops, hotels, motels, amusement or recreation businesses, title insurance, credit bureau, escrow businesses, auto parking, storage garages, laundries.

B. Retailers primarily performing their services at the location of their customers will collect the local sales tax for the jurisdiction in which the customer is located. Examples of this class of retailers are: construction contractors, painters, plumbers, carpet layers (retailers who install what they sell, as carpet layers often do, fall under Rule II–place where work is done governs the local tax to be applied–if the installation would normally call for an extra charge) earthmovers, house–wreckers.

Examples:

1. A dealer sells a TV set, delivers it and puts it in working order in his customer's home. This falls under Rule I, not Rule II, because there is normally no extra charge for "installing" a TV set.

2. A hardware store sells yard fencing at $5.00 per running foot including installation. This falls under Rule II because fence installation normally would involve an extra charge.

3. A home furnishings dealer sells carpeting at $12.00 per yard and agrees to install it for $2.00 per yard additional. The entire transaction falls under Rule II and the $14.00 per yard will be subject to the local tax levied by the jurisdiction in which the customer resides. Rule I is limited to retail transactions consisting SOLELY of sales of goods or merchandise.

C. The primary place of performance for retailers whose services consist largely of moving or transporting is deemed to be the destination (place where the service is completed). Typical of this class are: tow truck operators and house movers.

Examples:

1. A towing service is called to pick up a stalled vehicle just outside the city of Reardan and deliver the vehicle to an automotive repair shop in Spokane. Spokane's local tax applies.

2. A housemover is hired to move a home from inside the Olympia city limits to a location 4 miles out of town in Thurston County. The housemover will collect only the state 4.5% tax if Thurston County, the destination, does not levy the local tax.

RULE III.

This covers rentals or leases and has two parts, and it is important to distinguish "periodic rentals" from other rentals to know which part of the rule applies.

DEFINITION. A periodic rental (or lease) is one in which the lessee or renter has contracted to make regular rental payments at specified intervals. These are normally longer term rentals calling for a rental payment monthly on or before a certain date.

A. The place of sale for the ordinary, nonperiodic rental is the place of first use (the place where the lessee normally takes possession). In the interest of uniformity and simplicity this will be presumed to be the place of business of the lessor.

B. The place of sale for the periodic rental is the primary place of use during each period covered by each periodic payment.

1. In the case of business lessees this will be presumed to be the place of business of the lessee. Where the lessee has several places of business, the place of primary use will be deemed to be the place to which assigned or regularly returned.

2. In the case of rentals to private individuals the place of use will be presumed to be the residence of the lessee or renter.

Examples:

1. Acme Rent–all Co., located in Walla Walla, rents small tools, garden equipment, scaffolding, and many other kinds of tangible personal property. It charges $2.00 per day for rental of a roto–tiller. This is not a periodic rental because the lessee merely makes a deposit and pays the full balance of the rent due upon returning the equipment. The lessor will collect the Walla Walla tax on all such rentals, irrespective of where the lessee lives or where the property will be used.

2. An automobile dealer in Tacoma leases an automobile to a Seattle resident. The agreement calls for $50.00 per month rental, payable by the 10th of each month. This is a periodic rental, so the place of primary use by the lessee governs collection of the local tax. The Tacoma dealer will collect the Seattle local tax.

RULE IV.

This rule applies only to transactions which are not subject to sales tax under Rule I, and intends that the local use tax shall be payable at the time and place the state use tax is due.

Examples:

1. A Spokane resident purchases an automobile from a private individual in Seattle. He transfers title at the King County auditor's office and makes payment of the state use tax. The King County auditor will collect Spokane's local use tax at the same time.

2. A Sumner resident places an order with a catalog mail order outlet in Tacoma. The Tacoma local sales tax is due since the transaction falls under Rule I, not Rule IV.

3. Same as example 2 except the Sumner resident sends a catalog mail order directly to the Portland warehouse rather than going through the Tacoma catalog store. The vendor will collect Sumner's local use tax along with the state use tax.

The above explanation is intended to cover only the most frequently encountered situations. For more intricate or complicated transactions, call the nearest district office of the Department of Revenue for assistance.

Revised [Order ET 75-1, § 458-20-145, filed 5/2/75; Order ET 70-3, § 458-20-145, filed 5/29/70, effective 7/1/70.]

WAC 458-20-146 (Rule 146) National and state banks, mutual savings banks, savings and loan associations and other financial institutions.

BUSINESS AND OCCUPATION TAX

Effective March 1, 1970, the legislature repealed RCW 82.04.400 which exempted from the business and occupation tax the gross income of national banks, states banks, mutual savings banks, savings and loan associations and certain other financial institutions. Accordingly, the gross income or gross sales of such institutions will become subject to the business and occupation tax according to the following general principles.

SERVICES AND OTHER ACTIVITIES. Generally, the gross income from engaging in financial businesses is subject to the business and occupation tax under the classification Service and Other Activities. Following are examples of the types of income taxable under this classification: Interest earned (including interest on loans made to nonresidents unless the financial institution has a business location in the state of the borrower's residence which rendered the banking service), commissions earned, dividends earned, fees and carrying charges, charges for bookkeeping or data processing, safety deposit box rentals.

The term "gross income" is defined in the law as follows:

"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.

The law allows certain deductions from gross income to arrive at the taxable amount (the amount upon which the business and occupation tax is computed). Deductible gross income should be included in the gross amount shown in Column 2 of Form 2406, Excise Tax Return, should then be shown as a deduction in Column 3, and explained on the deduction schedules provided on the reverse side of the form. The deductions generally applicable to financial businesses include the following:

1. Dividends received by a parent from its subsidiary corporations (RCW 82.04.430(1)).

2. Interest received on investments or loans primarily secured by first mortgages or trust deeds on nontransient residential properties. (See WAC 458-20-166 for definition of "transient.") (RCW 82.04.430(10)).

3. Interest received on obligations of the State of Washington, its political subdivisions, and municipal corporations organized pursuant to the laws thereof. (RCW 82.04.430(11)). 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 sales or rentals of real estate (RCW 82.04.390). These amounts may be entirely excluded from the gross income reported and need not be shown on the return as a deduction.

RETAILING. Sales of tangible personal property and certain services are defined as "retail sales" and are subject to the business and occupation tax under the classification Retailing. Such sales are also subject to the retail sales tax which the seller must collect and remit to the Department of Revenue. Transactions taxable as sales at retail are not subject to tax under Service and Other Activities.

Following are examples of transactions subject to the Retailing classification of the business and occupation tax and to the retail sales tax: Sales of meals or confections, sales of repossessed merchandise, sales of promotional material, leases of tangible personal property, sales of check registers, coin banks, personalized checks. (Note: When the financial institution is not the seller of these items but simply takes orders as agent for the supplier, the supplier is responsible for reporting as the retail seller. The financial institution has liability for reporting the retail sales tax on sales made as an agent only if the supplier is an out-of-state firm not registered with the Department of Revenue), escrow fees, casual sales (occasional sales of depreciated assets such as used furniture and office equipment——subject to retail sales tax but deductible from the business and occupation tax; see WAC 458-20-106.)

RESALE CERTIFICATES. When a financial institution buys tangible personal property for resale to its customers without intervening use, the sales tax is not applicable. In this case the financial institution should give the vendor a resale certificate containing the number of its certificate of registration and its statement that the articles purchased are for resale in the course of

its business activities. Resale certificates can be given in blanket form covering all future purchases. (See also WAC 458-20-102.)

USE TAX

The use tax complements the retail sales tax by imposing a tax of like amount on the use of tangible personal property purchased or acquired without payment of the retail sales tax. Thus, when office equipment or supplies are purchased or leased from an unregistered out-of-state vendor who does not collect the Washington state retail sales tax, the use tax must be paid directly to the Department of Revenue. Space for the reporting of this tax will be found on Form 2406, Excise Tax Return. (For more information, see WAC 458-20-178.)

WHEN TAX LIABILITY ARISES. Tax should be reported during the reporting period in which the financial institution receives, becomes legally entitled to receive, or in accord with the system of accounting regularly employed enters the consideration as a charge against the client, purchaser or borrower. Financial institutions may prepare returns to the Department of Revenue reporting income in periods which correspond to accounting methods employed by each institution for its normal accounting purposes in reporting to its supervisory authority.

REPORTING PROCEDURES. Financial institutions subject to the business and occupation tax, retail sales tax, or use tax must secure a certificate of registration from the Department of Revenue and pay a registration fee of $1.00. Form 2401, Application for Certificate of Registration, is available at all district offices of the Department of Revenue or may be obtained by writing directly to the Department of Revenue, Olympia, Washington, 98504.

Reporting periods will be assigned by the department on the basis of total tax liability incurred. Most financial institutions will be required to report on a monthly basis, although some smaller institutions may qualify for quarterly reporting. Forms for reporting will be mailed shortly before the close of each reporting period and will be due and payable on or before the 15th day of the month following. No penalties will be charged if the return is postmarked on or before the last day of the month in which the due date falls.

Effective March 1, 1970. [Order ET 70-3, § 458-20-146, filed 5/29/70, effective 7/1/70.]

WAC 458-20-147 (Rule 147) Public stenographers.

PUBLIC STENOGRAPHERS
BUSINESS AND OCCUPATION TAX

SERVICE AND OTHER BUSINESS ACTIVITIES. Public stenographers are taxable under the Service and Other Business Activities classification upon the gross income derived from the business of writing letters, corresponding or typing on a per hour or per page basis. (As to tax liability of public stenographers with respect to the business of mimeographing or other types of duplicating, other than typewriting, see WAC 458-20-141 and 458-20-144.)

RETAIL SALES TAX

The retail sales tax does not apply upon the charge made for typing letters, briefs, legal documents, etc.

Sales to public stenographers of letterheads, envelopes, carbon paper and other items of tangible personal property for use in the rendition of services are sales for consumption and subject to the retail sales tax. [Order ET 73-1, § 458-20-147, filed 11/2/73; Order ET 70-3, § 458-20-147, filed 5/29/70, effective 7/1/70.]

WAC 458-20-148 (Rule 148) Barber and beauty shops.

BUSINESS AND OCCUPATION TAX

Barber and beauty shops are subject to the business and occupation tax as follows:

RETAILING. Taxable under the Retailing classification upon the gross proceeds of sales of shoe shines and of packaged cosmetics, etc., sold apart from the rendition of personal services.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges for the rendition of personal services, such as hair cutting, shaving, shampooing, tinting, bleaching, setting and the like.

RETAIL SALES TAX

Barber and beauty shops primarily render personal services as to hair cutting, shaving, shampooing, tinting, bleaching, setting and the like and, therefore are not required to collect the retail sales tax from the customers paying for such services. Sales by supply houses to barber and beauty shops of such articles of equipment as clippers, razors, barber chairs, hair waving machines, etc., and of such supplies as soaps, hair tonics, lotions, cosmetics, dyes, etc., which are used incidentally in the rendering of such personal services are taxable retail sales upon which the retail sales tax must be collected.

Sales by barber and beauty shops of packaged cosmetics, hair tonics, lotions and like articles are taxable retail sales when sold apart from the rendition of personal services and are subject to the retail sales tax. Sales of such articles by supply houses to barber and beauty shops are sales for resale and are not taxable under the retail sales tax.

Barber shops operating shoe shine stands are required to collect the retail sales tax upon the charges made for shoe shines rendered to customers. Sales by supply houses of shoe polish, dyes, cleaners, etc., which are resold in rendering a shoe shine service are sales for resale and not taxable under the retail sales tax. However, sales to shoe shine stands of brushes, chairs and other equipment which are not resold in rendering such services are taxable retail sales and the retail sales tax must be collected thereon.

Revised June 1, 1970. [Order ET 70-3, § 458-20-148, filed 5/29/70, effective 7/1/70.]

WAC 458-20-149 (Rule 149) Jewelry repair shops.

BUSINESS AND OCCUPATION TAX

Jewelry repair shops are subject to the business and occupation tax, as follows:

RETAILING. Taxable under the Retailing classification upon the gross proceeds of sales from cleaning and repair services for consumers and from the sale of watches, clocks, etc.

RETAIL SALES TAX

Jewelry repair shops repairing, cleaning, etc., watches, clocks and jewelry are required to collect the retail sales tax from the customers for such services. Sales by supply houses to jewelry repair shops of supplies such as springs, crystals, jewel staffs, gold, silver, solder, etc., which become a part of a repaired article are sales for resale upon which the retail sales tax does not apply. Sales by supply houses to jewelry repair shops of machinery and other equipment for use by them, are retail sales and the retail sales tax must be collected thereon.

Revised January 1, 1960. [Order ET 70-3, § 458-20-149, filed 5/29/70, effective 7/1/70.]

WAC 458-20-150 (Rule 150) Optometrists, ophthalmologists, and oculists.

BUSINESS AND OCCUPATION TAX

RETAILING. Taxable under the Retailing classification upon gross proceeds of sales of eye glasses, regular or contact lenses, frames, springs, bows, etc., and upon charges made for repair or replacement thereof. In case a lump sum or single charge is made to a customer or patient for an examination or refraction and the furnishing of glasses, the total charge so made must be included within the gross proceeds of sales.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges made for examinations and refractions when such charges are accounted for and billed separate and apart from the selling price of eye glasses or lenses furnished to the patient.

RETAIL SALES TAX

Eye examinations and refractions are professional services, the charges for which are not subject to the retail sales tax if billed to a customer or patient separately from the selling price of the glasses.

A deduction is allowed from gross retail sales for sales to patients of prescription lenses by a dispensing optician licensed by chapter 18.34 RCW where such sales are separately stated on invoices and separately accounted for. (See WAC 458-20-188.)

Where examinations, refractions, or prescription lenses are sold together with frames, springs, bows, and similar articles, and single lump sum charge is made therefor, the seller will be liable for retail sales tax on the total charge. However, where separate charges are made on invoices rendered patients for examinations, refractions, or prescription lenses and each such charge is separately accounted for, the retail sales tax will apply only upon the remaining price charged for the frame, spring, bow, etc.

Sales by optical supply houses to optometrists, ophthalmologists and oculists of eye glasses, lenses, frames, springs, bows and other articles which are resold to customers or patients are sales for resale and not subject to the retail sales tax. On the other hand, sales by supply houses of machinery or equipment, and supplies which are incidental to the rendering of a professional service, are taxable retail sales.

Revised June 24, 1974.

Effective July 1, 1974. [Order 74-2, § 458-20-150, filed 6/24/74; Order ET 70-3, § 458-20-150, filed 5/29/70, effective 7/1/70.]

WAC 458-20-151 (Rule 151) Dentists, dental laboratories and physicians.

BUSINESS AND OCCUPATION TAX

Dentists, dental laboratories and physicians are subject to the business and occupation tax as follows:

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from charges for the rendition of professional services.

RETAIL SALES TAX

Dentists, dental laboratories and physicians primarily render professional services and are not required to collect the retail sales tax from clients and others paying for such services. Sales by supply houses to such persons of materials, supplies, and equipment which are used incidentally in the rendering of such professional services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of dental chairs, instruments, X-ray machines, office equipment, stationery, and all materials used in making fillings, inlays, bridge work and false teeth; and sales of supplies, such as dressings, bandages, drugs and similar articles.

Sales of drugs, medicines, and other substances prescribed by dentists and physicians are deductible by the seller from gross retail sales where the written prescription bearing the signature of the issuing medical practitioner and the name of the patient for whom prescribed is retained, and such sales are separately accounted for. See WAC 458-20-188.

Revised June 24, 1974.

Effective July 1, 1974. [Order 74-2, § 458-20-151, filed 6/24/74; Order ET 70-3, § 458-20-151, filed 5/19/70, effective 7/1/70.]

WAC 458-20-152 (Rule 152) Shoe repairmen and shoe shiners.

BUSINESS AND OCCUPATION TAX

Shoe repairmen and shoe shiners are subject to business and occupation tax as follows:

RETAILING. Taxable under Retailing classification upon the gross proceeds of sales from the rendition of services, and from sales of tangible personal property.

RETAIL SALES TAX

Shoe repairmen and shoe shiners engaged in the business of repairing, polishing, dyeing and cleaning shoes are required to collect the retail sales tax upon such services. Sales by supply houses to shoe repairmen and shoe shiners of articles of tangible personal property, such as sole leather, rubber heels, nails, thread, laces, wax, dyes and polish, which are resold in rendering such services are sales for resale upon which the retail sales tax does not apply.

However, sales by supply houses of tools and equipment, such as machinery, hand tools, brushes, stationery, furniture and fixtures, etc., are retail sales and the retail sales tax must be collected thereon.

Revised January 1, 1960. [Order ET 70-3, § 458-20-152, filed 5/29/70, effective 7/1/70.]

WAC 458-20-153 (Rule 153) Funeral directors. Funeral directors commonly quote a lump sum price for a standard funeral service, which includes the furnishing of a casket, professional services, care of remains, funeral coach, floral car and the securing of permits.

BUSINESS AND OCCUPATION TAX

RETAILING. The gross amount subject to the retail sales tax as outlined below, is taxable under the Retailing classification of the business and occupation tax.

SERVICE AND OTHER BUSINESS ACTIVITIES. That portion of the gross income derived from engaging in business as a funeral director which is not taxable under the Retailing classification is taxable as Service and Other Business Activities.

RETAIL SALES TAX

Where the funeral director quotes a lump sum price for a standard funeral service, which includes both the sale of tangible personal property and a charge for the rendering of service, the retail sales tax is collected upon one-half of such lump sum price. Clothing, outside case (a concrete or metal box into which the casket is placed) and other tangible personal property furnished in addition to the casket must be billed separately and the retail sales tax collected thereon.

The retail sales tax is not applicable to sales made to funeral directors of tangible personal property which is resold separate and apart from the rendition of professional services, provided the vendor receives from the funeral director a resale certificate in the usual form. The property so purchased includes the casket, clothing, outside case and acknowledgment cards.

The retail sales tax is applicable to sales to funeral directors of tangible personal property which is consumed in the rendition of professional services. The property so purchased includes all preparation room supplies (embalming fluid and other chemicals, solvents, waxes, cosmetics, eye caps, gauze, cotton, etc.). The sales tax is also applicable to sales to such persons of tools and equipment.

USE TAX

The use tax applies upon the use within this state of all articles of tangible personal property used in the performance of professional services when such articles have been purchased or acquired under conditions whereby the Washington retail sales tax has not been paid.

Revised July 1, 1955. [Order ET 70-3, § 458-20-153, filed 5/29/70, effective 7/1/70.]

WAC 458-20-154 (Rule 154) Cemeteries, crematories, columbaria.

BUSINESS AND OCCUPATION TAX

RETAILING. The gross proceeds derived from the sale of tangible personal property taxable under the retail sales tax are also taxable under the retailing classification.

SERVICE AND OTHER BUSINESS ACTIVITIES. Income derived from rendition of interment services is taxable under the service and other business activities classification. Salesor transfers of plots, crypts, and niches for interment of human remains, irrespective of whether the document of transfer is called a deed or certificate of ownership, are charges for the right of interment, an interest similar to a license to use real estate, and the entire gross income therefrom is taxable under the service and other activities classification without any deduction for amounts set aside to funds for perpetual care.

RETAIL SALES TAX

Cemeteries, crematories and columbaria are subject to the provisions of the retail sales tax with respect to retail sales of boxes, urns, markers, vases, plants, shrubs, flowers, and other tangible personal property.

Revised June 1, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-06-083 (Order 78-3), § 458-20-154, filed 6/1/78; Order ET 70-3, § 458-20-154, filed 5/29/70, effective 7/1/70.]

WAC 458-20-155 (Rule 155) Accounting, data processing or computer services. Persons rendering accounting, data processing or computer services are taxable upon gross income under the Service and Other Business Activities classification.

The gross income of such businesses is the total of all fees received or charges made, including periodic service charges for audits or bookkeeping, without any deduction on account of expenses of any kind (including traveling expenses) or losses. Amounts paid regularly by

clients to such persons are not salaries, but rather are fees for services analogous to retainer fees.

Revised June 1, 1970. [Order ET 70-3, § 458-20-155, filed 5/29/70, effective 7/1/70.]

WAC 458-20-156 (Rule 156) Abstract, title insurance and escrow businesses. The gross receipts of "abstract," "title insurance" and "escrow" businesses include all service charges representing an abstract fee, a charge for a title insurance fee or premium, or an escrow fee or service charge received by "escrow agents."

The term "escrow" means a written instrument which by its terms imports a legal obligation and which is deposited by the grantor, promisor or obligor, or his agent with a stranger or third party to be kept by the depositary until the performance of a condition or the happening of a certain event, and then to be delivered over to the grantee, promisee or obligee. The essential elements are: (1) there must be a valid contract between all parties as to the subject matter of the escrow instrument and the delivery; (2) the delivery of the instrument by the depositary to the grantee or obligee must be conditional upon the performance of some act or the happening of some event; (3) there must be delivery of the instrument to a third party as depositary and such delivery must be actual, whether manual or symbolical so that the depositor has no control over it; (4) although the depositor's right of possession may return if the specified event does not happen or the conditions imposed are not performed, the deposit of such instrument must be in the meantime irrevocable.

BUSINESS AND OCCUPATION TAX

Abstract, title insurance and escrow businesses are taxable under the classification Retailing on gross receipts from fees or premiums charged to consumers for abstract, title insurance or escrow services.

The gross income from collection contracts which do not involve an escrow as above defined is subject to tax under the classification Service and Other Activities.

RETAIL SALES TAX

The retail sales tax must be collected and reported by abstract, title insurance and escrow businesses on fees or premiums charged for such services. The retail sales tax is applicable to sales to such businesses of forms, office supplies and equipment for use in the conduct of such businesses.

Revised June 1, 1970. [Order ET 70-3, § 458-20-156, filed 5/29/70, effective 7/1/70.]

WAC 458-20-157 (Rule 157) Producers of poultry and hatching eggs.

BUSINESS AND OCCUPATION TAX

Persons engaged in the production and sale of hatching eggs or poultry for use in the production for sale of poultry or poultry products are not subject to the business and occupation tax upon the gross proceeds from such sales (RCW 82.04.410). Persons engaged in the production and sale for resale of hatching eggs or poultry are also exempt from the business and occupation tax in respect to such sales (RCW 82.04.330). The business and occupation tax is applicable to all sales of poultry or poultry products by persons other than the producer thereof.

RETAIL SALES TAX

The retail sales tax is not applicable to sales of poultry for use in the production for sale of poultry or poultry products (RCW 82.08.030(16)).

SALES OF EQUIPMENT AND FEED. Sales of incubators, brooders, and other equipment or supplies to hatcheries or producers of poultry or poultry products are sales for use or consumption upon which the retail sales tax must be collected by the seller. Sales of poultry feed for use by the purchaser in producing poultry and poultry products are not subject to the retail sales tax. (See also WAC 458-20-122.)

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-157, filed 6/27/78; Order ET 70-3, § 458-20-157, filed 5/29/70, effective 7/1/70.]

WAC 458-20-158 (Rule 158) Florists and nurserymen. The word "florist" means a person engaged in the business of selling flowers and ornamental trees, shrubs or vines from an established business location, or one who peddles the same.

The word "nurseryman" means a person who grows, propagates or produces for sale upon his own lands or upon land in which he has a present right of possession, any flowers, trees, shrubs or vines.

BUSINESS AND OCCUPATION TAX

RETAILING. Florists and nurserymen are taxable under the Retailing classification upon gross sales made by them to consumers.

WHOLESALING. Florists are taxable under the Wholesaling classification upon gross sales for resale of articles which were not produced by them as nurserymen. Nurserymen are exempt from business tax with respect to sales at wholesale of articles produced by them in this state, but this exemption does not extend to the taking, cultivating, or raising of Christmas trees or timber.

RETAIL SALES TAX

Florists and nurserymen must collect the retail sales tax on sales of cut flowers, bulbs, corsages, bouquets, wreaths, floral designs, displays, potted plants, young trees, shrubs, bushes and other such items of tangible personal property to purchasers for use or consumption. However, sales by nurserymen of fruit and nut trees and berry slips or vines to farmers who use the same for producting [producing] fruit, nuts or berries for sale are wholesale sales and are not subject to the retail sales tax.

TELEGRAPHIC DELIVERY. Where, through the Florist's Telegraphic Delivery Association, one florist takes an order pursuant to which he gives telegraphic

instructions to a second florist for delivery of flowers, the sending florist is a retailer of flowers and must collect the retail sales tax from the customer who placed the order on the basis of the total charge. The receiving florist is selling the flowers which he delivers, to the sending florist for resale and is not required to collect the retail sales tax. Thus:

1. On all orders taken by a Washington florist and telegraphed to a second florist, either in Washington or at a point outside the state of Washington, the florist taking the order will be responsible for the collection of the retail sales tax from the customer placing the order.

2. In cases where a Washington florist receives telegraphic instructions from a second florist located either within or without Washington for the delivery of flowers, the Washington florist receiving the telegraphic instructions is making a sale for resale to the sending florist on which no tax is to be collected.

TELEPHONE AND TELEGRAPH CHARGES. The income derived by a florist from telephone and telegraph charges is construed to be an advance for the customer when such charges are paid by the florist and the amount thereof is billed to the customer as a separate item.

PURCHASE OR SUPPLIES, MATERIALS, EQUIPMENT, ETC. Sales by supply houses to florists and nurserymen of the following articles are sales for resale upon which the retail sales tax should not be collected:

1. Sales of paper boxes, wrapping paper, bags, twine, gummed tape or other containers sold to customers along with the flowers, shrubs, etc., sold and contained therein;

2. Sales of labels, stickers, cards which are permanently affixed to the containers referred to above;

3. Sales of wire, tin foil, ribbon and other items which are attached to or become a component part of, wreaths, floral displays, bouquets or corsages.

Furthermore, sales to nurserymen of seeds, fertilizers and spray materials for use by them in producing for sale flowers, trees, shrubs or vines, are not subject to the retail sales tax. (See WAC 458-20-122.)

However, sales by supply houses to florists and nurserymen of fuel for heating green houses or for other purposes, and sales of equipment and supplies for use or consumption by them are taxable under the retail sales tax.

Revised June 1, 1965. [Order ET 70-3, § 458-20-158, filed 5/29/70, effective 7/1/70.]

WAC 458-20-159 (Rule 159) Consignees, bailees, factors, agents and auctioneers. A consignee, bailee, factor or auctioneer, as used in this ruling, refers to one who has either actual or constructive possession of tangible personal property, the actual ownership of such property being in another, or one calling for bids on such property. The term "constructive possession" means possession of the power to pass title to tangible personal property of others.

BUSINESS AND OCCUPATION TAX

RETAILING AND WHOLESALING. Every consignee, bailee, factor or auctioneer having either actual or constructive possession of tangible personal property, or having possession of the documents of title thereto, with power to sell such tangible personal property in his or its own name and, actually so selling, shall be deemed the seller of such tangible personal property and taxable under the Retailing or Wholesaling classification of the business and occupation tax, depending upon the nature of the transactions. In such case the consignor, bailor, principal or owner shall be deemed a seller of such property to the consignee, bailee, factor or auctioneer and taxable as a wholesaler with respect to such sales.

The mere fact that consignee, bailee or factor makes a sale raises a presumption that such consignee, bailee or factor actually sold in his or its own name. This presumption is controlling unless rebutted by proof satisfactory to the Department of Revenue.

AGENTS AND BROKERS. Any person who claims to be acting merely as agent or broker in promoting sales for a principal or in making purchases for a buyer, will have such claim recognized only when the contract or agreement between such persons clearly establishes the relationship of principal and agent and when the following conditions are complied with:

1. The books and records of the broker or agent show the name of the actual owner of the property for whom the sale was made, or the actual buyer for whom the purchase was made.

2. The books and records show the amount of gross sales, the amount of commissions and any other incidental income derived by the broker or agent from such sales.

SERVICE AND OTHER BUSINESS ACTIVITIES. Every consignee, bailee, factor or auctioneer who makes a sale in the name of the actual owner, or as agent of the actual owner, or who purchases as agent of the actual buyer, is taxable under the Service and Other Business Activities classification upon the gross income derived from such business.

RETAIL SALES TAX

CONSIGNEES, BAILEES, FACTORS OR AUCTIONEERS. Every consignee, bailee, factor or auctioneer authorized, engaged or employed to sell or call for bids on tangible personal property belonging to another, and, so selling or calling, is deemed a seller, and shall collect the retail sales tax upon all retail sales made by him, except sales of certain farm property as hereinafter provided. The tax applies to all such sales even though the sales would have been exempt if made directly by the owner of the property sold.

It shall be the duty of every consignee, bailee, factor or auctioneer to collect and remit the retail sales tax directly to the department with respect to all retail sales made or called by them: *Provided, however,* That if the owner of the property sold is engaged in the business of selling tangible property and the sale by the consignee, bailee, factor or auctioneer has been made in the owner's name and the owner continues to engage in business, the

owner may report and pay the tax collected directly to the department.

If the owner of the property sold discontinues business either before or at the time of the sale, the owner and the consignee, bailee, factor or auctioneer will be held jointly responsible for payment of the tax.

The foregoing does not apply to auction sales made by or through auctioneers of tangible personal property (including household goods) which have been used in conducting a farm activity when the seller thereof is a farmer and the sale is held or conducted upon a farm, since such sales are specifically exempted from the retail sales tax.

Bailees will be relieved from liability for the collection of the sales tax from buyers in those cases where they merely receive a commission on the sale and the entire transaction is closed directly between the owner and the buyer, if such sales are reported to the department by such bailees, within ten days after receipt of the sales commission and such report shows the following:

1. Name and address of seller;
2. Name and address of buyer;
3. Amount for which sold;
4. Approximate date of sale;
5. Description of property sold.

Those failing to submit such report to the department within the time stated will be held responsible for payment of the sales tax to the state.

Note: For tax liability of certain independent selling agents for the collection of the use tax, see WAC 458-20-221.

Revised May 1, 1945. [Order ET 70-3, § 458-20-159, filed 5/29/70, effective 7/1/70.]

WAC 458-20-160 (Rule 160) Agricultural commission agents. Any person whose business consists in selling agricultural products both as a dealer and upon a commission-consignment basis is presumed to be conducting business as a seller of tangible personal property either at wholesale or at retail, unless such person segregates upon his books and records between sales of products purchased and sold as a dealer and those handled strictly upon a commission basis.

BUSINESS AND OCCUPATION TAX

RETAILING. Dealers are taxable under the Retailing classification upon gross proceeds derived from retail sales. Persons selling upon a commission-consignment basis who do not segregate upon their books and records between sales made as a dealer and those handled upon a commission basis are taxable as sellers upon gross proceeds of all sales.

WHOLESALING. Dealers are taxable under the Wholesaling classification upon gross proceeds derived from wholesale sales. Persons selling upon a commission-consignment basis who do not segregate upon their books and records between wholesale sales made as a dealer and those handled on a commission basis are taxable as sellers upon gross proceeds of all sales.

SERVICE AND OTHER BUSINESS ACTIVITIES. A person may be classified as engaging in Service and Other Business Activities with respect to bona fide commission-consignment sales, even though such consigned sales are credited to the "sales" account, providing he has complied with the Commission Merchants' Law of the State of Washington and has prepared and kept the following records supplementary to the regular books of account:

1. Lot sheets, cards or similar subsidiary records upon which consigned sales are regularly recorded;

2. An analysis sheet showing the date, lot number, gross proceeds of sales of consigned goods, remittances to consignor, advances, commissions, other charges and taxable amount with respect to consigned accounts. This sheet shall contain a complete analysis of all consigned sales showing the distribution made from lot sheets, cards or similar subsidiary records. Entries in the consigned sales analysis record shall be made as of the date that final distribution is made on lot sheet, card or similar record;

3. A detailed record of deductions claimed with respect to sales of products purchased. Such records shall show the date of sale, the lot number and the nature of the deductions claimed.

The subsidiary analysis of consigned accounts and record of deductions shall be kept substantially in the following form:

PRINCIPAL ACCOUNTS

Date	Lot Number	Interstate Sales	Other Deductions	Total Deductions

COMMISSION ACCOUNTS

Date	Lot No.	Gross Proceeds of Sales	Remittances	Advances	Commission Charged	Other Charges	Taxable Amount

RETAIL SALES TAX

Persons engaged in the business of selling agricultural products at retail either as dealers or upon a commission-consignment basis are required to collect the retail sales tax upon all retail sales made by them.

Revised May 1, 1939. [Order ET 70-3, § 458-20-160, filed 5/29/70, effective 7/1/70.]

WAC 458-20-161 (Rule 161) Persons buying or producing wheat, oats, dry peas, corn and barley and making sales thereof.

BUSINESS AND OCCUPATION TAX

RETAILING. Taxable under the Retailing classification upon the gross proceeds from all retail sales of such products.

WHOLESALING. Persons buying manufactured or processed products of wheat, oats, dry peas, corn and barley, and selling the same at wholesale, are taxable under the Wholesaling classification upon their gross proceeds of sales. The tax imposed under this classification does not apply to persons producing wheat, oats, dry peas, corn and barley and selling the same at wholesale.

WHEAT, OATS, DRY PEAS, CORN AND BARLEY. Persons buying wheat, oats, dry peas, corn and barley, and selling the same at wholesale as such and not as a manufactured or processed product thereof, are taxable under the Wheat, Oats, Dry Peas, Corn and Barley classification upon their gross proceeds of sales.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-161, filed 6/27/78; Order ET 70-3, § 458-20-161, filed 5/29/70, effective 7/1/70.]

WAC 458-20-162 (Rule 162) Stockbrokers and security houses. With respect to stockbrokers and security houses, "gross income of the business" means the total of gross income from interest, gross income from commissions, gross income from trading and gross income from all other sources: *Provided*, That:

1. Gross income from each account is to be computed separately and on a monthly basis;

2. Loss sustained upon any earnings account may not be deducted from or offset against gross income upon any other account, nor may a loss sustained upon any earnings account during any month be deducted from the gross income upon any account for any other month;

3. No deductions are allowed on account of salaries or commissions paid to employees or salesmen, rent, or any other overhead or operating expenses paid or incurred, or on account of losses other than under "2" above;

4. No deductions are allowed from commissions received from sales of securities which are delivered to buyers outside the State of Washington.

GROSS INCOME FROM INTEREST. Gross income from interest includes all interest received upon bonds or other securities held for sale or otherwise, excepting only direct obligations of the Federal government and of the State of Washington. No deduction is allowed for interest paid out even though such interest may have been paid to banks, clearing houses or others upon amounts borrowed to carry debit balances of customers' margin accounts.

Interest accrued upon bonds or other securities sold shall be included in gross income where such interest is carried in an interest account and not as part of the selling price. Conversely, interest accrued upon bonds or other securities at the time of purchase may be deducted from gross income where such interest is carried in an interest account and not as a part of the purchase price.

GROSS INCOME FROM COMMISSIONS. Gross income from commissions is the amount received as commissions upon transactions for the accounts of customers over and above the amount paid to other established security houses associated in such transactions: *Provided, however*, That no deduction or offset is allowed on account of salaries or commissions paid to salesmen or other employees.

GROSS INCOME FROM TRADING. Gross income from trading is the amount received from the sale of stocks, bonds and other securities over and above the cost or purchase price of such stocks, bonds and other securities. In the case of short sales gross earnings shall be reported in the month during which the transaction is closed, that is, when the purchase is made to cover such sales or the short sale contract is forfeited.

GROSS INCOME FROM ALL OTHER SOURCES. Gross income from all other sources includes all income received by the taxpayer, other than from interest, commissions and trading, such as dividends upon stocks, fees for examinations, fees for reorganizations, etc.

SERVICES WITHIN AND WITHOUT THE STATE-APPORTIONMENT. Stockbrokers and security houses rendering services and maintaining places of business both within and without the state may, in computing tax, apportion to this state that portion of the gross income which is derived from services rendered within this state. Where such apportionment cannot be made accurately by separate accounting methods, the taxpayer shall apportion to this state that portion of his total income which the cost of doing business within the state bears to the total cost of doing business both within and without the state.

Revised June 1, 1970. [Order ET 70-3, § 458-20-162, filed 5/29/70, effective 7/1/70.]

WAC 458-20-163 (Rule 163) Insurance companies, including surety companies, fraternal benefit societies, fraternal fire insurance associations and beneficiary corporations or societies. The provisions of the business and occupation tax do not apply to:

1. Any person with respect to insurance business upon which a tax based on gross premiums is paid to the State of Washington. (RCW 82.04.320.) It should be noted, however, that the statute provides expressly that this exemption does not extend to "any person engaging in the business of representing any insurance company, whether as general or local agent or acting as broker for such companies," or to "any bonding company . . . with respect to gross income derived from the completion of any contract as to which it is a surety, or as to any liability as successor to the liability of the defaulting contractor." In addition, the exemption does not apply to any business engaged in by an insurance company other than its insurance business.

2. Fraternal benefit societies or fraternal fire insurance associations as described in chapter 48.36 RCW, and beneficiary corporations or societies organized under

and existing by virtue of Title 24 RCW, if such beneficiary corporations or societies provide in their by-laws for the payment of death benefits. This exemption, however, is limited to gross income from premiums, fees, assessments, dues or other charges directly attributable to the insurance or death benefits provided by such persons.

RETAIL SALES TAX AND USE TAX

Insurance companies are not entitled to any exemptions under the retail sales tax or under the use tax, and the normal rules apply to them.

Revised January 1, 1960. [Order ET 70-3, § 458-20-163, filed 5/29/70, effective 7/1/70.]

WAC 458-20-164 (Rule 164) Insurance agents, brokers and solicitors. The words "agent," "broker," and "solicitor," as used herein mean respectively, a person licensed as such under the provisions of chapter 48.17 RCW.

BUSINESS AND OCCUPATION TAX

Every person acting in the capacity of agent, broker, or solicitor is presumed to be engaging in business and is taxable under the Service and Other Business Activities classification upon the gross income of the business unless such person is a bona fide employee. The burden is upon such person to establish the fact of his status as an employee. (See WAC 458-20-105-Employees.) Gross income of the business is determined by the amount of gross commissions received or retained, not by the gross premiums paid by the insured.

The term "gross income of the business" includes gross income from commissions, fees or other emoluments however designated which the agent, broker, or solicitor receives or becomes entitled to receive but does not include amounts held in trust for the insurer or the client. (See also WAC 458-20-111-Advances and Reimbursements.)

No deduction is allowed for commissions, fees, or salaries paid to other agents, brokers, or solicitors nor for other expenses of doing business.

Where an insurance association, licensed as a broker, agent or solicitor negotiates with a public body for the placement of its insurance coverage and arranges for the servicing of such insurance through a broker, agent or solicitor and there is an agreement between the association and the broker, agent or solicitor and the prospective insured that the commission on the policy premium will be shared, the entity receiving the commission need only include in gross income its share of the commission. It need not include in gross income the portion of the commission earned by the other broker, agent and/or solicitor nor need the other broker, agent and/or solicitor include in gross income the portion retained by the entity which first receives payment.

(For tax liability of insurance adjusters, see WAC 458-20-212.)

SPECIAL CLASSIFICATION FOR CERTAIN MANAGING GENERAL AGENTS. Under RCW 82.04.280(5) persons representing and performing services for fire or casualty insurance companies as independent resident managing general agents are subject to tax at the rate .0044 upon the gross income of the business. In view of the small number of persons falling in this special category, no separate classification line on excise tax returns (Form 2406) has been provided for reporting this income; it should be shown on Line 1 of the return with the explanatory note: "Income for Insurance Managing General Agent Taxable Under RCW 82.04.280(5)."

Any person claiming to fall within this tax classification must demonstrate:

1. That he is licensed as a Resident General Agent by the Insurance Commissioner; and

2. That he performs the following independent manager functions:

a. Pays all sales and/or production expense; including salaries of special field representatives, underwriters, and inspectors as well as all office expenses of rent, supplies, secretarial help, etc.

b. Bills all premiums for the company so represented.

c. Directly contracts for or hires all selling agents.

d. Exercises final responsibility with respect to selecting risks and underwriting matters.

e. Makes all arrangements for reinsurance.

f. Handles all claims adjustments directly with the insured (by his own staff or through hiring an independent adjuster).

Persons wishing to claim qualification for this special insurance agent classification should request forms from the Department of Revenue to make application therefor.

Revised December 12, 1968. [Order 70-5, § 458-20-164, filed 6/22/70.]

WAC 458-20-165 (Rule 165) Laundries, dry cleaners, laundry agents, self service laundries and dry cleaners.

LAUNDRIES, DRY CLEANERS, LAUNDRY AGENTS, SELF SERVICE LAUNDRIES AND DRY CLEANERS

The term "laundry or dry cleaning business" applies to (1) the business of operating a plant or establishment for laundering, cleaning, dyeing, pressing and incidentally repairing such articles as clothing, linens, bedding, towels, curtains, drapes, rugs, etc.; (2) so-called "launderettes," "washettes," "cleanettes" or similar self service businesses wherein laundry or dry cleaning facilities are provided for hire; it includes the operation of both coin and noncoin operated equipment, and (3) one who, under his own name, operates a place of business or pickup and delivery system for the collection and distribution of such articles, holding himself out to the public as performing such services, even though such person owns no plant and contracts with another for a part or all of the services rendered. This does not apply, however, to a person holding himself out as an agent for a particular laundry or dry cleaning plant.

The term "laundry agent" applies to any person who, under his own name, operates a place of business or pickup and delivery system for the collection and distribution of articles to be laundered, cleaned, dyed or pressed, holding himself out as agent for some particular establishment and acting as an independent contractor rather than as an employee.

The term "laundry or linen supply service" means the business of contracting to provide customers with a supply of clean linen, uniforms, towels, etc., whether ownership of such property is in the person operating the laundry or linen supply service or in the customer. Such services may include the providing of cabinets and other toilet equipment, paper towels, soap and similar consumable supplies.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons operating laundry or dry cleaning businesses, including self service or coin operated laundry or dry cleaning businesses, but not including coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants, are taxable under the Retailing classification upon the gross proceeds of sales which are subject to the retail sales tax as hereinafter provided, without any deduction on account of commissions allowed or amounts paid to another for the performance of all or part of the laundry or dry cleaning service rendered.

Persons operating self service or coin operated laundries or dry cleaning businesses are taxable under the Retailing classification upon the gross proceeds of sales of starch, soap, blueing or any other article sold to customers.

WHOLESALING. Tax is due under the Wholesaling classification upon the gross proceeds of sales derived from laundry or dry cleaning services rendered for other laundry and dry cleaning establishments.

SERVICE AND OTHER ACTIVITIES. Persons operating coin operated laundry facilities which are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants are taxable under Service and Other Activities on the gross income from such facilities. Laundry agents are taxable under this classification upon the gross commissions received by them. Nonprofit associations composed exclusively of nonprofit hospitals are taxable under the Service and Other Activities classification upon laundry services to such members.

RETAIL SALES TAX

Laundry and dry cleaning businesses (including so-called "launderettes," "washettes," "cleanettes" and self service or coin operated laundries or dry cleaners), laundry agents and persons operating laundry or linen supply services are required to collect the retail sales tax upon the total charge made to the customer for laundry and dry cleaning service or laundry supply service rendered by them. The tax is not applicable to gross receipts from coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants.

Laundries, dry cleaning businesses and laundry agents who pay agency commissions or maintain commission drivers must account for the retail sales tax upon such operations as follows:

1. Where agency commissions are allowed hotels, apartments, etc., on laundry or dry cleaning done for their guests, the retail sales tax must be collected by the laundry or dry cleaner upon the full retail charge to the final consumer.

2. Commission drivers operating in the name of the laundry or cleaning establishment must collect the retail sales tax on the total charge made to the customer, remitting the same on each settlement to the plant, which in turn is responsible for the payment of the tax to the state.

Sales by supply houses to laundries, dry cleaners and persons operating laundry or linen supply services of soaps, cleaning solvents and other articles or substances which are used in rendering a laundry, laundry supply or cleaning service are retail sales and are subject to the retail sales tax. Sales to such persons of dyes, starches and similar articles or substances, the primary purpose of which is to become ingredients of the articles cleaned, are sales at wholesale and are not subject to the retail sales tax. Similarly, sales to persons operating laundry or linen supply services of linen, uniforms, towels, cabinets, hand soap and similar property rented or supplied to customers as a part of the service rendered are wholesale sales. Sales by supply houses to laundries, dry cleaners and operators of laundry or linen supply services of equipment and supplies such as machinery, hand tools, spotting brushes, stationery, etc., are retail sales and the retail sales tax must be collected thereon.

Generally, sales by supply houses to persons operating self service or coin operated laundries, of soaps or other articles which are furnished by such persons to their customers, the charge for which is included within the charge for use of facilities, are wholesale sales, and supply houses need not collect the retail sales tax thereon upon receipt of a resale certificate from the customer. However, sales of such supplies to persons operating coin operated laundry facilities which are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants are retail sales upon which the retail sales tax must be collected. Sales to all operators of laundry or dry cleaning establishments of equipment such as washing machines, ironers, furniture, etc., are retail sales subject to the sales tax. [Order ET 73-1, § 458-20-165, filed 11/2/73; Order ET 70-3, § 458-20-165, filed 5/29/70, effective 7/1/70.]

WAC 458-20-166 (Rule 166) Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc. A hotel, motel, boarding house, rooming house, apartment hotel, resort lodge, auto or tourist camp, and bunkhouse, as used in this ruling, includes all establishments which are held out to the public as an inn, hotel, public lodging house, or place where

sleeping accommodations may be obtained, whether with or without meals or facilities for preparing the same. The foregoing does not include establishments in the business of renting real estate, such as apartments, nor does it include hospitals, sanitariums, nursing homes, rest homes, and similar institutions. Further, the foregoing does not include private lodging houses, dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms solely for the accommodation of employees of such firms, and which are not held out to the public as a place where sleeping accommodations may be obtained. The terms do not include guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc.

A boarding house, as used in this ruling, is an establishment selling meals on the average to five or more persons, exclusive of members of the immediate family. Where meals are furnished to less than five persons, exclusive of members of the immediate family, the establishment will not be considered as engaging in the business of operating a boarding house.

A trailer camp as used in this ruling is an establishment making a charge for the rental of space to transients for locating or parking house trailers, campers, mobile homes, tents and the like which provide sleeping or living accommodations for the occupants. Additional charges for utility services will be deemed part of the charge made for the rental.

It will be presumed that the above establishments are conferring a license to use real estate, as distinguished from a rental of real estate, where the occupant is a transient. Conversely, where the occupant who receives lodging is or has become a nontransient, it will be conclusively presumed that the occupancy is under a rental or lease of real property.

Where lodging is furnished a transient, as that term is hereinafter defined, the charge therefor is subject to the retail sales tax and to the business and occupation tax under the Retailing classification. Where the lodging is furnished a nontransient, the transaction is deemed a rental of real estate and is exempt from tax.

The term "transient" as used in this rule means: Any guest, resident, or other occupant to whom lodging and other services are furnished under a license to use real property and who does not continuously occupy the premises for a period of one month. Where such occupant remains in continuous occupancy for more than one month, he shall be deemed a transient as to his first month of occupancy, unless he has contracted in advance to remain one month. In cases where such person has so contracted in advance and does so remain in continuous occupancy for one month, he will be deemed a nontransient from the start of his occupancy.

An occupant does not become entitled to a refund of retail sales tax paid for lodging as a transient by reason of having remained one month and having thereby qualified as a nontransient.

The tax liability of hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc., is as follows:

BUSINESS AND OCCUPATION TAX

RETAILING. Amounts derived from the charge made to transients for the furnishing of lodging; charges for such services as the rental of radio and television sets and the rental of rooms, space and facilities not for lodging, such as ballrooms, display rooms, meeting rooms, etc., and including automobile parking or storage; also amounts derived from the sale of tangible personal property at retail are taxable under this classification. See "retail sales tax" below for a more detailed explanation of the charges included herein as retailing.

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under this classification are amounts derived from the rental of sleeping accommodations by private lodging houses, and by dormitories, bunkhouses, etc., operated by or on behalf of business and industrial firms and which are not held out to the public as a place where sleeping accommodations may be obtained; commissions received from acting as a laundry agent for guests (see WAC 458-20-165) and commissions received for the use of telephone facilities. Summer camps, guest ranches and similar establishments making an unsegregated charge for meals, lodging, instruction and the use of recreational facilities must report the gross income from such charges under this classification. This classification is also applicable to gross income from charges for the use of coin operated laundry facilities when such facilities are situated in an apartment house, hotel, motel, rooming house or trailer camp for the exclusive use of the tenants. (See WAC 458-20-165 for information regarding the tax liability of laundry services generally.)

RETAIL SALES TAX

All sales and rentals of tangible personal property by such persons are subject to the retail sales tax.

The charge made for the furnishing of lodging and other services to transients is subject to the retail sales tax. Included is the charge made by a trailer camp for the furnishing of space and other facilities. Charges for automobile parking and storage are also subject to the retail sales tax.

Except as to guest ranches and summer camps as described herein, when a lump sum is charged for lodging to nontransients and for meals furnished, the retail sales tax must nevertheless be paid upon the fair selling price of such meals, and unless accounts are kept showing such fair selling price, the tax will be computed upon double the cost of the meals served; and the cost shall include the price paid for food and drinks served, the cost of preparing and serving meals, and all other costs incidental thereto, including an appropriate portion of overhead expenses. The retail sales tax is not applicable to charges for the use of coin operated laundry facilities when such facilities are situated in an apartment house,

hotel, motel, rooming house or trailer camp for the exclusive use of the tenants.

All sales of tangible personal property to such persons, except such property as is to be resold as tangible personal property are subject to the retail sales tax. In this regard, all sales of tangible personal property for use in the furnishing of lodging and related services are subject to the retail sales tax, the charge made for lodging being for services rendered and not for the sale of any tangible property as such; included are items such as soap, towels, linens, laundry, laundry supply services and furnishings. See WAC 458-20-244 (Rule 244) for sales to persons operating guest ranches and summer camps of food supplies for use in the preparation of meals served to guests when such persons make an unsegregated charge for meals, lodging, and services and report such charges under the classification Service and Other Activities as herein provided.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-166, filed 6/27/78; Order ET 70-3, § 458-20-166, filed 5/29/70, effective 7/1/70.]

WAC 458-20-167 (Rule 167) Educational institutions, school districts, student organizations, private schools. As used herein: An "educational institution" means only those institutions defined as such in WAC 458-20-114; the term "private school" means all schools which are excluded from said definition.

BUSINESS AND OCCUPATION TAX

Persons operating private schools are taxable under the Service and Other Business Activities classification upon gross income derived from tuition fees, rental of rooms and equipment and other service income.

Such persons are also taxable under the Retailing classification upon gross retail sales of articles of tangible personal property sold by them, when the charge therefor is specified and is not included within the charge made for tuition.

Educational institutions, school districts and student organizations are not subject to the business and occupation tax with respect to activities directly connected with the educational program, such as operation of a common dining room, sale of lab supplies, etc. Charges made for the operating of privately operated kindergartens are exempt from business tax.

RETAIL SALES TAX

The retail sales tax applies upon all sales of tangible personal property made by school districts (except see WAC 458-20-244 for sales of meals) or by educational institutions, private schools and student organizations, when the charge therefor is specific and not included within the charge made for tuition.

CERTIFICATES OF REGISTRATION

Persons engaged in the business of operating private schools are required to obtain a certificate of registration in accordance with the provisions of WAC 458-20-101.

Educational institutions, school districts or student organizations making taxable retail sales of tangible personal property, are also required to apply for and obtain from the Department of Revenue a certificate of registration. Such certificate will be issued upon the filing of application Form 2401 and payment of a fee of $1.00. Branch certificates will be issued to each school within a registered district without charge. When applying for a certificate, the district should furnish the name and address of each school and student organization that engages in a taxable activity.

Each school district may file a single return which shall include the retail sales tax due from all schools and student organizations within the district.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-167, filed 6/27/78; Order ET 70-3, § 458-20-167, filed 5/29/70, effective 7/1/70.]

WAC 458-20-168 (Rule 168) Hospitals. The term "hospital" means only institutions defined as hospitals in chapter 70.41 RCW. The term "nursing home" means only institutions defined as nursing homes in chapter 81.51 RCW.

BUSINESS AND OCCUPATION TAX

The gross income of hospitals for medical services is subject to business and occupation tax under the Service and Other Activities classification. The Retailing business and occupation tax applies to sales of drugs, medicines, eye glasses, lenses, devices, orthopedic appliances, and similar articles, when billed and accounted for separately from hospital services rendered.

In computing business tax liability of hospitals, there may be deducted from the measure of the tax the following:

1. Amounts derived as compensation for services rendered or to be rendered to patients by a hospital as defined in chapter 70.41 RCW when such hospital is operated by the United States of America or any of its instrumentalities or by the State of Washington or any of its political subdivisions.

2. Amounts derived as compensation for services rendered to patients by a hospital as defined in chapter 70.41 RCW when such hospital is operated as a nonprofit corporation but only if no part of the net earnings received by such an institution inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder.

No deduction will be allowed under "2" above, unless written evidence be submitted to the Department of Revenue showing that the hospital building is entitled to exemption from taxation under the property tax laws of this state.

In computing business tax liability of nursing homes and homes for unwed mothers there may be deducted from the measure of tax the following. Amounts derived as compensation for services rendered to patients by nursing homes and homes for unwed mothers operated as religious or charitable organizations but only if no

part of the net earnings received by such nursing homes or homes for unwed mothers inures, directly or indirectly, to any person other than the institution entitled to deduction hereunder.

Persons operating hospitals, nursing homes, convalescent homes, clinics, rest homes, health resorts and similar institutions which are not operated as above provided are taxable under the classification Service and Other Activities upon the gross income received from personal or professional services.

In computing tax liability there may be deducted from gross income so much thereof as was derived from bona fide contributions, donations and endowment funds. (See WAC 458-20-114.)

RETAIL SALES TAX

Gross retail sales by hospitals which are subject to Retailing business tax, as provided above, are subject to retail sales tax. However, sales of drugs, medicines, prescription lenses, or other substances, prescribed by medical practitioners are deductible from gross retail sales where the written prescription bearing the signature of the issuing medical practitioner and the name of the patient for whom prescribed is retained, and such sales are separately accounted for. See WAC 458-20-188.

Sales of medical supplies, equipment, and the like to hospitals and nursing homes are subject to the retail sales tax, irrespective of whether or not such hospitals or nursing homes are subject to the business tax.

(For tax liability of hospitals on sales of meals, see WAC 458-20-119 and 458-20-244.)

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-168, filed 6/27/78; Order ET 74-2, § 458-20-168, filed 6/24/74; Order ET 70-3, § 458-20-168, filed 5/29/70, effective 7/1/70.]

WAC 458-20-169 (Rule 169) Religious, charitable, benevolent, nonprofit service organizations, and sheltered workshops. Religious, charitable, benevolent, and nonprofit service organizations are subject to the excise taxes imposed by the Revenue Act of 1935 with the following exceptions only:

Religious, charitable, benevolent, and nonprofit service organizations serving meals for fund raising purposes are not engaged in the business of making sales at retail and are not required to collect the retail sales tax upon such sales, nor pay the business and occupation tax, unless such meals are served more frequently than once every two weeks. Religious, charitable, benevolent, and nonprofit service organizations conducting bazaars or rummage sales are not engaged in the business of making sales at retail and are not required to collect the retail sales tax nor pay the business and occupation tax where such bazaars or rummage sales are conducted intermittently and do not extend over a period of more than two days. Similarly, when such organizations make retail sales in the course of annual fund raising drives, or make such sales through concessions operated intermittently and for short periods of time for the support of various benevolent, athletic, recreational, or cultural programs, the retail sales tax and business and occupation tax need not be accounted for.

However, in every case where such organizations conduct business activities other than as outlined above, the retail sales tax and business and occupation tax are fully applicable to the gross sales made and merchandise may be purchased for resale without paying the retail sales tax by furnishing vendors with resale certificates as prescribed in published WAC 458-20-102.

SHELTERED WORKSHOPS. The gross income received by nonprofit organizations from the operation of "sheltered workshops" is exempt from the business and occupation tax. "Sheltered workshops" is defined by the law to mean "rehabilitation facilities, or that part of rehabilitation facilities, where any manufacture or handiwork is carried on and which is operated for the primary purpose of (1) providing gainful employment or rehabilitation services to the handicapped as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or (2) providing evaluation and work adjustment services for handicapped individuals."

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-169, filed 6/27/78; Order ET 70-3, § 458-20-169, filed 5/29/70, effective 7/1/70.]

WAC 458-20-170 (Rule 170) Constructing and repairing of new or existing buildings or other structures upon real property.

DEFINITIONS

As used herein:

The term "prime contractor" means a person engaged in the business of performing for consumers, contracts for the constructing, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property, either for the entire work or for a specific portion thereof. The term includes persons who rent or lease equipment to property owners for use in respect to constructing, repairing, etc., buildings or structures upon such property, when the equipment is operated by the lessor.

The word "subcontractor" means a person engaged in the business of performing a similar service for persons other than consumers, either for the entire work or for a specific portion thereof. The term includes persons who rent or lease equipment to prime contractors or subcontractors for use in respect to constructing, repairing, etc., when such equipment is operated by the lessor. When equipment or other tangible personal property is rented without an operator to contractors, subcontractors or others, the transaction is a sale at retail (see RCW 82-.04.040 and 82.04.050).

The terms "prime contractor" and "subcontractor" include persons performing labor and services in respect

to the moving of earth or clearing of land, cleaning, fumigating, razing, or moving of existing buildings or structures even though such services may not be done in connection with a contract involving the constructing, repairing, or altering of a new or existing building or structure. The terms also include persons constructing streets, roads, highways, etc., owned by the state of Washington.

The term "buildings or other structures" means everything artificially built up or composed of parts joined together in some definite manner and attached to real property. It includes not only buildings in the general and ordinary sense, but also tanks, fences, conduits, culverts, railroad tracts, tunnels, overhead and underground transmission systems, monuments, retaining walls, piling and privately owned bridges, trestles, parking lots, and pavements for foot or vehicular traffic, etc.

The term "constructing, repairing, decorating or improving of new or existing buildings or other structures," in addition to its ordinary meaning, includes the installing or attaching of any article of tangible personal property in or to real property, whether or not such personal property becomes a part of the realty by virtue of installation, the clearing of land and the moving of earth, and the construction of streets, roads, highways, etc., owned by the state of Washington. The term includes the sale of or charge made for all service activities rendered in respect to such constructing, repairing, etc., regardless of whether or not such services are otherwise defined as "sale" by RCW 82.04.040 or "sales at retail" by RCW 82.04.050. Hence, for example, such service charges as engineering fees, architectural fees or supervisory fees are within the term when the services are included within a contract for the construction of a building or structure. The fact that the charge for such services may be shown separately in bid, contract or specifications does not establish the charge as a separate item in computing tax liability.

SPECULATIVE BUILDERS. As used herein the term "speculative builder" means one who constructs buildings for sale or rental upon real estate owned by him, and the terms "sells" or "contracts to sell" include any agreement whereby an immediate right to possession or title to the property vests in the purchaser.

Amounts derived from the sale of real estate are exempt from the business and occupation tax. (RCW 82-.04.390). Consequently, the proceeds of sales by speculative builders of completed buildings are not subject to such tax. Neither does the sales tax apply to such sales, since such a sale involves no charge made for construction for a consumer but the price paid is for the sale of real estate.

However, when a speculative builder sells or contracts to sell property upon which he is presently constructing a building, all construction done subsequent to the date of such sale or contract constitutes a retail sale and that portion of the sales price allocable to construction done after the agreement shall be taxed accordingly. Consequently the builder must pay business and occupation tax under the Retailing classification on that part of the sales price attributable to construction done subsequent to the agreement, and shall also collect sales tax from the buyer on such allocable part of the sales price.

Speculative builders must pay sales tax upon all materials purchased by them and on all charges made by their subcontractors. Deductions for such tax paid with respect to materials used or charges made for that part of the construction done after the contract to sell the building should be claimed by the speculative builder on his tax returns in accordance with WAC 458–20–102, subheading Purchases for Dual Purposes.

BUSINESS AND OCCUPATION TAX

Prime contractors are taxable under the Retailing classification, and subcontractors under the Wholesaling classification upon the gross contract price.

RETAIL SALES TAX

Prime contractors are required to collect from consumers the retail sales tax measured by the full contract price.

The retail sales tax does not apply to charges made for janitorial services nor for the mere leveling of land used in commercial farming or agriculture. The tax does apply, however, in respect to contracts for cleaning septic tanks or the exterior walls of buildings, as well as to earth moving, land clearing and the razing or moving of structures, whether or not such services are performed as incidents of a contract to construct, repair, decorate, or improve buildings or structures.

Sales to prime contractors and subcontractors of materials such as concrete, tie rods, lumber, finish hardware, etc., which become part of the structure being built or improved are sales for resale and are not subject to the retail sales tax. Sales of form lumber to such contractors are sales for resale provided that such lumber is used or to be used first by such persons for the molding of concrete in a single contract, project or job and the form lumber is thereafter incorporated into the product of that same contract project or job as an ingredient or component thereof. Sales of form lumber not so incorporated as an ingredient or component are sales at retail.

The retail sales tax applies upon sales and rentals to prime contractors and subcontractors of tools, machinery and equipment, and consumable supplies, such as hand and machine tools, cranes, air compressors, bulldozers, lubricating oil, sandpaper and form lumber which are primarily for use by the contractor rather than for resale as a component part of the finished structure.

The retail sales tax applies upon sales to speculative builders of all tangible personal property, including building materials, tools, equipment and consumable supplies and upon sales of labor, services and materials to speculative builders by independent contractors.

USE TAX

The use tax applies generally to the use by prime contractors and subcontractors of tools, machinery, equipment and consumable supplies acquired by them primarily for their own use and upon which the retail sales tax has not been paid. This includes equipment and

supplies purchased in a foreign state for use or consumption in performing contracts in this state. The use tax applies generally to the use by speculative builders of all tangible personal property, including building materials, purchased or acquired by them without payment of the retail sales tax (see also WAC 458-20-178). [Order ET 71-1, § 458-20-170, filed 7/22/71; Order ET 70-3, § 458-20-170, filed 5/29/70, effective 7/1/70.]

WAC 458-20-171 (Rule 171) Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic.

DEFINITIONS

As used herein:

The word "contractor" means a person engaged in the business of building, repairing or improving any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic, either as a prime contractor or as a subcontractor. It does not include persons who merely sell or deliver road materials to such contractors or to the public authority whose property is being improved. It also does not include persons who construct streets, roads, etc. *owned by the state of Washington.* (See WAC 458-20-170 for the tax liability of such persons.)

The term "street, place, road, highway, etc." is used in the ordinary sense that the combination of such words implies. It includes docks used primarily by ferry boats operated in connection with a street, road or highway, but does not include railroads, wharves, moorings, hallways, catwalks, or runways, aprons or taxiways for the landing, take-off or movement of airplanes within airports or landing fields; nor does it include ferry boats, even though the ferry be operated in connection with a street, road or highway. It includes roads and walks which are not open to the public generally, but which may be restricted to use by the military or by employees of a department or instrumentality of the United States.

The word "place" means only an area similar to a street or pedestrian walk, such as thoroughfares in various cities designated "places" for the purpose of preserving the continuity of street names or house numbers; generally, a street of shorter length than others.

The term "building, repairing or improving of a publicly owned street, place, road, etc.," includes clearing, grading, graveling, oiling, paving and the cleaning thereof; the constructing of tunnels, guard rails, fences, walks and drainage facilities, the planting of trees, shrubs and flowers therein, the placing of street and road signs, the striping of roadways, and the painting of bridges and trestles; it also includes the mining, sorting, crushing, screening, washing and hauling of sand, gravel, and rock taken from a public pit or quarry. It also includes the constructing of road and street lighting systems, even though portions of such systems also are used for purposes other than street and road lighting; also the constructing of a drainage system in streets and roads, even though such system is also used for the carrying of sewage: *Provided,* That the drainage facilities are sufficient for disposal of the normal runoff of surface waters from the particular streets and roads in which the system is constructed or an ordinance authorizing the construction of a combined sewer system is incorporated by reference in the contract and the contract or specifications clearly indicate that the system is designed and intended for the disposal of the normal runoff of surface waters from the streets and roads in which the system is constructed.

The term includes any contract for the readjustment, reconstruction or relocation of the facilities of any public, private or cooperatively owned utility or railroad in the course of building, repairing or improving a street, place, road, etc., which is owned by a municipal corporation or political subdivision of the state or by the United States, the cost of which readjustment, reconstruction, or relocation is the responsibility of the public authority whose street, place, road, etc., is being built, repaired or improved. It also includes building or repairing mass transportation facilities owned by a municipal corporation or political subdivision of the state or by the United States.

Except as provided above, the term does not include the constructing of water mains, telephone, telegraph, electrical power, or other conduits or lines in or above streets or roads, unless such power lines become a part of a street or road lighting system as aforesaid; nor does it include the constructing of sewage disposal facilities, nor the installing of sewer pipes for sanitation, unless the installation thereof is within, and a part of, a street or road drainage system.

BUSINESS AND OCCUPATION TAX

Such contractors are taxable under the Public Road Construction classification upon their total contract price.

The business and occupation tax does not apply to the cost of or charge made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or city and such sand, gravel or rock is

a. stockpiled in said pit or quarry for placement on the street, road, or highway by the county or city itself using its own employees, or

b. placed on the street, road, or highway by the county or city itself using its own employees, or

c. sold by the county or city at actual cost to another county or city for road use.

RETAIL SALES TAX

The retail sales tax applies upon the sale to such contractors of all materials including prefabricated and precast items, equipment and supplies used or consumed in the performance of such contracts.

The retail sales tax does not apply upon any portion of the charge made by such contractors.

The sales tax does not apply to charges made for labor and services which are exempt from business tax as indicated above.

USE TAX

The use tax applies to the use by all contractors of all materials including prefabricated and precast items, equipment and supplies upon which the retail sales tax has not been paid. This tax also applies in respect to articles produced or manufactured by them for commercial use. (See WAC 458-20-134.)

The use tax does not apply in respect to the use of any sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is either (1) stockpiled in said pit or quarry for placement or is placed on the street, road, place, or highway of the county or city by the county or city itself (i.e., by its own employees), or (2) sold by the county or city to a county or a city at actual cost for placement on a street, road, place, or highway owned by the county or city. This exemption shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as here indicated.

(For lien of unpaid taxes on the retained percentage withheld on public improvement contract, see WAC 458-20-217.) [Order ET 71-1, § 458-20-171, filed 7/22/71; Order ET 70-3, § 458-20-171, filed 5/29/70, effective 7/1/70.]

WAC 458-20-172 (Rule 172) Clearing land, moving earth, cleaning, fumigating, razing or moving existing buildings, and janitorial services. Persons engaged in performing contracts for the grading or clearing of land or the moving of earth, and which do not involve the building, repairing or improving of any streets, roads, etc. which are owned by a municipal corporation or political subdivision of the state or by the United States (See WAC 458-20-171); and persons engaged in performing contracts which involve the cleaning, fumigating, razing or moving of existing buildings or structures and persons performing janitorial services are taxable as follows:

BUSINESS AND OCCUPATION TAX

Taxable under the classification Retailing upon gross income from contracts to perform such services for consumers, but excluding gross income from contracts providing solely for the performance of janitorial services or the mere leveling of land for agricultural purposes.

Taxable under the classification Wholesaling—All Others upon gross income from subcontracts to perform such services for resale.

Taxable under the classification Service and Other Activities upon gross income from contracts to perform janitorial services or the mere leveling of land for agricultural purposes.

The term "janitorial services" includes activities performed regularly and normally by commercial janitor service businesses. Generally, these activities include the washing of interior and exterior window surfaces, floor cleaning and waxing, the cleaning of interior walls and woodwork, the cleaning in place of rugs, drapes and upholstery, dusting, disposal of trash, and cleaning and sanitizing bathroom fixtures. The term "janitorial services" does not include, among others, cleaning the exterior walls of buildings, the cleaning of septic tanks, special clean up jobs required by construction, fires, floods, etc., painting, papering, repairing, furnace or chimney cleaning, snow removal, sandblasting, or the cleaning of plant or industrial machinery or fixtures.

RETAIL SALES TAX

Persons engaged in performing contracts for the grading or clearing of land, the moving of earth or the cleaning, fumigating, razing or moving of existing buildings or structures must collect the retail sales tax upon the full contract price when the work is performed for consumers. The retail sales tax is not applicable to charges for janitorial services or the mere leveling of land for agricultural purposes.

The retail sales tax applies upon the sales to such contractors of equipment and supplies used or consumed in the performance of such contracts and which are not resold as a component part of the work.

USE TAX

The use tax applies to the usee by such contractors of equipment and supplies upon which the retail sales tax has not been paid. [Order ET 71-1, § 458-20-172, filed 7/22/71; Order ET 70-3, § 458-20-172, filed 5/29/70, effective 7/1/70.]

WAC 458-20-173 (Rule 173) Installing, cleaning, repairing or otherwise altering or improving personal property of consumers.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons installing, cleaning, decorating, beautifying, repairing or otherwise altering or improving tangible personal property of consumers or for consumers are taxable under the Retailing classification upon the gross proceeds received from sales of tangible personal property and the rendition of services.

WHOLESALING. Persons who sell tangible personal property to, or render any of the above services for others than consumers, are taxable under the Wholesaling classification upon the gross proceeds of sales received therefrom.

There must be included within gross amounts reported for tax all fees for services rendered and all charges recovered for expenses incurred in connection therewith, such as transportation costs, hotel, restaurant, telephone and telegraph charges, etc.

RETAIL SALES TAX

Persons engaged in the business of installing, cleaning, decorating, beautifying, repairing or otherwise altering or improving tangible personal property of consumers or for consumers are required to collect the retail sales tax upon the total charge made for the rendition of such services, even though no tangible personal property in the form of materials or supplies is sold or used in connection with such services. Where tangible personal property in the form of materials and supplies is sold or used in connection with such services, the retail sales tax applies to the total charges made for the sale of the materials and supplies and the services rendered in connection therewith.

The following are illustrative of services upon which the retail sales tax applies to the total charge made to consumers:

Laundering, dyeing and cleaning;

Automobile repairing, washing and painting;

Boat repairing (see WAC 458-20-175 and 458-20-176 for certain exemptions); Shoe repairing and shining;

Altering or repairing wearing apparel.

In general, the repairing of any personal property, such as radios, refrigerators, machines, watches and jewelry and other articles.

The retail sales tax does not apply to sales to such persons of materials which are resold as a part of the articles of tangible personal property being repaired, altered or improved. Therefore, upon giving a resale certificate the retail sales tax will not apply to purchases such as:

1. Parts or paint by an automotive repairman;
2. Lumber, chandlery, etc., by a boat repairman;
3. Shoe findings, thread, nails, polish and dyes by a shoe repairman;
4. Solder, wire, condensers, etc., by a radio or television repairman.

On the other hand the retail sales tax does apply to the purchase of all other supplies which may be consumed and utilized by such persons in the rendition of such services, such as fuel, lubricant, machines, hand tools, stationery and other supplies and equipment.

REPAIRS FOR OUT-OF-STATE PERSONS. Persons residing outside this state may ship into this state articles of tangible personal property for the purpose of having the same repaired, cleaned or otherwise altered, and thereafter returned to them. The retail sales tax is not applicable to the charge made for labor and/or materials, provided the seller, as a requirement of the agreement, delivers the property to the purchaser at a point outside this state or delivers the property to a common or bona fide private carrier consigned to the purchaser at a point outside this state. Proof of exempt sales will be the same as that required for sales of tangible personal property in interstate commerce. WAC 458-20-193, Part A. No deduction is allowed, however, under the business and occupation tax.

Revised June 1, 1965. [Order ET 70-3, § 458-20-173, filed 5/29/70, effective 7/1/70.]

WAC 458-20-174 (Rule 174) Sales of motor carriers operating in interstate or foreign commerce of motor vehicles, trailers, parts, etc.

BUSINESS AND OCCUPATION TAX

In computing tax liability under the Retailing classification, persons engaged in the business of selling motor vehicles, trailers, parts and accessories, and persons engaged in the business of installing, cleaning, repairing or otherwise altering or improving such vehicles or parts are not permitted any deduction by reason of the fact that such sales or services are made to or for persons for use in conducting interstate or foreign commerce. Insofar as concerns the tax liability of vendors of such property or services it is immaterial that the purchaser may be entitled to a statutory exemption from payment of the retail sales tax.

RETAIL SALES TAX

1. SALES OF MOTOR VEHICLES AND TRAILERS. Under RCW 82.08.030(12) of the law, sales of motor vehicles and trailers to be used for the purpose of transporting therein persons or property for hire in interstate or foreign commerce whether such use is by the owner or whether such motor vehicles and trailers are leased to the user with or without driver, are not subject to the retail sales tax when delivery is made to the purchaser in this state: *Provided*, both of the following requirements are met:

a. The purchaser or user is the holder of a carrier permit issued by the Interstate Commerce Commission; and

b. Said vehicle will first move upon the highways of this state from the point of delivery in this state to a point outside the state under the authority of a one-transit permit issued by the director of motor vehicles pursuant to the provisions of RCW 46.16.100.

In order to qualify for this exemption from the retail sales tax such buyers must furnish to their vendors the number of the permit issued to the carrier by the Interstate Commerce Commission and must have affixed to the vehicle before it leaves the premises of the dealer the necessary one-transit permit. In addition, and as evidence of the exempt nature of such sales, the seller is required to obtain from the buyer an exemption certificate, to which he must append his own certification, all reading substantially to the following effect:

EXEMPTION CERTIFICATE

The undersigned hereby certifies that is is the holder of carrier permit No. _____, issued by the Interstate Commerce Commission; that the vehicle this date purchased from you being a (specify truck or trailer and make), Motor No. _____, Serial No. _____, will first move on the highways of this state from (point of origin in state) to (out of state destination), under the authority of a one–transit permit dated _____, issued by the director of motor vehicles through the agency of the Washington State Patrol Office located at _____; and that the sale of this vehicle is entitled to exemption from the Retail Sales Tax under the provisions of RCW 82.08.030(12).

Dated _____

_____
(name of carrier–purchaser)

By _____
(title)

_____
(address)

CERTIFICATE OF DEALER

I hereby certify that upon the delivery of the above described vehicle to said purchaser there was affixed thereto one–transit permit No. _____, and that the same authorized the transit of this vehicle between the points of origin and destination as hereinabove set forth.

_____
(name of dealer)

_____
(title)

In all other cases where the purchaser takes delivery of the vehicle in this state the retail sales tax is applicable to the sale and must be collected from the purchaser.

2. SALES OF COMPONENT PARTS OF MOTOR VEHICLES AND TRAILERS AND CHARGES FOR REPAIRS, ETC. RCW 82.08.030(11) exempts from the application of the retail sales tax sales of tangible personal property which becomes a component part (as that term is hereinafter defined) of motor vehicles and trailers whether owned by or leased with or without drivers and used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same, also sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving. In applying this statutory exemption it is important that both sellers and buyers notice the distinction between this and the exemption provided for in RCW 82.08.030(12) of the law (see 1 above). This exemption is not open to all motor carriers operating under a permit issued by the Interstate Commerce Commission, but only to those whose permits authorize actual transportation across the state boundaries.

The term "component part" is construed to mean all tangible personal property which is attached to and becomes an integral part of the motor vehicle or trailer. It includes such items as motors, motor and body parts, batteries and tires. The term also includes spare parts which are designed and intended for ultimate attachment to the carrier vehicle. It does not include equipment or tools which may be used in connection with the operation of the truck or trailer as a carrier of persons or goods but which will not become permanently attached to and an integral part of the same, nor does it include consumable supplies, such as lubricants and ice.

Buyers claiming sales tax exemption under this statutory section are required to furnish to their vendors the number of the permit issued to the carrier by the Interstate Commerce Commission authorizing transportation across the boundaries of the state and, as evidence of the exempt nature of such sales, sellers must take from the buyer an exemption certificate reading in substance, as follows:

EXEMPTION CERTIFICATE

The undersigned hereby certifies that it is the holder of a carrier permit, No._____, issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state, and that the motor truck or trailer to be constructed, repaired, cleaned, altered, or improved by you, or to which the subject matter of this purchase is to become a component part, will be used in direct connection with the business of conducting interstate or foreign commerce by transporting persons or property for hire across the boundaries of this state; and that such sale and/or charges are exempt from the Retail Sales Tax under the provisions of RCW 82.08.030(11).

Dated _____

_____
(name of carrier–purchaser)

(address)

By _____
(title)

The retail sales tax does apply to the sale of all other accessories, supplies and equipment to motor carriers operating under permits authorizing transportation across the boundaries of the state.

Furthermore, the retail sales tax applies to the sale of all tangible personal property, irrespective of whether or not the same may be construed to be a "component part" of a truck or trailer, and the sale of or charge made for labor and services rendered in respect to the constructing, operating, cleaning, altering or improving of motor vehicles and trailers where the Interstate Commerce Commission permit held by the operator of such vehicles does not authorize transportation across the boundaries of this state.

The exemption certificates referred to in this rule must be retained by the seller in his files as a part of his permanent records subject to audit by the Department of Revenue. As to any sales transactions claimed to be exempt from the retail sales tax under the provisions of

section (11) or (12) of RCW 82.08.030 of the Revenue Act, and where no exemption certificate has been secured and retained as required herein, or where the exemption certificate does not substantially comply with the essentials set out in the foregoing forms, the seller will bear the burden of proving its tax exempt status.

USE TAX

The use tax applies upon the actual use within this state of all articles of tangible personal property purchased at retail and upon the acquisition of which the retail sales tax has not been paid to this state, unless such use is exempt from use tax under the provisions of chapter 82.12 RCW. Pursuant to RCW 82.12.030(4) the use tax does not apply to the following uses:

a. The use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer whether owned by or leased with or without driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce.

b. The use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state whether such motor vehicle or trailer is owned by or leased with or without driver to the permit holder.

c. The use of any motor vehicle or trailer while being operated under the authority of a one-transit permit issued by the director of motor vehicles pursuant to RCW 46.16.100 and moving upon the highways from the point of delivery within this state to a point outside this state. [Order ET 71-1, § 458-20-174, filed 7/22/71; Order 70-3, § 458-20-174, filed 5/29/70, effective 7/1/70.]

WAC 458-20-175 (Rule 175) Persons engaged in the business of operating as a private or common carrier by air, rail or water in interstate or foreign commerce. The term "private carrier" means every carrier, other than a common carrier, engaged in the business of transporting persons or property for hire.

The term "watercraft" includes every type of floating equipment which is designed for the purpose of carrying therein or therewith persons or cargo. It includes tow boats, but it does not include floating dry docks, dredges or pile drivers, or any other similar equipment.

The term "carrier property" means airplanes, locomotives, railroad cars or water craft, and component parts of the same.

The term "component part" includes all tangible personal property which is attached to and a part of carrier property. It also includes spare parts which are designed for ultimate attachment to carrier property. The said term does not include furnishings of any kind which are not attached to the carrier property nor does it include consumable supplies. For example, it does not include, among other things, bedding, linen, table and kitchen ware, tables, chairs, ice for icing perishables or refrigerator cars or cooling systems, fuel or lubricants.

"Such persons," and "such businesses" mean the persons and businesses described in the title of this rule.

BUSINESS AND OCCUPATION TAX, PUBLIC UTILITY TAX

Persons engaged in such businesses are not subject to business tax or utility tax with respect to operating income received for transporting persons or property in interstate or foreign commerce. (See WAC 458-20-193.)

When such persons also engage in intrastate business activities they become taxable at the rates and in the manner stated in WAC 458-20-179, 458-20-181 and 458-20-193. For example, such persons are taxable under the Retailing business tax classification upon the gross proceeds of sales of tangible personal property, including sales of meals, when such sales are made within this state.

Persons selling tangible personal property to, or performing services for, others engaged in such businesses, are taxable to the same extent as they are taxable with respect to sales of property or services made to other persons in this state.

RETAIL SALES TAX

Sales of meals (including those sold to employees, see WAC 458-20-119) and retail sales of other tangible personal property, made by such persons, are subject to the retail sales tax when such sales are made within this state.

By reason of specific exemptions contained in RCW 82.08.030(10) and (11) of the law the retail sales tax does not apply upon the following sales:

1. Sales of airplanes, locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire;

2. Sales of tangible personal property which becomes a component part of such carrier property in the course of constructing, repairing, cleaning, altering or improving the same;

3. Sales of or charges made for labor or services rendered with respect to the constructing, repairing, cleaning, altering or improving of such carrier property;

4. Sales of any tangible personal property other than the type referred to in 1 and 2 above, for use by the purchaser in connection with such businesses, provided that any actual use thereof in this state shall, at the time of actual use, be subject to the use tax.

Except as to sales of or charges made for labor or services rendered with respect to the constructing, repairing, cleaning, altering or improving of carrier property, the foregoing exemptions are limited to sales of tangible personal property. Hence the retail sales tax applies upon the sales of or charges made for labor or services rendered in respect to (1) the installing, repairing, cleaning, altering, imprinting or improving of any other type of tangible personal property; and in respect to (2) the constructing, repairing, decorating or improving of new or existing buildings or other structures. Thus

the retail sales tax applies upon the charge made for repairing within this state of such things as switches, frogs, office equipment, or any other property which is not carrier property. It also applies upon the charge made for laundering linen and bedding. The tax also applies upon the charge made for constructing buildings, such as depots, wharves and hangars, or for repairing, decorating or improving the same.

However, the cost of installing, repairing, cleaning, altering, imprinting or improving of tangible personal property prior to its initial use by the carrier is considered as part of the initial cost of the property involved and therefore exempt from the sales tax. Thus, for example, the treating of railroad ties prior to their initial use is considered as part of the original cost of the ties and therefore exempt from the sales tax under RCW 82.08.030(10).

EXEMPTION CERTIFICATES REQUIRED. Persons selling tangible personal property or performing services which come within any of the foregoing exemptions are required to obtain from the purchaser, or his authorized agent, a certificate evidencing the exempt nature of the transaction. This certificate must identify the operator of the carrier by name and by its Department of Revenue registration number, if registered, and if not registered, by address.

The certificate may be in blanket form—that is, may certify as to all future purchases, or individual certificates may be made for each purchase. Also the certificate may be incorporated in or stamped upon the purchase order.

The certificate should be in substantially the following form:

EXEMPTION CERTIFICATE

WE HEREBY CERTIFY that all the tangible personal property to be purchased from you will be for use in connection with our business of operating as a (private or common) carrier by (air, rail or water) in (interstate or foreign) commerce; that all (airplanes, locomotives, railroad cars or water craft) or component parts thereof, to be constructed, repaired, cleaned, altered or improved by you, will be used in conducting (interstate or foreign) commerce; and that all such sales are entitled to exemption from the Retail Sales Tax under the provisions of Section 19j or 19k (RCW 82.08.030(10) and (11)) of the Washington Revenue Act of 1935, as amended.

Dated _____, 19__.

_____
(Purchaser)

By _____
(Title–Officer or Agent)

Address _____
_____

Department of Revenue Registration No.
_____

USE TAX

The use tax does not apply upon the use of airplanes, locomotives, railroad cars or watercraft, including component parts thereof, which are used primarily in conducting such businesses.

"Actual use within this state," as used in RCW 82.08.030(10) does not include use of durable goods aboard carrier property while engaged in interstate or foreign commerce. Thus the use tax does not apply upon the use of furnishings and equipment (whether attached to the carrier or not) intended for use aboard carrier property while operating partly within and partly without this state. Included herein are such items as bedding, table linen and wares, kitchen equipment, tables and chairs, hand tools, hawsers, life preservers, parachutes, and other durable goods which are necessary, convenient or desirable for the proper operation of such carrier property.

The use tax does apply upon the actual use within this state of all other types of tangible personal property purchased at retail and upon which the sales tax has not been paid. Included herein are all consumable goods for use on and placed aboard carrier property while within this state, but only to the extent of that portion consumed herein. Thus the tax applies upon the use of the amount consumed in this state of ice, fuel and lubricants which are placed aboard in this state, and upon food supplies or catered meals placed aboard carrier property in this state and served to customers in this state by transportation companies when the meals so served are included in the charge for transportation. (The retail sales tax must be collected upon separate sales within this state of meals or other tangible personal property.) The tax does not apply upon the use within this state of any part of consumable goods for use on carrier property and placed aboard outside this state.

Liability for the use tax arises at the time of actual use thereof in this state.

Due to the difficulty in many cases of determining at the time of purchase whether or not the property purchased or a part thereof will be put to use in this state and due to the resulting accounting problems involved, persons engaged in the business of operating as private or common carriers by air, rail or water in interstate or foreign commerce will be permitted to pay the use tax directly to the Department of Revenue rather than to the seller, and such sellers are relieved of the liability for the collection of such tax. This permission is limited, however, to persons duly registered with the department. The registration number given on the certificate which will be furnished to the seller ordinarily will be sufficient evidence that the purchaser is properly registered.

As to persons operating in interstate or foreign commerce as carriers by air, rail or water who are not registered with the department and who, therefore, are not regularly filing tax returns with the department, sellers of durable goods must either collect the use tax at the time of the sale or require from such purchasers a further certificate to the effect that no part of the subject matter of the sale is for actual use in this state.

Similarly, where consumable goods, such as ice, bunker fuel, or lubricants are purchased by or for carriers not registered with the department, and delivered on board a carrier regularly engaged in interstate or foreign commerce for consumption while both within and without the territorial boundaries of the State of Washington, the seller is required to collect from the buyer the amount of use tax applicable to that portion of the products sold which will be consumed within this state.

It will be presumed that the entire amount of the goods purchased will be consumed within this state unless the seller obtains from the buyer a certificate certifying as to the amount thereof which will be consumed while within the territorial boundaries hereof.

The certificate shall be made by the master or chief engineer of the carrier, or by some other person known by the seller to be competent to make the same, and shall be substantially in the following form:

CERTIFICATE

---------- Seller	---------- Purchaser
---------- Name of Carrier	---------- Name of Owner or Agent

The undersigned does hereby certify as follows:

1. The purchaser has this day purchased from the seller in the State of Washington certain amounts of (type of goods purchased), and has taken delivery thereof aboard said carrier for its exclusive use while regularly engaged in transporting persons or property for profit in interstate or foreign commerce.

2. While the said carrier is within the territorial boundaries of the State of Washington, it will consume the following amounts of the commodities purchased:

---------- barrels of fuel oil
---------- gallons of lubricants
---------- pounds of grease
---------- other consumable goods

Dated ----------, 19--.

---------- Name

---------- Office or Title

Revised June 1, 1970 [Order ET 70-3, § 458-20-175, filed 5/29/70, effective 7/1/70.]

WAC 458-20-176 (Rule 176) Persons engaged in the business of conducting commercial deep sea fishing operations outside the territorial waters of Washington. As used herein:

The terms "such persons" and "such businesses" mean the persons and businesses described in the title of this rule.

The terms do not include sport fishermen nor persons operating charter boats for sport fishing. (See WAC 458-20-183 for tax liability of such persons.)

The term "watercraft" means every type of floating equipment which is designed for the purpose of carrying therein or therewith fishing gear, fish catch or fishing crews, and used primarily in commercial deep sea fishing operations outside the territorial waters of the state of Washington.

The term "component part" includes all tangible personal property which is attached to and a part of a watercraft. It includes dories, gurdies and accessories, bait tanks, baiting tables and turntables. It also includes spare parts which are designed for ultimate attachment to a watercraft. The said term does not include equipment or furnishings of any kind which are not attached to a watercraft, nor does it include consumable supplies. Thus it does not include, among other things, bedding, table and kitchen wares, fishing nets, hooks, lines, floats, hand tools, ice, fuel or lubricants.

BUSINESS AND OCCUPATION TAX

Such persons are not taxable under the Extracting classification with respect to catches obtained outside the territorial waters of this state.

Such persons are taxable under either the Retailing or the Wholesaling classification with respect to sales made within this state, unless entitled to exemption by reason of the commerce clauses of the federal constitution. (See WAC 458-20-193.)

RETAIL SALES TAX

By reason of the exemption contained in RCW 82.08.030(11), the retail sales tax does not apply upon sales of watercraft (including component parts thereof) which are primarily for use in conducting commercial deep sea fishing operations outside the territorial waters of this state, nor does said tax apply to sales of or charges made for labor and services rendered in respect to the constructing, repairing, cleaning, altering or improving of such property.

The retail sales tax applies upon sales made to such persons of every other type of tangible personal property and upon sales of or charges made for labor and services rendered in respect to the construction, repairing, cleaning, altering or improving of such other types of property. Thus the retail sales tax applies upon sales to such persons of such things as fishing nets, hooks, lines, floats and bait; table and kitchen wares; hand tools, ice, fuel, and lubricants for use or consumption, except only sales of watercraft and component parts thereof. For sales of food products see WAC 458-20-119 and 458-20-244.

EXEMPTION CERTIFICATES REQUIRED

Persons selling watercraft or component parts thereof to such persons or performing services with respect to the same, are required to obtain from the purchaser a certificate evidencing the exempt nature of the transaction. This certificate must identify the purchaser by name and address, and by name of the watercraft with respect to which the purchase is made, and must contain a statement to the effect that the property purchased or repaired is for use primarily in commercial deep sea fishing operations.

The certificate should be in substantially the following form:

EXEMPTION CERTIFICATE

I HEREBY CERTIFY that the _____ this day ordered from or purchased from you, will be used primarily in commercial deep sea fishing operations outside the territorial waters of the state of Washington; that the registered name of the water craft to which said purchase applies is (name of fishing boat); that said sale is entitled to exemption under the provisions of RCW 82.08.030(11) of the Washington Revenue Act of 1935, as amended.

Dated _____,19__.

_____
(Name of Purchaser)

By _____
(Name of officer or agent)

Address _____

Incidental use within the waters of this state of fishing boats which are used primarily in deep sea fishing operations, will not deprive the owners thereof of the statutory exemption from the retail sales tax.

In the event the fishing boat with respect to which an exemption is claimed is of a type used in the waters of Puget Sound or the Columbia River and the tributaries thereof, and is not practical for use in deep sea fishing, sellers should collect the retail sales tax upon all sales of such boats and component parts thereof and upon charges made for the repair of the same.

It is a gross misdemeanor for a buyer to make a false certificate of exemption for the purpose of avoiding the tax.

USE TAX

The use tax does not apply upon the use of watercraft or component parts thereof.

The use tax does apply upon the actual use within this state of all other types of tangible personal property purchased at retail and upon which the sales tax has not been paid (See WAC 458-20-178).

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-176, filed 6/27/78; Order ET 70-3, § 458-20-176, filed 5/29/70, effective 7/1/70.]

WAC 458-20-177 (Rule 177) Sales of motor vehicles and trailers to nonresidents, and to residents taking delivery outside this state. The scope of this rule is limited to sales by dealers in this state of motor vehicles and trailers to:

1. Nonresidents of the state for use outside the state;

2. Residents of this state for use in this state but who take delivery outside this state.

For the purposes of this rule, members of the armed services (but not including civilian military employees) who are temporarily stationed in the State of Washington pursuant to military orders will be presumed to be nonresidents unless such persons were residents of this state at the time of their induction.

BUSINESS AND OCCUPATION TAX

In computing the tax liability of persons engaged in the business of selling motor vehicles and trailers no deduction is allowed by reason of sales made to nonresidents for use outside this state but who take delivery in Washington, and irrespective of the fact that such buyers may be entitled to a statutory exemption from the retail sales tax.

A deduction from gross proceeds of sales will be allowed when, as a necessary incident of the contract of sale, the seller agrees to, and does, deliver the vehicle to the buyer at a point outside the state, or delivers the same to a common carrier consigned to the purchaser outside the state.

The foregoing deduction, however, will be allowed only when the seller has secured and retains in his files satisfactory proof:

a. That under the terms of the sales agreement the seller was required to deliver the vehicle to the buyer at a point outside this state; and

b. That such out-of-state delivery was actually made by the seller or by a common carrier acting as his agent.

For forms of proof acceptable to the Department of Revenue see below under Retail Sales Tax-Out-of-State Delivery. For "interstate commerce" deductions, generally, refer to WAC 458-20-193.

RETAIL SALES TAX

1. SALES TO NONRESIDENTS. Under RCW 82.08.030(13) the retail sales tax does not apply to sales of motor vehicles and trailers to nonresidents of Washington for use outside this state, and even though delivery be made within this state, when either one of the following conditions is met:

a. Said motor vehicle or trailer will be taken from the point of delivery in this state directly to a point outside this state under the authority of a one-transit permit issued by the Department of Motor Vehicles pursuant to the provisions of RCW 46.16.100; or

b. Said motor vehicle or trailer will be registered and licensed immediately (at the time of delivery) under the laws of the state of the purchaser's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state.

Thus, in determining whether or not this particular exemption from the retail sales tax is applicable the dealer must establish the facts, first, that the purchaser is a bona fide nonresident of Washington and that the vehicle is for use in the state of the purchaser's residence and, second, that the vehicle is to be driven from his premises under the authority of either (a) a one-transit permit, or (b) valid license plates issued to that vehicle by the state of the purchaser's residence.

As evidence of the exempt nature of the sales transaction the seller, at the time of sale, is required to take an affidavit from the buyer giving his name, the state of his residence, his address in that state, the name, year and motor or serial number of the vehicle purchased, the date of sale, his declaration that the described vehicle is being purchased for use in the state of his residence and,

finally, that the vehicle will be driven from the premises of the dealer to the state of his residence under the authority of a one–transit permit (giving the number) or that the vehicle has been registered and licensed by the state of his residence and will be driven from the premises of the dealer with valid license plates (giving the number) issued by that state affixed thereto. If the vehicle or trailer being sold is already licensed with valid Washington plates and the nonresident purchaser wishes to qualify for exemption by transporting the vehicle out of state under authority of a one–transit permit, the dealer is required to remove the Washington plates prior to delivery of the vehicle and retain evidence of such removal to avoid liability for collection and payment of the retail sales tax. In addition to the affidavit from the buyer, the seller must himself certify, either by a separate writing or by appending a certification to the affidavit, to the fact that the vehicle left his premises under the authority of a one–transit permit or with valid license plates issued by the state of the buyer's residence affixed thereto. The affidavit and the dealer's certificate should be substantially in one of the two following forms, whichever may be applicable:

AFFIDAVIT NO. 1

(For use by a NONRESIDENT buyer of a motor vehicle transporting the same to the state of his residence under the authority of a ONE–TRANSIT PERMIT)

STATE of WASHINGTON }
COUNTY OF _____ } ss.

(Purchaser), being first duly sworn on oath, deposes and says:

That he is a *bona fide* resident of the State of _____ and that his address is (street and number or rural route), (city, town or post office), (state); That on this date he has purchased from (dealer) the following described motor vehicle, to–wit:

Make _____ Model _____
Year _____ (Motor Number)
(Serial No.) _____

and that said vehicle is being purchased for use in the state of his residence and that the same will be driven directly from the premises of the dealer to such state under the authority of a one–transit permit numbered _____ which has this day been issued to him authorizing the transit of said vehicle from (point of origin in permit) to (point of destination in permit)

Dated at _____, Washington, this _____ day of _____, 19__.

_____
(Signature)

_____
Service No. if Member of Armed Services

Subscribed and sworn to before me this _____ day of _____, 19__.

_____
Notary Public in and for the State of Washington, residing at _____

CERTIFICATION OF DEALER

I hereby certify that I have this day examined One–Transit Permit No. _____ issued to the affiant of the foregoing affidavit, and that the same authorizes the transit of the motor vehicle described therein between the points of origin and destination as hereinabove set forth.

_____
(Signature of dealer or representative)

_____
(Title–
Officer or Agent)

AFFIDAVIT NO. 2

(For use by a NONRESIDENT buyer of a motor vehicle transporting the same to the state of his residence under the authority of LICENSE PLATES issued by such state),

STATE of WASHINGTON }
COUNTY OF _____ } ss.

(Purchaser), being first duly sworn on oath, deposes and says:

That he is a *bona fide* resident of the State of _____ and that his address is (street and number or rural route), (city, town or post office), (state); That on this date he has purchased from (dealer) the following described motor vehicle, to–wit:

Make _____ Model _____
Year _____ (Motor Number)
(Serial No.) _____

and that said vehicle is being purchased for use in the state of his residence and will not be used in the State of Washington for more than three months;

That the affiant has licensed said vehicle in the state of _____ and has had issued to him by that state license plates numbered _____ which are valid until (expiration date of license) and that said plates have been affixed to said vehicle prior to the time it has left the premises of the dealer.

Dated at _____, Washington, this _____ day of _____, 19__.

_____
(Signature)

_____
Service No. if Member of Armed Services

Subscribed and sworn to before me this _____ day of _____, 19__.

Notary Public in and for the State of Washington, residing at ----------

CERTIFICATE OF DEALER

I hereby certify that before delivery of the motor vehicle described in the foregoing affidavit license plates numbered ----------, issued to said vehicle by the state of ---------- and expiring ----------, were affixed thereto.

(Signature of dealer or representative)

(Title–Officer or Agent)

The foregoing affidavits will be prima facie evidence that sales of motor vehicles and trailers to nonresidents have qualified for the sales tax exemption provided in RCW 82.08.030(13) of the law when there are no contrary facts which would negate the presumption that the seller relied thereon in complete good faith. This statutory tax exemption was enacted primarily to benefit sellers of motor vehicles and trailers whose natural trading areas cut across the state boundaries. Therefore, the burden rests upon the seller to exercise a reasonable degree of prudence in accepting statements relative to the nonresidence of buyers. Lack of good faith on the part of the seller or lack of the exercise of the degree of care required would be indicated, for example, if the seller has knowledge that the buyer is living or is employed in Washington, if for the purpose of financing the purchase of the vehicle the buyer gives a local address, if at the time of sale arrangements are made for future servicing of the vehicle in the seller's shop and a local address is shown for the shop customer, or if the seller has ready access to any other information which discloses that the buyer may not be in fact a resident of the state which he claims. As a protection to sellers, it is recommended that they follow the practice of examining the driver's license held by the buyer or ask for some other documentary proof of residence. A Nonresident Permit issued by the Department of Revenue may be accepted as prima facie evidence of the out of state residence of the buyer, but does not relieve the seller from obtaining the affidavits, certificates and other forms of proof required by this rule.

Members of the armed services who are temporarily stationed in Washington pursuant to military orders will be presumed to be nonresidents unless such persons were residents of this state at the time of their induction. This presumption is not applicable in respect to civilian employees of the armed services.

In all other cases where delivery of possession of the motor vehicle or trailer sold passes to the buyer in this state, the retail sales tax applies and must be collected at the time of sale. The mere fact that the buyer may be or claims to be a nonresident or that he intends to, and actually does, use the vehicle or trailer in some other state are not in themselves sufficient to entitle him to the benefit of this exemption. In every instance where the motor vehicle or trailer is licensed or titled in Washington by the purchaser the retail sales tax is applicable.

2. OUT–OF–STATE DELIVERIES. Out–of–state deliveries to buyers who are bona fide nonresidents are exempt from the retail sales tax when the seller, as a necessary incident to the contract of sale, delivers possession of motor vehicles and trailers to such buyers at points outside Washington and such motor vehicles are not licensed or titled in this state. If the vehicle or trailer being sold bears valid Washington plates and the nonresident wishes to qualify for exemption by taking delivery from the dealer at a point outside the state, the dealer is required to remove the Washington plates prior to delivery and retain evidence of such removal to avoid liability for collection and payment of the retail sales tax.

In such cases, as evidence of the exempt nature of the transaction, the seller must take from the buyer a certificate of out–of–state delivery which shall give the purchaser's name and address, the name, model, year and motor number of the vehicle purchased, and contain the buyer's statement that he is a bona fide resident of the named state, that the vehicle was purchased for use in such state and that under the terms of the sales agreement the dealer was required to and did deliver the vehicle to a named point outside the State of Washington. The certificate shall be signed by the buyer at the place of delivery. Attached to this certificate and made a part thereof shall be a certification by the seller that he delivered the vehicle to the purchaser named at the named place of delivery.

These certificates shall be substantially in the following form:

CERTIFICATE OF OUT–OF–STATE DELIVERY

(To be obtained from the purchaser at the time delivery is made to him at a point outside Washington)

The undersigned hereby certifies that he is a *bona fide* resident of the State of ---------- and that his address is (street and number or rural route), (city, town or post office), (state); That on the ---------- day of ----------, 19--, he purchased from (Dealer) the following described motor vehicle to–wit:

Make ---------- Model ----------
Year ---------- (Motor Number)
(Serial No.) ----------

and that said vehicle was purchased for use in the state of his residence;

That under the terms of the sales agreement the dealer was required to, and did on this day, deliver said motor vehicle to him at (Place of delivery).

Dated at ----------, ----------, this ----- day of ----------, 19--.

(Signature)

Service No. if Member of Armed Services

CERTIFICATION OF DEALER

I hereby certify that I have this day delivered the motor vehicle hereinabove described to (Name of purchaser), at (Place of delivery).
Dated -----

(Signature of dealer or representative).

(Title–Officer or Agent)

When such out–of–state delivery is made by a common carrier acting as agent of the seller then, as evidence of the exempt nature of the transaction, the seller shall retain in his files a signed copy of the bill of lading issued by the carrier in which the seller is shown as the consignor and by which the carrier agrees to transport the vehicle to a point outside the state.

The retail sales tax applies upon sales at retail made by local dealers to local residents for use by them in this state, even though delivery may be taken by the purchaser at the factory or other point outside this state, or that shipment may be made direct from outside this state to the purchaser in this state. However, where delivery is taken by local residents in foreign countries the motor vehicles will be deemed not to be for use in this state and local dealers will not be required to collect the retail sales tax.

3. RECORDS TO BE RETAINED BY SELLER. The affidavits and certificates referred to in this rule must be retained by the seller in his files as a part of his permanent records subject to audit by the Department of Revenue. In the absence of such proof, claims that transactions were exempt from tax will be disallowed unless the seller can, by other clear and convincing evidence, establish the exempt nature of the transaction.

Revised June 1, 1970. [Order ET 70–3, § 458–20–177, filed 5/29/70, effective 7/1/70.]

WAC 458–20–178 (Rule 178) Use tax. NATURE OF THE TAX. The use tax supplements the retail sales tax by imposing a tax of like amount upon the use within this state as a consumer of any article of tangible personal property purchased at retail or acquired by lease, gift, or bailment, or extracted, produced or manufactured by the person so using the same, where the user, donor or bailor has not paid retail sales tax under chapter 82.08 RCW with respect to the sale to him of the property used.

In general, the use tax applies upon the use of any tangible personal property, the sale or acquisition of which has not been subjected to the Washington retail sales tax. Conversely, it does not apply upon the use of any property if the sale to the user or to his donor or bailor has been subjected to the Washington retail sales tax, and such tax paid thereon. Thus, these two methods of taxation stand as complements to each other in the state revenue plan, and taken together, provide a uniform tax upon the sale or use of all tangible personal property, irrespective of where it may have been purchased or how acquired.

WHEN TAX LIABILITY ARISES. Tax liability imposed under the use tax arises at the time the property purchased, received as a gift, acquired by bailment, or extracted or produced or manufactured by the person using the same is first put to use in this state. The terms "use," "used," "using," or "put to use" include any act by which the taxpayer takes or assumes dominion or control over the article and shall include installation, storage, withdrawal from storage, or any other act preparatory to subsequent actual use or consumption within the state. Tax liability arises as to that use only which first occurs within the state and no additional liability arises with respect to any subsequent use of the same article by the same person. As to lessees of tangible personal property who have not paid the retail sales tax to their lessors, liability for use tax arises as of the time rental payments fall due and is measured by the amount of such rental payments.

PERSONS LIABLE FOR THE TAX. As has been indicated, the person liable for the tax is the purchaser, the extractor or manufacturer who uses articles produced by himself, the bailor or donor and the bailee or donee if the tax is not paid by the bailor or donor, and the lessee (to the extent of the amount of rental payments to a lessor who has not collected the retail sales tax). A lessor who leases equipment with an operator is deemed a user and is liable for the tax on the full value of the equipment.

It should be noted also that the law provides that the term "sale at retail" means, among other things, every sale of tangible personal property to persons taxable under the classifications of Public Road Construction and Service and Other Business Activities of the business and occupation tax. Hence, persons engaged in such businesses are liable for the payment of the use tax with respect to the use of materials purchased by them for the performance of those activities, when the Washington retail sales tax has not been paid on the purchase thereof, even though title to such property may later be transferred to another either as personal or as real property. It will be noted also that persons engaged in the types of businesses referred to in this paragraph are expressly included within the statutory definition of the word "consumer." (See RCW 82.04.190.) Also liable for tax is any person who distributes or displays or causes to be distributed or displayed any article of tangible personal property except newspapers the primary purpose of which is to promote the sale of products and services. (See RCW 82.12.010(5).)

LESSORS AND LESSEES. Any use tax liability with respect to leased tangible personal property will be that of the lessee and is limited to the amount of rental payments paid or due the lessor. However, when boats,

motor vehicles, equipment and similar property are rented under conditions whereby the lessor supplies an operator or crew, the lessor is a user and the use tax is applicable to the value of the property so used.

EXEMPTIONS. Persons who purchase, produce, manufacture, or acquire by lease or gift tangible personal property for their own use or consumption in this state, are liable for the payment of the use tax, except as to the following uses which are exempt under RCW 82-.12.030 of the law:

1. Any of the following uses:

a. the use of tangible personal property brought into the State of Washington by a nonresident thereof for his use or enjoyment while temporarily within the state, unless such property is used in conducting a nontransitory business activity within the state; or

b. the use by a nonresident of a motor vehicle which is currently licensed under the laws of the state of his residence and is not used in this state more than three months and which is not required to be registered or licensed under the laws of this state, or

c. the use of household goods, personal effects, and private automobiles by a bona fide resident of this state if such articles were acquired and used by such person in another state while a bona fide resident thereof and such acquisition and use occurred more than thirty days prior to the time he entered this state.

2. The use of any article of tangible personal property purchased at retail or acquired by lease, by bailment or by gift if the sale thereof to or the use thereof by the present user or his bailor or donor has already been subjected to tax under the retail sales tax or use tax and such tax has been paid by the present user or by his bailor or donor; or in respect to the use of property acquired by bailment when tax has been paid by the bailee or any previous bailee, based on reasonable rental value as provided by RCW 82.12.060, equal to the amount of tax multiplied by the value of the article used at the time of first use, at the tax rate then applicable, or in respect to the use by a bailee of property acquired prior to June 9, 1961, by a previous bailee from the same bailor for use in the same general activity.

3. The use of any article of tangible personal property the sale of which is specifically taxable under the Public Utility Tax.

4. a. In respect to the use of any airplane, locomotive, railroad car, or water craft used primarily in conducting interstate or foreign commerce by transporting therein or therewith property and persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state, and;

b. In respect to the use of tangible personal property which becomes a component part of any such airplane, locomotive, railroad car, or water craft, and in respect to the use by a nonresident of this state of any motor vehicle or trailer used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such motor vehicle or trailer is registered and licensed in a foreign state; also in respect to the use by a nonresident of this state of any motor vehicle or trailer so registered and licensed and used within this state for a period not exceeding fifteen consecutive days when the user has furnished the department of revenue with a written statement containing the following information:

1. Name of registered owner.
2. Name of the foreign state in which motor vehicle or trailer is registered.
3. License number.
4. Make and model.
5. Purpose of use in Washington.
6. Date of first use in Washington.
7. Date last used in Washington.

For reasons valid to the department of revenue, fifteen additional days may be granted consecutive to the original period of use. Application for such additional use must be made in writing in advance of the expiration of the original period of use and must set out the justification for and the reason why such additional time should be allowed.

This exemption is not available to persons performing construction or service contracts in this state but is limited to casual or isolated use by a nonresident for servicing of his own facilities.

For the purpose of this exemption the term "nonresident" shall include a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state, and;

c. In respect to the use by the holder of a carrier permit issued by the Interstate Commerce Commission of any motor vehicle or trailer used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state if the first use of which within this state is actual use in conducting interstate or foreign commerce. Also in respect to use by subcontractors to such interstate carriers, (i.e., persons operating their own vehicles under leases with operator) and;

d. In respect to the use of any motor vehicle or trailer while being operated under the authority of a one–transit permit issued by the Department of Motor Vehicles pursuant to RCW 46.16.100 and moving upon the highways from the point of delivery in this state to a point outside this state, and;

e. In respect to the use of tangible personal property which becomes a component part of any motor vehicle or trailer used by the holder of a carrier permit issued by the Interstate Commerce Commission authorizing transportation by motor vehicle across the boundaries of this state. Also in respect to use by subcontractors to such interstate carriers (i.e., persons operating their own vehicles under leases with operator).

5. The use of any article of tangible personal property which the state is prohibited from taxing under the constitution of the state or under the constitution or laws of the United States;

6. The use of motor vehicle fuel used in aircraft by the manufacturer thereof for research, development, and

testing purposes, and motor vehicle fuel taxable under chapter 82.36 RCW: *Provided*, That the use of such fuel upon which a refund of the motor vehicle fuel tax is obtained shall not be exempt, and the Department of Motor Vehicles shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter, and remit the same to the Department of Revenue.

7. In respect to the use of any article of tangible personal property included within the transfer of the title to the entire operating property of a publicly or privately owned public utility, or a complete operating integral section thereof by the state or a political subdivision thereof in conducting any business defined in subdivision 1 through 11 of RCW 82.16.010.

8. The use of tangible personal property (including household goods) which has been used in conducting a farm activity, but only when that property was purchased from a farmer at an auction sale held or conducted by an auctioneer upon a farm and not otherwise.

9. The use of tangible personal property by corporations which have been incorporated under any act of the Congress of the United States of America and whose principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities, and to devise and carry on measures for preventing the same. (The Red Cross is the only existing organization that qualifies for this exemption.)

10. The use of purebred livestock for breeding purposes where said animals are registered in a nationally recognized breed association, the use of semen in the artificial insemination of livestock, and in respect to the use of cattle and milk cows used on the farm.

11. The use of poultry in the production for sale of poultry or poultry products.

12. The use of fuel by the extractor or manufacturer thereof when used directly in the operation of the particular extractive operation or manufacturing plant which produced or manufactured the same.

13. The use of motor vehicles, equipped with dual controls, which are loaned to accredited schools and used in connection with their driver training programs.

14. The use by a bailee of any article of tangible personal property which is entirely consumed in the course of research, development, experimental and testing activities conducted by the user, provided the acquisition or use of such articles by the bailor was not subject to sales or use tax.

15. The use by residents of this state of motor vehicles and trailers acquired outside this state and used while such persons are members of the armed services and are stationed outside this state pursuant to military orders, but this exemption does not apply to the use of motor vehicles or trailers acquired less than thirty days prior to the discharge or release from active duty of such person from the armed services. This exemption is not permitted to persons called to active duty for training periods of less than six months.

16. The use of sand, gravel, or rock to the extent of the cost of or charges made for labor and services performed in respect to the mining, sorting, crushing, screening, washing, hauling, and stockpiling such sand, gravel, or rock, when such sand, gravel, or rock is taken from a pit or quarry which is owned by or leased to a county or a city, and such sand, gravel, or rock is (1) either stockpiled in said pit or quarry for placement or is placed on the street, road, place or highway of the county or city by the county or city itself (i.e., by its own employees), or (2) sold by the county or city to a county or a city at actual cost for placement on a publicly owned street, road, place, or highway. This exemption shall not apply to the use of such material to the extent of the cost of or charge made for such labor and services, if the material is used for other than public road purposes or is sold otherwise than as here indicated.

17. The use of form lumber by any person engaged in the construction, repairing, decorating or improving of new or existing buildings or other structures under, upon or above real property of or for consumers: Provided, That such lumber is used or to be used first by such person for the molding of concrete in a single such contract, project or job and is thereafter incorporated into the product of that same contract, project or job as an ingredient or component thereof.

18. The use of wearing apparel only as a sample for display for the purpose of effecting sales of goods represented by such sample.

19. The use of tangible personal property held for sale and displayed in single trade shows for a period not in excess of thirty days, the primary purpose of which is to promote the sale of products or services.

20. The use of pollen.

RCW 82.08.030(1) provides expressly that the exemption therein with respect to casual sales shall not be construed as exempting from the use tax the use of any article of tangible personal property acquired through a casual sale. Thus, while casual sales made by persons who are not registered with the Department of Revenue are exempt from the retail sales tax (for the obvious reason that the procedure for collection of that tax is impractical in those cases), the use of property acquired through such sales is not exempt from the use tax, except as provided in RCW 82.12.030.

See also WAC 458-20-106 regarding the use tax on use of article purchased at a casual sale.

USE BY A NONRESIDENT. The exemption set forth in subdivision "1" above, does not extend to the use of articles by a psiding in and regularly employed in this state irrespective of whether or not such person claims a legal domicile elsewhere or intends to leave this state at some future time, nor does it extend to the use of property brought into this state by a nonresident for the purpose of conducting herein a nontransitory business activity.

The term "nontransitory business activity" means and includes the business of extracting, manufacturing, selling property, printing, publishing, and performing contracts for the constructing or improving of real or personal property. It does not include the business of

conducting a circus or other form of amusement when the personnel and property of such business regularly moves from one state into another, nor does it include casual or incidental business done by a nonresident lawyer, doctor or accountant.

When property purchased elsewhere is brought into this state for use or consumption the use tax will apply upon the use thereof, but a credit is allowed for the amount of sales or use tax paid by the user or his bailor or donor on such property to any other state, political subdivision thereof, or the District of Columbia prior to the use of the property in this state.

COMPUTATION OF TAX. The tax is levied and collected on an amount equal to the value of the article used by the taxpayer. The term "value of the article used" is defined by the law as being the total of the consideration paid or given by the purchaser to the seller for the article used plus any additional amounts paid by the purchaser as tariff or duty with respect to the importation of the article used. In case the article used was extracted or produced or manufactured by the person using the same or was acquired by gift or was sold under conditions where the purchase price did not represent the true value thereof, the value of the article used must be determined as nearly as possible according to the retail selling price, at the place of use, of similar products of like quality, quantity and character. In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character. In case the articles used are acquired by lease or rental, use tax liability is measured by the amount of rental payments to a lessor who has not collected the retail sales tax.

RETURNS AND REGISTRATION. Persons subject to the payment of the use tax, and who are not required to register or report under the provisions of chapters 82-.04, 82.08, 82.16, or 82.28 RCW, are not required to secure a certificate of registration as provided under WAC 458–20–101. As to such persons, returns must be filed with the Department of Revenue on or before the fifteenth day of the month succeeding the end of the period in which the tax accrued. Forms and instructions for making returns will be furnished upon request made to the department at Olympia or to any of its branch offices.

See WAC 458–20–221 for liability of certain selling agents for collection of use tax. [Order ET 71–1, § 458–20–178, filed 7/22/71; Order ET 70–3, § 458–20–178, filed 5/29/70, effective 7/1/70.]

WAC 458–20–179 (Rule 179) Public utility tax. Persons engaged in certain public services businesses are taxable under the public utility tax, and are exempt from tax under the business and occupation tax with respect to such businesses. However, many persons taxable under the public utility tax are also engaged in some other business which is taxable under the business and occupation tax. For example, a light and power company engaged in operating a plant or system for distribution of electrical energy for sale, may also be engaged in selling at retail various electrical appliances. Such a company would be taxable under the public utility tax with respect to the sale of electric energy, and also taxable under the business and occupation tax with respect to the sale of electrical appliances.

Persons who are taxable under the public utility tax, and the rate of such tax, which is applied to gross income, are those engaged in the following businesses:

1. Railroad, express, railroad car, water distribution, light and power, telephone and telegraph. Rate of tax 3.6%.

2. Gas distribution. Rate of tax 3%.

3. Urban transportation and common carrier vessels under 65 feet in length except tug boats operating upon the waters of the State of Washington. Rate of tax .6%.

4. Motor transportation, tugboat businesses, and all public service businesses other than those heretofore mentioned. Rate of tax 1.8%.

The rates of tax shown are imposed under RCW 82.16.020.

The term "public service businesses" includes any of the businesses defined in RCW 82.16.010(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), and (12) or any business subject to control by the state, or having the powers of eminent domain and the duties incident thereto, or any business declared by the legislature to be a public utility, irrespective of whether eminent domain powers are had or state control is exercised. It includes, among others, without limiting the scope thereof: Airplane transportation, boom, dock, ferry, log patrol, pipe line, warehouse, toll bridge, toll logging road, water transportation and wharf businesses.

The term "subject to control by the state" means control by the Utilities and Transportation Commission or any other state department required by law to exercise control of business of a public service nature as to rates charged or services rendered.

The term "gross income" means "the value proceeding or accruing from the performance of the particular public service or transportation businesses involved, including operations incidental thereto, but without any deduction on account of the cost of the commodity furnished or 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." RCW 82.16.010(13).

In distinguishing gross income taxable under the public utility tax from gross income taxable under the business and occupation tax, the Department of Revenue will be guided by the Uniform System of Accounts established for the specific type of concerned. However, because of differences in the Uniform Systems of Accounts established for various types of utility businesses, such guides will not be deemed controlling for the purposes of classifying revenue under the Revenue Act.

VOLUME EXEMPTION. Persons subject to the public utility tax are exempt from the payment of this tax for any reporting period in which taxable income reported under the combined total of all public utility tax

classifications does not equal or exceed the minimum taxable amount for the reporting periods assigned to such persons according to the following schedule:

Monthly reporting basis . . . . . $500 per month
Quarterly reporting basis . . . . . $1500 per quarter
Annual reporting basis . . . . . $6000 per annum

DEDUCTIONS. Amounts derived from the following sources do not constitute taxable income in computing tax under the public utility tax:

1. Amounts derived by municipally owned or operated public services businesses directly from taxes levied for the support thereof, but not including service charges which are spread on the property tax rolls and collected as taxes.

2. Amounts derived by persons engaged in the water distribution, light and power, or gas distribution business, from the sale of commodities to persons in the same public service business for resale as such within this state.

3. Amounts actually paid by a taxpayer to another person taxable under chapter 82.16 RCW as the latter's portion of the consideration due for services jointly furnished by both. This includes the amount paid to a ferry company for the transportation of a vehicle and its contents (but not amounts paid to state owned or operated ferries) when such vehicle is carrying freight or passengers for hire and is being operated by a person engaged in the business of urban transportation or motor transportation. It does not include amounts paid for the privilege of moving such vehicles over toll bridges.

4. Amounts derived from the distribution of water through an irrigation system, solely for irrigation purposes.

5. Amounts derived from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state with respect to which the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination; and amounts derived from the transportation of commodities from points of origin in the state to an export elevator, wharf, dock or shipside on tidewater or navigable tributaries thereto from which such commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destination: *Provided*, That no deduction will be allowed when the point of origin and the point of delivery to such export elevator, wharf, dock, or shipside are located within the corporate limits of the same city or town.

6. Amounts or value paid or contributed to any county, city, town, political subdivision, or municipal or quasi municipal corporation of the State of Washington representing payments of special assessments or installments thereof and interests and penalties thereon, charges in lieu of assessments, or any other charges, payments or contributions representing a share of the cost of capital facilities constructed or to be constructed or for the retirement of obligations and payment of interest thereon issued for capital purposes. The business and occupation tax is likewise inapplicable to such amounts. Service charges shall not be included in this exemption even though used wholly or in part for capital purposes.

When revenue derived from any of the foregoing sources is included within the reported gross income, the amount thereof may be deducted in computing tax liability.

Business tax is imposed under the Manufacturing——Other classification upon the generation or production of electrical energy for resale or consumption outside the state. Electrical energy so taxed is not subject to public utility tax.

Contributions in aid of construction not falling within item "6" above are subject to public utility tax, except that amounts received for line extensions, connection fees, and other charges for services rendered prior to the receipt of utility services by the customer against whom the charges are made are subject to business and occupation tax under the Service and Other Activities classification rather than the public utility tax.

In addition to the foregoing deductions there also may be deducted from the reported gross income (if included therein), the following:

a. The amount of cash discount actually taken by the purchaser or customer.

b. The amount of credit losses actually sustained.

c. Amounts received from insurance companies in payment of losses.

d. Amounts received from individuals and others in payment of damages caused by them to the utility's plant or equipment.

(For specific rule pertaining to the classifications of "urban transportation" and "motor transportation," see WAC 458-20-180, and of "warehouses," see WAC 458-20-182.) [Order ET 71-1, § 458-20-179, filed 7/22/71; Order ET 70-3, § 458-20-179, filed 5/29/70, effective 7/1/70.]

WAC 458-20-180 (Rule 180) Motor transportation, urban transportation. The term "motor transportation business" means the business (except urban transportation business) of operating any motor propelled vehicle by which persons or property of others are conveyed for hire, and includes, but is not limited to the operation of any motor propelled vehicle as an auto transportation company (except urban transportation business), common carrier or contract carrier as defined by RCW 81-.68.010 and 81.80.010.

It includes the business of hauling for hire any extracted or manufactured material, over the highways of the state and over private roads but does not include the transportation of logs or other forest products exclusively upon private roads.

It does not include the hauling of any earth or other substance excavated or extracted from or taken to the right of way of a publicly owned street, place, road or

highway, by a person taxable under the classification of Public Road Construction of the business and occupation tax. (See WAC 458-20-171.)

The term "urban transportation business" means the business of operating any vehicle for public use in the conveyance of persons or property for hire, insofar as (A) operating entirely within the corporate limits of any city of [or] town, or within five miles of the corporate limits thereof, or (B) operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof. Included herein, but without limiting the scope thereof, is the business of operating passenger vehicles of every type and also the business of operating cartage, pickup or delivery services, including in such services the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property.

It does not include the business of operating any vehicle for the conveyance of persons or property for hire when such operating extends more than five miles beyond the corporate limits of any city (or contiguous cities) through which it passes. Thus an operation extending from a city to a point which is more than five miles beyond its corporate limits does not constitute urban transportation, even though the route be through intermediate cities which enables the vehicle, at all times to be within five miles of the corporate limits of some city.

The terms "motor transportation" and "urban transportation" include the business of renting or leasing trucks, trailers, busses, automobiles and similar motor vehicles to others for use in the conveyance of persons or property when as an incident of the rental contract such motor vehicles are operated by the lessor or by an employee of the lessor. These terms include the business of operating taxicabs and armored cars, but do not include the businesses of operating auto wreckers or towing vehicles (taxable as sales at retail or wholesale under RCW 82.04.050), school busses, ambulances, nor the collection and disposal of refuse and garbage (taxable under the business and occupation tax classification, Service and Other Activities).

RETAIL SALES TAX

Persons engaged in the business of motor transportation or urban transportation are required to collect the retail sales tax upon gross retail sales of tangible personal property sold by them. The retail sales tax must also be collected upon retail sales of services defined as "sales" in RCW 82.04.040 and "sales at retail" in RCW 82.04.050, including charges for the rental of motor vehicles or other equipment without an operator.

Persons engaged in the business of motor transportation or urban transportation must pay the retail sales tax to their vendors when purchasing motor vehicles, trailers, equipment, tools, supplies and other tangible personal property for use in the conduct of such businesses. (See WAC 458-20-174 for limited exemptions allowed in the Act for motor carriers operating in interstate or foreign commerce.) Persons buying motor vehicles, trailers and similar equipment solely for the purpose of renting or leasing the same without an operator are making purchases for resale and are not required to pay the retail sales tax to their vendors.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons engaged in either of said businesses are taxable under the Retailing classification upon gross retail sales of tangible personal property sold by them and upon retail sales of services defined as "sales" in RCW 82.04.040 or "sales at retail" in RCW 82.04.050.

SERVICE AND OTHER BUSINESS ACTIVITIES. Persons engaged in either of said businesses are taxable under the Service and Other Activities classification upon gross income received from checking service, packing and crating, the mere loading or unloading for others, commissions on sales of tickets for other lines, travelers' checks and insurance, etc. and the transportation of logs and other forest products exclusively over private roads.

PUBLIC UTILITY TAX

Persons engaged in the business of urban transportation are taxable under the Urban Transportation classification upon the gross income from such business.

Persons engaged in the business of motor transportation are taxable under the Motor Transportation classification upon the gross income from such business.

Persons engaged in the business of both urban and motor transportation are taxable under the Motor Transportation classification upon gross income, unless a proper segregation of such revenue is shown by the books of account of such persons. (See WAC 458-20-193 for interstate and foreign commerce.)

Revised June 1, 1970. [Order ET 70-3, § 458-20-180, filed 5/29/70, effective 7/1/70.]

WAC 458-20-181 (Rule 181) Vessels, including log patrols, tugs and barges, operating upon waters in the state of Washington.

BUSINESS AND OCCUPATION TAX

RETAILING. Persons engaged in the business of operating such vessels and tugs are taxable under the Retailing classification upon the gross sales of meals (including meals to employees) and other tangible personal property taxable under the retail sales tax.

SERVICE AND OTHER BUSINESS ACTIVITIES. The business of operating lighters is a service business taxable under the Service and Other Business Activities classification upon the gross income from such service.

RETAIL SALES TAX

Sales of meals and other tangible personal property by persons operating such vessels and tugs are sales at retail and the retail sales tax must be collected thereon. For

applicability of Retail Sales Tax where meals are furnished to members of the crew or to other employees as a part of their compensation for services rendered, see WAC 458-20-119.

Sales of foodstuff and other articles to such operators for resale aboard ship are not subject to Retail Sales Tax.

Sales to all such operators of fuel, lubricants, machinery, equipment and supplies which are not resold are sales at retail and the retail sales tax must be paid thereon, unless exempt by law.

Charges made by others for the repair of any boat or barge are also sales at retail and the retail sales tax must be paid upon the total charge made for both labor and materials.

Charges made for drydocking are not subject to the retail sales tax provided such charges are shown as an item separate from charges made for repairing.

USE TAX

The use tax applies upon the use within this state of all articles of tangible personal property purchased at retail and upon which the retail sales tax has not been paid, unless exempt by law.

PUBLIC UTILITY TAX

The business of operating upon waters wholly within the State of Washington vessels which are common carriers regulated by the Utilities and Transportation Commission is taxable under the public utility tax as follows:

1. Vessels under sixty-five feet in length, taxable under the classification Vessels Under Sixty-five Feet upon gross income.

2. Vessels sixty-five feet or more in length, taxable under the classification Other Public Service Business upon gross income.

The Other Public Service classification of the public utility tax applies to the business of operating tugs, barges, and log patrols.

Revised June 1, 1965. [Order ET 70-3, § 458-20-181, filed 5/29/70, effective 7/1/70.]

WAC 458-20-182 (Rule 182) Warehouses. The term "warehouse" means every structure wherein facilities are offered for the storage of tangible personal property.

The gross operating revenue of the business of a warehouse includes all income from the storing, handling, sorting, weighing or measuring of tangible personal property.

Where a grain warehouseman purchases or owns grain stored in such warehouse, there shall be included in gross operating revenue (a) an amount equal to the charges at the customary rate for all services rendered in connection with such grains up to the time of purchase by the warehouseman, and (b) the amount of any charges for services that are rendered during the period of the warehouseman's ownership thereof billed and stated, as such, separately from the price of the grains on the invoice to the purchaser at the time of the sale by the warehouseman.

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of operating cold storage warehouses are taxable under the classification Cold Storage Warehousing upon the gross income received from such business. This classification does not include gross income from the rental of cold storage lockers.

Persons engaged in the business of renting cold storage lockers are taxable under the classification Service and Other Activities upon the gross income received from such business.

PUBLIC UTILITY TAX

Persons engaged in the business of operating any type of warehouse other than a cold storage warehouse are taxable under the classification Other Public Service Business upon the gross income from such business.

Revised May 3, 1974. [Order ET 74-1, § 458-20-182, filed 5/7/74; Order ET 70-3, § 458-20-182, filed 5/29/70, effective 7/1/70.]

WAC 458-20-183 (Rule 183) Places of amusement or recreation. The term "sale at retail" is defined by RCW 82.04.050 to include certain amusement and recreation businesses. Those activities specifically included within the definition are golf, pool, billiards, skating, bowling, and ski lifts and tows. Thus, while the legislature has not defined the term "amusement and recreation business," it has indicated the type of businesses it intended to tax under this classification, i.e., recreations in which the payment is for participation. Accordingly, the language of this classification is construed to include the following additional amusement and recreation businesses: Archery, badminton, bowling shoes rentals, croquet and handball courts, operation of charter boats for sport fishing, golf cart rentals, dancing, golf driving ranges, miniature golf, private fishing, shuffleboard, swimming facilities, tennis facilities, trampolines.

BUSINESS AND OCCUPATION TAX

Gross receipts from the amusement and recreation businesses listed above are taxable under the classification Retailing.

Such persons are taxable under the Retailing classification upon gross receipts from sales of meals, drinks, tobacco or other property sold by them.

RETAIL SALES TAX

The retail sales tax must be collected upon charges for admissions and the use of facilities by persons engaged in the amusement and recreation businesses listed above. The retail sales tax must also be collected upon sales of cigarettes and other merchandise by persons engaging in such businesses. See WAC 458-20-244 for sales of food products.

When the charge for merchandise is included within a charge for admission which is not a "sale at retail" as defined herein, the retail sales tax applies to the charge made for both merchandise and admission, unless a proper segregation of such charge is made upon the books of account of the seller.

The retail sales tax applies upon the sale or rental of all equipment and supplies to persons conducting places of amusement and recreation, except merchandise which is resold by them.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-183, filed 6/27/78; Order ET 70-3, § 458-20-183, filed 5/29/70, effective 7/1/70.]

WAC 458-20-184 (Rule 184) Tax on conveyances, general provisions. The provisions of the conveyance tax impose a tax upon conveyances (deed, instrument or writing) whereby any lands, tenements or other realty sold are granted, transferred or otherwise conveyed to, or vested in, a purchaser or any other person by his direction. The tax is paid by means of stamps to be affixed to the instrument, document or paper conveying the property, by the person making, signing, issuing or accepting any such instrument. When the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale and not removed by the sale, exceeds $100.00, the tax is imposed at the rate of 50¢ for each $500.00 or fractional part thereon.

METER STAMPING MACHINES. In addition to the documentary stamps customarily sold and used for payment of the conveyance tax, stamps produced by stamp meter machines may be used when authorized and approved by the director of revenue. A stamp printed directly on a document by an authorized meter machine is considered cancelled provided the printing on such stamp contains the date of such printing and a number which identifies the machine printing the stamp.

The tax applies to:

1. Deeds dated prior to May 1, 1935, but delivered after that date;

2. Deeds in escrow upon delivery to the grantee, unless deposited before May 1, 1935.

The tax does not apply to:

1. Any instrument or writing given to secure a debt;

2. Deeds dated and delivered prior to May 1, 1935, even though recorded after that date;

3. Deeds deposited in escrow before May 1, 1935; (the presumption is that a deed was not deposited in escrow prior to May 1, 1935.)

4. Transfers without a valuable consideration in property or money;

5. Instruments conveying personal property only, or to instruments that do not convey a fee estate in real property, such as leases, contracts, options, etc.;

6. Deeds by savings and loan associations to a holding corporation made pursuant to chapter 33.04 RCW;

7. Deeds executed by County and City Treasurers conveying realty sold for nonpayment of taxes or assessments;

8. Deeds to the State of Washington, its departments and institutions.

TAX——HOW COMPUTED. In calculating the amount of stamps which must be affixed to a deed of conveyance, the tax is computed upon the full value of the property conveyed less all encumbrances which rest on the property before the sale and are not removed by the sale. Encumbrances placed on the property in connection with, and as a result of, the sale or transfer, as well as notes for deferred payments, cannot be deducted in determining the amount upon which the tax is calculated. For example:

a. B, the owner of certain real estate, sold it to C for a consideration of $4,000. C paid $2,500 in cash, leaving a balance due of $1,500. B accepted C's note for the balance and gave C a deed to the property. The tax should be computed upon $4,000.

Where the property conveyed is encumbered, the tax is computed according to the following examples:

b. B, for a consideration of $5,000, conveys to C land on which there is an encumbrance of $1,000 at the time of sale. At the time of sale B signs a contract agreeing to pay off the encumbrance at a later date. The deed of conveyance from B to C is subject to tax on $5,000.

c. B conveys land to C on which there is a mortgage of $1,000. C pays B $2,000 in consideration for the transfer and assumes, or agrees to pay, the mortgage. The deed of conveyance from B to C is subject to tax on $2,000.

CONVEYANCE BY A MORTGAGOR TO A MORTGAGEE. A conveyance by a defaulting mortgagor to a mortgagee in consideration of the cancellation of the mortgage debt is subject to a conveyance tax calculated on the amount of the mortgage debt, plus unpaid accrued interest. For example:

B holds a mortgage upon C's property for $5,000. C pays $2,000 on the mortgage, leaving a balance due of $3,000. In order to avoid the expense of a foreclosure sale B and C enter into an agreement whereby C conveys the property to B in consideration of the cancellation of the mortgage debt. The deed of conveyance is subject to tax on $3,000 plus any unpaid accrued interest.

ACTUAL VALUE AT TIME OF CONVEYANCE THE MEASURE OF THE TAX. Where the consideration for a conveyance of lands, tenements, or other real property is left open, to be fixed by future contingencies, the actual value at the time of conveyance is the measure of the tax upon the deed, instrument, or writing whereby the conveyance is made.

DEEDS CONVEYING PROPERTY SOLD UNDER FORECLOSURE OR EXECUTION. Deeds executed by sheriffs, clerks of courts, etc., to cover transfers of property sold under a judgment of foreclosure or execution are subject to the conveyance tax. The grantee or vendee is required to pay the tax.

The conveyance tax does not attach when the sheriff's certificate of sale is issued, since such certificate does not vest title to the property. The tax attaches when the sheriff's confirmatory deed is issued.

A deed to real estate, executed by a sheriff to a mortgagee who bids in property at a foreclosure sale to satisfy a mortgage lien, is likewise subject to the conveyance tax, the tax to be computed upon the amount bid for the property.

DEEDS EXPRESSING A NOMINAL CONSIDERATION. All deeds in which the stated consideration is less than $100 are presumed not to be subject to the conveyance tax, unless the conditions in respect to the conveyance indicate otherwise.

GIFTS. A deed issued to cover a bona fide gift of real property from one individual to another is not taxable.

SALES OF STANDING TIMBER, MINERALS IN PLACE OR OTHER NATURAL RESOURCE PRODUCTS. Where standing timber, minerals in place and other natural resources in place are sold and conveyed by deed or other written instrument, the provisions of the conveyance tax apply if the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, and not removed by the sale, exceeds $100.00.

DEEDS ON EXCHANGE OF PROPERTIES. In the case of an exchange of two properties, the deeds transferring title to each are subject to tax, which should in each case be computed on the basis of the actual value of the interest or property conveyed, the amount of any pre-existing lien or encumbrance which is not removed by the sale being deductible.

STAMPS, WHERE PROCURED. Stamps to denote payment of the tax imposed upon conveyances have been issued by the Department of Revenue in denominations of 50¢, $1.00, $2.00, $5.00, $10.00, $50.00, $100.00 and $500.00. Conveyance stamps may be obtained from the office of the Department of Revenue in Olympia, or from any of its branch offices or from any county auditor.

WHO SHALL AFFIX STAMPS. The Act requires that the person who makes, signs, or issues any instrument taxable thereunder shall affix and cancel the revenue stamps. It also prohibits any person from accepting such instruments unless they are properly stamped.

CANCELLATION OF STAMPS. The person using or affixing conveyance stamps upon any instrument, document or paper shall write or stamp the initials of his name and the date upon which the stamp is affixed or used.

DEEDS TO AND BY THE UNITED STATES AND THE STATE OF WASHINGTON AND ITS POLITICAL SUBDIVISIONS. The provisions of the conveyance tax do not apply to a conveyance of real estate sold to or by the United State government or any instrumentality thereof. Furthermore, the tax does not apply to a conveyance of real estate sold by the State of Washington or any political subdivision thereof exercising essential governmental functions, nor does it apply to any conveyance to the State of Washington itself, or to its departments or institutions.

However, a conveyance of real estate sold to any political subdivision of the State of Washington is subject to the tax and the proper amount of conveyance stamps must be affixed thereto by the person making, signing or issuing such instrument. The law provides that it shall be a gross misdemeanor for any person to make, sign, issue or accept or cause to be made, signed, issued or accepted any instrument without the full amount of the tax thereon being duly paid. Therefore, any officer, agent or employee of any political subdivision of the State of Washington, before accepting any such instrument on its behalf, must require that the proper amount of stamps be affixed thereto.

Revised June 1, 1970. [Order ET 70-3, § 458-20-184, filed 5/29/70, effective 7/1/70.]

WAC 458-20-185 (Rule 185) Tax on tobacco products--Definitions. "Tobacco products" means all tobacco products except cigarettes (see WAC 458-20-186 for cigarette excise taxes). The term includes cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed or other smoking tobacco; snuff, snuff flour, cavendish, plug, twist, fine cut, or other chewing tobacco; shorts, refuse scraps, clippings, cuttings, sweepings, or other kinds or forms of tobacco.

"Distributor" means

a. any person engaged in the business of selling tobacco products in this state who brings or causes to be brought into this state from without state any tobacco products for sale, or

b. any person who makes, manufactures, or fabricates tobacco products in state for sale in this state, or

c. any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state.

"Subjobber" means any person, other than a tobacco manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers.

"Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever by any person for a consideration. It includes all gifts by persons selling tobacco products.

"Wholesale sales price" means the established manufacturer's price to the distributor, exclusive of any discount or other reduction.

"Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

NATURE OF TAX. RCW 82.26.020(1) levies an excise tax at the rate of 45% of the wholesale sales price on all tobacco products sold, used, consumed, handled, or distributed within the state. The tax is to be paid by the distributor at the time the distributor brings or causes to be brought into this state from without the state tobacco products for sale.

BOOKS AND RECORDS. Since the Tobacco Products Tax is paid on returns as computed by the taxpayer rather than by affixing of stamps or decals, the law contains stringent provisions requiring that accurate and complete records be maintained and preserved for 5 years for examination by the Department of Revenue.

The records to be kept by distributors include itemized invoices of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the state or shipped or transported to retailers in this state, and of all sales (including customers' names and addresses) of tobacco products except retail sales. All other pertinent papers and documents relating to

purchase, sale, or disposition of tobacco products must likewise be so retained.

Retailers and subjobbers must secure and retain legible and itemized invoices of all tobacco products purchased, showing name and address of the seller and the date of purchase.

Records of all deliveries or shipments (including ownership, quantities) of tobacco products from any public warehouse of first destination in this state must be kept by the warehouse.

REPORTS AND RETURNS. The tax is reported on a monthly basis. The first two months of each calendar quarter are reported on an abbreviated return (Form 8968-1) and for the third month of each quarter a consolidated return for the quarter (Form 8968) must be filed. Detailed instructions for preparation of these returns may be secured from the department.

Out-of-state wholesalers or distributors selling directly to retailers in Washington should apply for a certificate of registration, and the department will furnish returns for reporting the tax.

INTERSTATE AND SALES TO U.S. The tax does not apply to tobacco products sold to federal government agencies, nor to deliveries to retailers or wholesalers outside the state for resale by such retailers or wholesalers, and a credit may be taken for the amount of such sales.

RETURNED OR DESTROYED GOODS. A credit may also be taken for tobacco products destroyed or returned to the manufacturer on which tax was previously paid, but returns on which such credits are claimed must be accompanied by appropriate affidavits conforming to those illustrated below:

AFFIDAVIT OF TAXPAYER

Claim for Credit on Tobacco Products Tax
Merchandise Destroyed

State of _____ }
County of _____ } ss.

The undersigned being first duly sworn, upon oath deposes and says:

That he is (Position) of the (Company), a dealer in tobacco products; that said dealer has destroyed merchandise unfit for sale, said tobacco products having a wholesale sales price of $_____; that tobacco tax had been paid on such tobacco products; that said tobacco products were destroyed in the following manner and in the presence of an authorized agent of the Department of Revenue:

_____
(State date and manner of destruction)
_____
_____

Attested to:
By _____ _____
Authorized Agent Name of Affiant

DEPARTMENT OF REVENUE
OF THE
STATE OF WASHINGTON

Date_____

_____
Position with Dealer
_____
Dealer
_____
Address of Dealer

AFFIDAVIT OF MANUFACTURER

Claim for Credit on Tobacco Products Tax
Merchandise Returned

State of _____ }
County of _____ } ss.

The undersigned being first duly sworn, upon oath deposes and says:

That he is (Position) of the (Name of Manufacturer) a manufacturer of tobacco products; that the said manufacturer has received from (Dealer), (Address) a dealer in tobacco products within the State of Washington, certain tobacco products which were unfit for sale, said tobacco products having a wholesale sales price of $_____; that said tobacco products were destroyed in the following manner:

_____
(State date and manner of destruction)
_____
_____

Credit issued on Memo No. _____
Name of Affiant
_____
Name of Manufacturer
_____
Address

Subscribed and sworn to before me this _____ day of _____, 19__.
Date _____
Notary Public in and for the state of _____, residing at _____.

[Order ET 71-1, § 458-20-185, filed 7/22/71; Order ET 70-3, § 458-20-185, filed 5/29/70, effective 7/1/70.]

WAC 458-20-186 (Rule 186) Tax on cigarettes. The Washington state cigarette tax is imposed in the total amount of 16 cents upon each package of 20 cigarettes by the following statutes:

1. RCW 82.24.020, which imposes a tax of six and one-half mills per cigarette;

2. RCW 73.32.130, which imposes a tax of 1 mill per cigarette to provide for the retirement of the Veterans Bonus Bonds;

3. RCW 28.47.440 [28A.47.440], which imposes a tax of 1/2 mill per cigarette to provide for financing the state school construction bond program.

This tax is payable by the first person who sells, uses, consumes, handles or distributes the cigarettes in this state. Payment is made through the purchase of stamps from the Department of Revenue or its authorized agent.

EXEMPTIONS. The cigarette tax does not apply upon cigarettes sold to persons licensed as cigarette distributors in other states when, as a condition of the sale, the seller either delivers the cigarettes to such a buyer at a point outside this state, or delivers the same to a common carrier with the shipment consigned by the seller to such a buyer at a location outside this state. Any person engaged in making sales to licensed distributors in other states or making export sales (see Rule 193A [WAC 458-20-193A] and Rule 193C [WAC 458-20-193C]) or in making sales to the federal government or to the established governing bodies of an Indian tribe recognized as such by the U.S. Department of the Interior and who are authorized by Rule 192 [WAC 458-20-192] to receive unstamped cigarettes who furnishes surety bond in a sum satisfactory to the Department of Revenue, may set aside such part of his stock as may be necessary for the conduct of such business without affixing cigarette tax stamps. Such unstamped stock must be kept separate and apart from any stamped stock.

Cigarettes, other than those above mentioned, are not exempt from the tax by reason of their sale either to an Indian or for resale on an Indian reservation. Permission to maintain an unstamped stock of cigarettes for sale to a specified Indian tribe may be revoked when it appears that sales to unauthorized purchasers are being, or have been, made.

COLLECTION. Stamps indicating the payment of the cigarette tax must be affixed prior to any sale of the cigarettes. The stamp must be applied to the smallest container or package, unless the department determines that it is impractical to do so.

Every wholesaler or retailer in the state shall stamp within 72 hours after receipt, any of the articles taxed herein. Stamps must be of the heat applied "fuson" type. The use of meter stamping machines for use in imprinting packages, in lieu of attaching stamps, is not authorized by the department. The use of water "decalcomania" type stamps by such vendors is not authorized.

Persons other than wholesalers or retailers, upon holding, owning, possessing or controlling cigarettes in this state, must affix stamps on or before the close of the first business day following receipt of the cigarettes.

Prior to the receipt or transportation of cigarettes in this state such persons must file with a district office of the Department of Revenue a Notice of Intent to Possess Unstamped Cigarettes in the State of Washington. A copy of this notice, validated by an agent of the Department of Revenue, must be in the possession of any such person who is in possession of unstamped cigarettes in this state.

Persons who have filed the aforementioned notice must bring the cigarettes to a district office of the Department of Revenue and there affix the required stamps within the time limitation provided above.

Any unstamped cigarettes in the possession of persons (other than wholesalers or retailers) who have either failed to file a Notice of Intent to Possess Unstamped Cigarettes in the State of Washington or who have failed to affix stamps within the time limitation provided above will be deemed contraband and subject to seizure and sale under the provisions of RCW 82.24.130.

The "fuson" type stamps are available, in rolls of 30,000 stamps, from an authorized bank. Payment for stamps may be made either at the time of sale, or deferred until later, although the latter form of payment is available only to vendors who meet the requirements of the department and who have furnished a surety bond equal to the proposed total monthly credit limit, or in the amount of $2,500, whichever is greater. In addition, purchases on a deferred payment plan may be made only by the cigarette seller himself or by an agent authorized by him to do so. This authorization may be in the form of a signature card, filed with the bank, from which stamps are usually obtained, and kept current by the vendor. Payments under a deferred plan are due within 30 days following the purchase, and are to be paid at the outlet from which the stamps were obtained, and may be paid by check payable to the Department of Revenue. Cigarette dealers, either retail or wholesale, who purchase stamps under either plan are allowed, as compensation for their services in affixing stamps, an amount equal to $1.85 per thousand stamps, which may be offset against the purchase price.

BOOKS AND RECORDS. An accurate set of records, showing all transactions had with reference to the purchase, sale or distribution of articles subject to the cigarette tax must be retained. These records may be combined with those required in connection with the Tobacco Products Tax, by Rule 185 [WAC 458-20-185], provided there is a segregation therein the amount involved. All such records must be preserved for 5 years from the date of the transaction.

In particular, persons shipping or delivering any of the articles taxed herein to a point outside of this state shall transmit to the Miscellaneous Tax Section, not later than the 15th of the following calendar month, a true duplicate invoice showing full and complete details of the interstate sale or delivery.

REPORTS AND RETURNS. The Department of Revenue may require any person dealing with cigarettes, in this state, to complete and return forms, as furnished, setting forth sales, inventory and other data required by the department to maintain control over trade in the articles taxed herein.

Manufacturers selling these articles shall, before the 15th day of each month, transmit to the Miscellaneous Tax Section a complete record of sales of cigarettes in this state during the preceding month.

REFUNDS. Any person may request a refund of the face value of the stamps, less the affixing discount when cigarettes to which they are affixed are:

1. Damaged, or unfit for sale, and as a result are destroyed or returned to the manufacturer or distributor.

2. Sold and shipped to a registered dealer regularly making sales of cigarettes in another state.

In either case, the claim for refund, (a form which is provided by the department) must be accompanied by an affidavit, in the first instance, of the receipt by the manufacturer and, in the second instance, of the receipt by the buyer of cigarettes bearing stamps from this state.

Revised [Order ET 75-1, § 458-20-186, filed 5/2/75; Order ET 73-2, § 458-20-186, filed 11/9/73; Order ET 71-1, § 458-20-186, filed 7/22/71; Order ET 70-3, § 458-20-186, filed 5/29/70, effective 7/1/70.]

Reviser's note: RCW 73.32.130 was repealed by section 3, chapter 59, Laws of 1979.

WAC 458-20-187 (Rule 187) Coin operated vending machines, amusement devices and service machines.

COIN OPERATED VENDING MACHINES, AMUSEMENT DEVICES AND SERVICE MACHINES

As used herein;

The term "vending machines" means machines which, through the insertion of a coin will return to the patron a predetermined specific article of merchandise or provide facilities for installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers. It includes machines which vend photographs, toilet articles, cigarettes and confections as well as machines which provide laundry and cleaning services.

The term "amusement devices" means those devices and machines which, through the insertion of a coin, will permit the patron to play a game. It includes slot and pinball machines and those machines or devices which permit the patron to see, hear or read something of interest.

The term "service machines" means any coin operated machines other than those defined as "vending machines" or "amusement devices." It includes, for example, scales and luggage lockers, but does not include coin operated machines used in the conduct of a public utility business, such as telephones and gas meters; also excluded are shuffleboards and pool games.

VENDING MACHINES. Persons operating vending machines are engaged in a retailing business and must report and pay tax under the Retailing classification with respect to the gross proceeds of sales.

AMUSEMENT DEVICES. Persons operating amusement devices, except shuffleboard, pool, and billiard games, are taxable under the Service and Other Business Activities classification on the gross receipts therefrom.

Persons engaged in operating shuffleboards or games of pool or billiards are taxable under the Retailing classification on the gross receipts therefrom and are responsible for collecting and reporting to the department the retail sales tax measured by the gross receipts therefrom.

SERVICE MACHINES. Persons operating service machines are taxable under the Service and Other Business Activities classification upon the gross income received from the operation of such machines.

When coin operated machines are placed at a location owned or operated by a person other than the owner of the machines, under any arrangement for compensation to the operator of the location, the person operating the location has granted a license to use real property and will be responsible for reporting and paying tax upon his gross compensation therefor under the Service classification.

Where the owner of amusement devices which are placed at the location of another has failed to pay the gross receipts tax and/or retail sales tax due, the department may proceed directly against the operator of the location for full payment of all tax due.

The retail sales tax applies to the sale of merchandise (except see WAC 458-20-244 for sales of food products) through vending machines and persons owning and operating such machines are liable for the payment of such tax. For practical purposes such persons are authorized to absorb the amount of the tax on the individual sales and to pay directly to the department the retail sales tax on the total amount received from such machines. Where a vending machine is designed or adjusted so that single sales are made exclusively in amounts less than the minimum sale on which a 1¢ tax may be collected from the purchaser, and the kind of merchandise sold through such machines is not sold by the operator over the counter or other than through vending machines at that location, the selling price for purposes of the retail sales tax shall be 60% of the gross receipts of the vending machine through which such sales are made. This 60% basis of reporting is available only to persons selling tangible personal property through vending machines.

In order to qualify for the foregoing reduction in the measure of the retail sales tax, the books and records of the operator must show for each vending machine for which such reduction is claimed: (1) The location of the machine, (2) the selling price of sales made through the machine, (3) the type and brands of merchandise vended through the machine and (4) the gross receipts from that machine. The foregoing records may be maintained for each location, rather than for each machine, in cases where several machines are maintained by the same operator at the same location, provided that all of such machines make sales exclusively in amounts less than the minimum sale on which a 1¢ tax may be collected. The reduction will be disallowed in any instance where sales made through vending machines in such amounts are not clearly and accurately segregated from other sales by the operator and the burden is on the operator to make sales under such conditions and to maintain such records as to demonstrate absolute compliance with this requirement.

Every operator or owner of a vending machine, before taking a deduction from gross sales through certain vending machines, shall file with the department annually an addendum to his application for registration with

the department, on a form provided by the department, which form shall contain the following information:

1. Number of vending machines in his ownership making sales under the above minimum.

2. Value of such sales in the most recent calendar year.

3. A statement that no sales are made by the owner or operator at any machine location of articles or products sold through such machines, except by vending machines and no provision is made either through the machine or otherwise, for multiple sales under circumstances where the tax may legally be collected from the buyer.

The department will require a bond sufficient to assure recovery of any disallowed discount of tax due in any instance of registration where the department has reason to feel such recovery could be in jeopardy.

Sales of vending machines, service machines and amusement devices to persons who will operate the same are sales at retail and the retail sales tax is applicable to all such sales.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-187, filed 6/27/78; Order ET 73-1, § 458-20-187, filed 11/2/73; Order ET 71-1, § 458-20-187, filed 7/22/71; Order ET 70-3, § 458-20-187, filed 5/29/70, effective 7/1/70.]

WAC 458-20-18801 (Rule 188) Prescription drugs.

BUSINESS AND OCCUPATION TAX

The business and occupation tax applies to all sales of drugs, medicines, prescription lenses, or other substances used for diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment.

RETAIL SALES TAX

A deduction is allowed from gross retail sales for sales to patients of drugs, medicines, prescription lenses, or other substances, but only when

a. dispensed by a licensed dispensary

b. pursuant to a written prescription

c. issued by a medical practitioner

d. for diagnosis, cure, mitigation, treatment, or prevention of disease or other ailment in humans.

This deduction does not apply to sales of food. Thus, dietary supplements or dietary adjuncts do not qualify for the deduction even though prescribed by a physician.

Sales claimed deductible under this rule must be separately accounted for. As proof of entitlement to the deduction, sellers must retain in their files the written prescription bearing the signature of the medical practitioner who issued the prescription and the name of the patient for whom prescribed. See also WAC 458-20-150, Optometrists, Opthalmologists, and Oculists; WAC 458-20-151, Dentists, Dental Laboratories and Physicians; and WAC 458-20-168; Hospitals.

USE TAX

The use tax does not apply to the articles and products deductible for sales tax as specified herein.

DEFINITIONS:

1. **Prescription** means a formula or recipe or an order therefor written by a medical practitioner for the composition, preparation and use of a healing, curative or diagnostic substance, and also includes written directions and specifications by physicians or optometrists for the preparation, grinding, and fabrication of lenses intended to aid or correct visual defects of anomalies of humans.

2. **Other substances** means products such as catalytics, hormones, vitamins, and steroids, but the term does not include devices, prostheses, instruments, equipment, orthopedic appliances, and similar articles.

3. **Food** means any substance the chief general use of which is for human nourishment.

4. **Medical practitioner** means a person within the scope of RCW 18.64.011(9) who is authorized to prescribe drugs, but excluding veterinarians, and for the purposes of this rule includes also persons licensed by chapter 18.53 RCW to issue prescriptions for lenses.

5. **Licensed dispensary** means a drug store, pharmacy or dispensary licensed by chapter 18.64 RCW or a dispensing optician licensed by chapter 18.34 RCW.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-18801, filed 6/27/78; Order 74-2, § 458-20-18801 (codified as WAC 458-20-188), filed 6/24/74.]

WAC 458-20-189 (Rule 189) Sales to and by the state of Washington, counties, cities, school districts and other municipal subdivisions.

BUSINESS AND OCCUPATION TAX

No deduction is allowed a seller in computing tax under the provisions of the business and occupation tax with respect to sales to the State of Washington, its departments and institutions or to counties, cities, school districts or other municipal subdivisions thereof.

The State of Washington, its departments and institutions and all counties, cities and other municipal subdivisions engaging in governmental functions and receiving income therefrom in the form of license fees, inspection fees, permits, or taxes are not subject to the provisions of the business and occupation tax upon such revenues. However, subdivisions are taxable with respect to income however designated derived from any activity whether proprietary or governmental wherein a specific charge is made to its residents or others based upon and measured by some service actually rendered by the subdivision, such as a charge made for water or electrical energy (both taxable under the public utility tax and not under the business and occupation tax) or a charge made for sewer service, garbage collection or for admission to any place.

All counties, cities and other municipal subdivisions and all corporate agencies or instrumentalities of the State of Washington engaging in proprietary functions

or services for which a specific charge is made as abovementioned are subject to tax under the business and occupation tax as follows:

1. Extracting or Manufacturing – Taxable upon the value of products manufactured or extracted.

2. Retailing or Wholesaling – Taxable upon gross proceeds of sales.

3. Persons taxable under either the Retailing or Wholesaling classifications are not taxable under either Extracting or Manufacturing in respect to sales of articles extracted or manufactured by them in this state.

4. Service and Other Business Activities – Taxable under the Service and Other Business Activities classification upon the gross income derived from services rendered by them, including the gross income received from admission charges, garbage collection, and sewer service.

However, municipal sewerage utilities and other public corporations imposing and collecting fees or charges for such services may deduct from the measure of the tax, amounts paid to another municipal corporation or governmental agency for performance of such services.

Counties and cities are not subject to the business and occupation tax on the cost of labor and service in the mining, sorting, crushing, screening, washing, hauling and stockpiling of sand, gravel and rock taken from a pit or quarry owned by or leased to the county or city when these materials are sold at cost to another county or city for use on public roads. (See also WAC 458-20-171.)

RETAIL SALES TAX

The retail sales tax applies to all retail sales made to the State of Washington, its departments and institutions and to counties, cities, school districts and all other municipal subdivisions of the state irrespective of whether the property purchased is for use in carrying on a governmental or proprietary function. The retail sales tax does not apply to sales to city or county housing authorities which were created under the provisions of the Washington Housing Authorities Law, chapter 35.82 RCW. An exemption is also allowed municipal corporations, the state and all political subdivisions thereof for that portion of the selling price of contracts for watershed protection or flood control which is reimbursed by the United States Government according to the provisions of the Watershed Protection and Flood Prevention Act, Public Laws 566, as amended.

Where tangible personal property or taxable services are purchased by the State of Washington, its departments or institutions for the purpose of resale to any other department or institution of the State of Washington, or for the purpose of consuming the property purchased in manufacturing or producing for use or for resale to any other department or institution of the State of Washington a new article of which such property is an ingredient or component part, the transaction is deemed a purchase at retail and the retail sales tax must be paid by the State of Washington to its vendors. So-called sales between a department or institution of the State of Washington and any other such department or institution constitute interdepartmental charges (see WAC 458-20-201) and the retail sales tax is not applicable.

All counties, cities, and other municipal subdivisions are required to collect the retail sales tax on all retail sales of tangible personal property or services classified as retail sales, including sales of equipment or other capital assets made by them in carrying on a proprietary function, even though such sales are made to a department or municipal subdivision performing a governmental function. Sales of capital assets, such as second hand furniture and equipment, made by departments or municipal subdivisions carrying on an essential governmental function are casual and isolated and, hence, not subject to the retail sales tax. (See WAC 458-20-106.) The retail sales tax is not applicable to the cost of labor and services in the mining, sorting, crushing, screening, washing, hauling and stockpiling of sand, gravel and rock taken from a pit or quarry owned by or leased to the county or city when these materials are sold at cost to another county or city for use on public roads. (See also WAC 458-20-171.) The sales tax does not apply to sales to one political subdivision directly or indirectly arising out of annexation of territory of one political subdivision by another.

USE TAX

The State of Washington, its departments and institutions and all counties, cities, school districts, and other municipal subdivisions are required to report the use tax upon the use of all tangible personal property purchased or acquired under conditions whereby the Washington retail sales tax has not been paid.

Counties and cities are not subject to use tax upon the cost of labor and services in the mining, sorting, crushing, screening, washing, hauling, and stockpiling of sand, gravel, and rock taken from a pit or quarry owned or leased to a county or city when the materials are for use on public roads. The use tax does not apply to property acquired by one political subdivision directly or indirectly through annexation of territory of another political subdivision.

PUBLIC UTILITY TAX

No deduction in computing tax liability under the provisions of the public utility tax is allowed to any person or firm by reason of the fact that sales are to the State of Washington or any of its municipal subdivisions.

Counties, cities and other municipal subdivisions of the state operating public utilities are subject to the provisions of the public utility tax.

Neither the public utility tax nor the business tax apply to amounts or value paid or contributed to any county, city, town, political subdivision, or municipal or quasi municipal corporation of the State of Washington representing payments of special assessments or installments thereof and interests and penalties thereon, charges in lieu of assessments, or any other charges, payments or contributions representing a share of the cost of capital facilities constructed or to be constructed

or for the retirement of obligations and payment of interest thereon issued for capital purposes. Service charges shall not be included in this exemption even though used wholly or in part for capital purposes.

Revised June 1, 1970. [Order ET 70-3, § 458-20-189, filed 5/29/70, effective 7/1/70.]

WAC 458-20-190 (Rule 190) Sales to and by the United States, its departments, institutions and instrumentalities sales to foreign governments.

BUSINESS AND OCCUPATION TAX

The United States, its departments, institutions and instrumentalities, including corporate instrumentalities, are not subject to tax under chapter 82.04 RCW.

In computing business tax liability of others, no deduction from value of products, gross sales or gross income is allowed in respect to business transacted with the United States, its departments, institutions or instrumentalities.

RETAIL SALES TAX

The retail sales tax does not apply to sales to the United States, its departments, institutions and instrumentalities, except sales to such institutions as have been chartered or created under Federal authority, but which are not directly operated and controlled by the government for the benefit of the public generally.

Departments, instrumentalities or agencies which are directly operated and controlled by the Federal government for the benefit of the public generally include, among others, the Departments of Agriculture, Commerce, Interior, Justice, Labor, Post Office, State, and Treasury, also the National Military Establishment which includes the Departments of the Army, the Navy and the Air Force and also Civil Service Commission, Farm Credit Administration, Federal Housing Administration, Federal Land Banks, Federal Reserve Banks, Home Owner's Loan Corporation, Interstate Commerce Commission, Reconstruction Finance Corporation, Rural Electrification Administration, Social Security Board, United States Maritime Commission, Veterans' Administration, and War Shipping Administration. Also Farm Loan Associations, Production Credit Associations, Production Credit Corporations and Central Banks for Cooperatives, the stock of which is owned by the United States. Credit Unions chartered under the Federal Credit Union Act are exempt from payment of the retail sales tax by reason of a specific statutory exemption.

The retail sales tax does not apply to sales made by the United States, or any instrumentality thereof, or by voluntary unincorporated organizations of Army or Navy personnel to authorized purchasers within a Federal area. The term "authorized purchasers" means civil employees and members of the armed forces of the United States who are permitted to purchase from such organizations under regulation by the Secretaries of Navy, Army, Air Force, or Defense.

Sales to persons in the Army or Navy service of the United States, including civilian employees in such service, are not exempt from the retail sales tax, except where such sales are made to them as authorized purchasers by an instrumentality of the United States operating exclusively within a Federal area. Furthermore, no exemption is permitted with respect to sales to or by voluntary unincorporated organizations of Army or Navy personnel which are not instrumentalities of the United States, national banking associations, persons licensed to engage in private businesses under federal statutes, or contractors engaged in performing contracts for the United States Government. Likewise, the retail sales tax applies upon the sales made to the Department of Employment Security of the State of Washington, irrespective of whether or not such department is reimbursed therefor with federal funds.

FOREIGN GOVERNMENTS. The retail sales tax does not apply to sales to a foreign government or to any department thereof.

USE TAX

The use tax does not apply upon the use of any article by the United States, its departments, institutions and instrumentalities, except institutions chartered or created under Federal authority, but which are not directly operated and controlled by the government for the benefit of the public generally, nor does said tax apply upon the use of any article by a foreign government.

PUBLIC UTILITY TAX

In computing the public utility tax no deduction is allowed with respect to gross operating revenue derived from services supplied or furnished to the United States, its departments, institutions or instrumentalities.

Revised [Order ET 75-1, § 458-20-190, filed 5/2/75; Order ET 70-3, § 458-20-190, filed 5/29/70, effective 7/1/70.]

WAC 458-20-191 (Rule 191) Federal reservations. The State of Washington has jurisdiction and authority to levy and collect taxes under the provisions of the Revenue Act of 1935, as amended, upon persons residing within, or with respect to business transactions conducted upon Federal reservations; provided, however, that no tax may be levied upon or collected from the United States, its departments, institutions and instrumentalities or from any authorized purchaser therefrom. (See Rule 190 [WAC 458-20-190].)

A concessionaire, operating within a Federal area under a grant or permit issued by the United States or by a department or instrumentality thereof, is not exempt from state excise taxes, but is taxable to the same extent as any private operator engaging in a similar business outside a Federal area and without specific authority from the United States.

The term "Federal reservation," as used herein, means any land or premises within the exterior boundaries of the State of Washington which are held or acquired by and for the use of the United States, its departments, institutions or instrumentalities.

BUSINESS AND OCCUPATION TAX

RETAILING AND WHOLESALING. Persons making retail or wholesale sales to persons residing within or conducting business upon Federal reservations are taxable upon gross proceeds of sales under the Retailing or Wholesaling classification.

With respect to the tax liability of sales to the United States, its departments, institutions or instrumentalities under these classifications, see Rule 190 [WAC 458-20-190].

SERVICE AND OTHER BUSINESS ACTIVITIES. Persons performing services within Federal reservations are taxable under the Service and Other Business Activities classification upon the gross income derived therefrom, irrespective of the fact that such services are rendered for the United States, its departments, institutions or instrumentalities, or for military personnel.

RETAIL SALES TAX

The retail sales tax applies to all retail sales made to or by persons residing within or conducting business upon Federal reservations, excepting sales made to the United States, and also excepting sales made by the United States or an instrumentality thereof to authorized purchasers.

The retail sales tax applies upon retail sales made by concessionaires to military personnel and others.

USE TAX

Persons residing within or conducting business upon Federal reservations who produce or manufacture tangible personal property for commercial use or who purchase tangible personal property under conditions wherein the Washington retail sales tax has not been paid are subject to the provisions of the use tax.

The use tax does not apply to the use of property by the United States or any instrumentality thereof nor to the use of property sold by the United States or any instrumentality thereof to any authorized purchaser for use in such reservation. The term "authorized purchaser," as used herein, means and includes those persons who are permitted to purchase from voluntary unincorporated organizations of military personnel operating exclusively within Federal reservations and authorized by the Secretary of Defense.

CIGARETTE TAX

Washington cigarette tax stamps must be affixed to all cigarettes sold to persons residing within or conducting business upon Federal reservations: provided, however, that such stamps need not be affixed to cigarettes sold to the United States or any instrumentality thereof including voluntary organizations of military personnel authorized by the Secretary of Defense or the Secretary of the Navy or by the United States or any instrumentality thereof to authorized purchasers, for use in such reservation.

Revised [Order ET 75-1, § 458-20-191, filed 5/2/75; Order ET 70-3, § 458-20-191, filed 5/29/70, effective 7/1/70.]

WAC 458-20-192 (Rule 192) Indians--Indian reservations.

DEFINITIONS

The term "Indian reservation," as used herein, means all lands, notwithstanding the issuance of any patent, within the exterior boundaries of areas set aside by the United States for the exclusive use and occupancy of Indian tribes by treaty, law, or executive order and which are areas currently recognized as "Indian reservations" by the United States Department of the Interior.

The following Washington reservations are the only "Indian reservations" currently recognized as such by the United States Department of Interior: Chehalis, Colville, Hoh, Kalispell, Lower Elwha, Lummi, Makah, Muckleshoot, Nisqually, Nooksack, Ozette, Port Gamble, Port Madison, Puyallup, Quileute, Quinault, Shoalwater, Skokomish, Spokane, Squaxin Island, Swinomish, Tulalip, and Yakima.

The term "Indian tribe," as used herein, means any organized Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

The term "Indian," as used herein, means a person duly registered on the tribal rolls of the Indian tribe occupying an Indian reservation.

NOTE: For purposes of this rule, with respect to determining tax liability regarding any economic transaction or activity, the term "Indian tribe" includes only an Indian tribe upon and within whose Indian reservation such transaction or activity occurs, and the term "Indian" includes only a person duly registered on the tribal rolls of the Indian tribe upon and within whose Indian reservation such transaction or activity occurs.

Under the revenue laws of the State of Washington, the tax liability of Indians and of persons conducting business with Indians is as follows:

BUSINESS AND OCCUPATION TAX

Indians and Indian tribes are not taxable with respect to business conducted by them within an Indian reservation.

No deduction is allowed to others by reason of business conducted with Indians or Indian tribes within an Indian reservation.

RETAIL SALES TAX

Indians and Indian tribes are not subject to the sales tax upon sales to them of tangible personal property made, or otherwise taxable services rendered, within an Indian reservation.

Sales of tangible personal property to Indians or Indian tribes by off-reservation persons are subject to the retail sales tax except where the seller makes actual delivery of the property sold to a point within an Indian reservation.

Sales of taxable services to Indians or Indian tribes are subject to the retail sales tax except where the services are rendered within an Indian reservation.

Sales to persons other than Indians are subject to the retail sales tax irrespective of where delivery or rendition

of services takes place. Thus, Indian and Indian tribal retailers are required to collect and remit to the state the retail sales tax upon each taxable sale made by them within an Indian reservation to persons other than Indians.

In order to substantiate the tax-exempt status of a retail sale made within an Indian reservation to an Indian purchaser, unless the purchaser is personally known to the retailer as an enrolled Indian, the retailer shall require presentation of a tribal membership card identifying the purchaser as duly registered on the tribal rolls of an Indian tribe under such lawful criteria as the tribal organization has established. A record shall be retained by the retailer of all tax-exempt sales to support the sales tax deduction on returns filed with the Department, identifying the dollar amount of the sale and indicating the name of the purchaser, tribal affiliation of the purchaser, the Indian reservation to which or within which delivery or rendition of services was made, and the date of sale.

USE TAX

Indians and Indian tribes are not subject to the use tax upon the use of tangible personal property within an Indian reservation. However, Indians and Indian tribes will become liable for the use tax when any such property is placed into actual use outside the Indian reservation, irrespective of the fact that the first use of the property may have been within the reservation.

SPECIAL APPLICATION OF RETAIL SALES TAX AND USE TAX WITH RESPECT TO SALES OF MOTOR VEHICLES OR TRAILERS TO INDIANS AND INDIAN TRIBES. When motor vehicles or trailers sold to Indians or Indian tribes are licensed by the state of Washington at the time of sale, or at any time thereafter, a presumption is raised that such motor vehicles or trailers are for use on the highways of the state of Washington outside the reservation. When motor vehicles or trailers are licensed prior to delivery, dealers are required to collect the retail sales tax in every instance when valid plates remain on the vehicle or trailer, regardless of delivery point. County Auditors must collect the use tax when Indians or Indian tribes apply for a license or transfer of registration unless the applicant can show that retail sales tax or use tax has previously been paid on the sale or use of the vehicle or trailer by the applicant.

CIGARETTE TAX

Sales of cigarettes to nonIndians by Indians or Indian tribes are subject to the cigarette tax, since the tax is levied upon the nonIndian purchaser and the vendor is obligated to make precollection of the tax. Therefore, Indian or tribal vendors making, or intending to make, sales to nonIndian customers must purchase a stock of cigarettes with Washington state cigarette tax stamps affixed for the purpose of making such sales. However, Indians and Indian tribes may make purchases of unstamped cigarettes from licensed cigarette distributors for resale to qualified purchasers. For purposes of this rule, "qualified purchaser" means (1) an Indian purchasing for resale within the reservation to other Indians, and (2) an Indian purchasing solely for his or her use other than for resale.

Delivery or sale and delivery by any person of unstamped cigarettes to Indians or tribal vendors for sale to qualified purchasers may be made only in such quantity as is approved in advance by the Department of Revenue. Approval for delivery will be based upon evidence of a valid purchase order of a quantity reasonably related to the probable demand of qualified purchasers in the trade territory of the vendor. Evidence submitted may also consist of verified record of previous sales to qualified purchasers, the probable demand as indicated by average cigarette consumption for the number of qualified purchasers within a reasonable distance of the vendor's place of business, records indicating the percentage of such trade that has historically been realized by the vendor, or such other statistical evidence submitted in support of the proposed transaction. In the absence of such evidence the department may restrict total deliveries of unstamped cigarettes to any reservation or to any Indian or tribal vendor thereon to a quantity reasonably equal to the national average cigarette consumption per capita, as compiled for the most recently completed calendar or fiscal year by the Tobacco Tax Institute, multiplied by the resident enrolled membership of the affected tribe. Any delivery, or attempted delivery, of unstamped cigarettes to an Indian or tribal vendor without advance approval by the department will result in the treatment of those cigarettes as contraband and subject to seizure and in addition the person making or attempting such delivery will be held liable for payment of the cigarette tax and penalties. Approval for sale or delivery to Indian or tribal vendors of unstamped cigarettes will be denied where the department finds that such Indian or tribal vendors are or have been making sales in violation of this rule.

Delivery of unstamped cigarettes by a licensed distributor to Indians or Indian tribes must be by bonded carrier or the distributor's own vehicle to the Indian reservation. Delivery of unstamped cigarettes at the distributor's dock or place of business or any other off-reservation location is prohibited.

Revised November 14, 1980. [Statutory Authority: RCW 82.32.300. 80-17-026 (Order ET 80-3), § 458-20-192, filed 11/14/80; Order ET 76-4, § 458-20-192, filed 11/12/76; Order ET 74-5, § 458-20-192, filed 12/16/74; Order ET 70-3, § 458-20-192, filed 5/29/70, effective 7/1/70.]

WAC 458-20-193A (Rule 193--Part A) Sales of goods originating in Washington to persons in other states.

WAC 458-20-193 deals with interstate and foreign commerce and is published in four separate parts:

Part A. Sales of Goods Originating in Washington to Persons in Other States.

Part B. Sales of Goods Originating in Other States to Persons in Washington.
Part C. Imports and Exports: Sales of Goods From or To Persons in Foreign Countries.
Part D. Transportation, Communication, Public Utility Activities, or Other Services In Interstate or Foreign Commerce.

PART A.

BUSINESS AND OCCUPATION TAX

RETAILING AND WHOLESALING. Where tangible personal property in Washington is delivered to the purchaser in this state, the sale is subject to tax under the Retailing or Wholesaling classification, even though the purchaser intends to and thereafter does transport or send the property out of state for use or resale there, or for use in conducting interstate or foreign commerce. It is immaterial that the contract of sale or contract to sell is negotiated and executed outside the state, that the purchaser resides outside the state, or that the purchaser is a carrier.

Where the seller agrees to and does deliver the goods to the purchaser at a point outside the state, neither Retailing nor Wholesaling business tax is applicable. Such delivery may be by the seller's own transportation equipment or by a carrier for hire. In either case for proof of entitlement to exemption the seller is required to retain in his records documentary proof (1) that there was such an agreement and (2) that delivery was in fact made outside the state. Acceptable proof will be:

a. the contract or agreement AND

b. if shipped by a for hire carrier, a waybill, bill of lading or other contract of carriage by which the carrier agrees to transport the goods sold, as agent of the seller, to the buyer at a point outside the state; or

c. if sent by the seller's own transportation equipment, a tripsheet signed by the person making delivery for the seller and showing the (1) buyer's name and address, (2) time of delivery to the buyer, together with (3) signature of the buyer or his representative acknowledging receipt of the goods at the place designated outside the State of Washington.

EXTRACTING, MANUFACTURING. Persons engaged in these activities in Washington and who transfer or make delivery of articles produced to points outside the state are subject to business tax under the Extracting or Manufacturing classification and are not subject to tax under the Retailing or Wholesaling classification. See also [WAC 458-20-135 and 458-20-136]. The activities taxed occur entirely within the state, are inherently local, and are conducted prior to the commercial journey. The tax is measured by the value of products as determined by the selling price. See WAC 458-20-112. It is immaterial that the value so determined includes an additional increment of value because the sale occurs outside the state.

EXTRACTING OR PROCESSING FOR HIRE, PRINTING AND PUBLISHING, REPAIR OR ALTERATION OF PROPERTY FOR OTHERS. These activities when performed in Washington are also inherently local and the gross income or total charge for work performed is subject to business tax, since the operating incidence of the tax is upon the business activity performed in the state. No deduction is permitted even though the articles produced, imprinted, repaired or altered are delivered to persons outside the state. It is immaterial that the customers are located outside the state, that the work was negotiated or contracted for outside the state, or that the property was shipped in from without the state for such work.

RETAIL SALES TAX

The retail sales tax is imposed upon all retail sales made within this state. The legal incidence of the tax is upon the buyer and the seller is obligated to collect and remit the tax to the state upon civil and criminal penalties. The retail sales tax applies to all sales to consumers of goods located in the state when delivery is made in Washington, irrespective of the fact that the purchaser may use the property elsewhere. However, see WAC 458-20-174, 458-20-175, 458-20-176, 458-20-177, 458-20-238 and 458-20-239 for certain statutory exemptions.

The retail sales tax does not apply when, as a necessary incident to the contract of sales, the seller agrees to, and does, deliver the property to the buyer at a point outside the state, or delivers the same to a for hire carrier consigned to the purchaser outside the state. The facts must disclose that the carrier is the agent of the seller and the seller must retain proof of exemption as outlined above under Retailing and Wholesaling.

A statutory exemption (RCW 82.08.030(18)) is allowed in respect to sales for use in states, territories and possessions of the United States which are not contiguous to any other state (Alaska, Hawaii, etc.), but only when, as a necessary incident to the contract of sale, the seller delivers the property to the purchaser or his designated agent at the usual receiving terminal of the carrier selected to transport the goods, under such circumstance that it is reasonably certain that the goods will be transported directly to a destination in such noncontiguous states, territories and possessions.

As proof of exemption, the vendor must retain the following as part of his permanent sales records:

a. A certification of the buyer that the goods being purchased will not be used in the State of Washington and are intended for use in the specified noncontiguous state, territory or possession.

b. Written instructions signed by the buyer directing delivery of the goods to a dock, depot, warehouse, airport or other receiving terminal of the transportation agency designated by him for transportation of the goods to their place of ultimate use. Where the buyer is also the carrier, delivery may be to a warehouse receiving terminal or other facility maintained by the buyer when the circumstances are such that it is reasonably certain

that the goods will be transported directly to their place of ultimate use.

c. A dock receipt, memorandum bill of lading, trip sheet, cargo manifest or other document evidencing actual delivery to such dock, depot, warehouse or receiving terminal.

As to persons whose purchases from a vendor are primarily for use in states, territories and possessions which are not contiguous to any other state and are delivered as herein provided, the requirements of "a" and "b" above may be complied with through the use of a blanket exemption certificate which should contain the buyer's statement that all of the goods purchased are for use in the specified state, territory or possession, together with delivery instructions according to the requirements of this rule and should include the buyer's statement that "this certificate shall be considered a part of each order that we may hereafter give to you, unless otherwise specified, and shall be valid until revoked by us in writing." The certificate should be dated and signed by the purchaser or his agent.

No deduction is allowed under the business and occupation tax of the gross proceeds of sales made in the manner hereinabove described.

See WAC 458-20-173 for explanation of sales tax exemption in respect to charges for labor and materials in the repair, cleaning or altering of tangible personal property for nonresidents when the repaired property is delivered to the purchaser at an out-of-state point.

Revised June 1, 1970. [Order ET 70-3, § 458-20-193A, filed 5/29/70, effective 7/1/70.]

WAC 458-20-193B (Rule 193--Part B) Sales of goods originating in other states to persons in Washington.

WAC 458-20-193 deals with interstate and foreign commerce and is published in four separate parts:

Part A. Sales of Goods Originating in Washington to Persons in Other States.
Part B. Sales of Goods Originating in Other States to Persons in Washington.
Part C. Imports and Exports: Sales of Goods From or To Persons in Foreign Countries.
Part D. Transportation, Communication, Public Utility Activities, or Other Services in Interstate or Foreign Commerce.

PART B.

BUSINESS AND OCCUPATION TAX

RETAILING, WHOLESALING. Sales to persons in this state are taxable when the property is shipped from points outside this state to the buyer in this state and the seller carries on or has carried on in this state any local activity which is significantly associated with the seller's ability to establish and maintain a market in this state for the sales. If a person carries on significant activity in this state and conducts no other business in this state except the business of making sales, this person has the distinct burden of establishing that the instate activities are not significantly associated in any way with the sales into this state. The characterization or nature of the activity performed in this state is immaterial so long as it is significantly associated in any way with the seller's ability to establish and maintain a market for its products in this state. The essential question is whether the instate services enable the seller to make the sales.

Applying the foregoing principles to sales of property shipped from a point outside this state to the purchaser in this state, the following activities are examples of sufficient local nexus for application of the business and occupation tax:

1. The seller's branch office, local outlet or other place of business in this state is utilized in any way, such as in receiving the order, franchise or credit investigation, or distribution of the goods.

2. The order for the goods is given in this state to an agent or other representative connected with the seller's branch office, local outlet, or other place of business.

3. The order for the goods is solicited in this state by an agent or other representative of the seller.

4. The delivery of the goods is made by a local outlet or from a local stock of goods of the seller in this state.

5. Where an out-of-state seller, either directly or by an agent or other representative, performs significant services in relation to establishment and maintenance of sales into the state, the business tax is applicable, even though (a) the seller may not have formal sales offices in Washington or (b) the agent or representative may not be formally characterized as a "salesman."

6. Where an out-of-state seller either directly or by an agent or other representative in this state installs its products in this state as a condition of the sale, the installation services shall be deemed significant services for establishing and maintaining a market in this state for such installed products and the gross proceeds from the sale and installation are subject to business tax.

Under the foregoing principles, sales transactions in which the property is shipped directly from a point outside the state to the purchaser in this state are exempt only if there is and there has been no participation whatsoever in this state by the seller's branch office, local outlet, or other local place of business, or by an agent or other representative of the seller. A franchise or credit investigation of a prospective purchaser and/or recommendation or approval by a local office upon which subsequent transactions are based is such a utilization of the local office as to render such subsequent transactions taxable.

CONSTRUCTION, REPAIR. Construction or repair of buildings or other structures, public road construction, repair of tangible personal property and similar contracts performed in this state are inherently local business activities subject to tax even though materials involved may have been delivered from outside the state or the contracts may have been negotiated outside the

state and notwithstanding the fact that the work may be done by foreign vendors who performed preliminary services outside the state with respect thereto.

RENTING OR LEASING OF TANGIBLE PERSONAL PROPERTY. Persons outside this state who rent or lease tangible personal property for use in this state are subject to tax upon their gross proceeds from such rentals, irrespective of the fact that possession to the property leased may have passed to the lessee outside the state or that the lease agreement may have been consummated outside the state.

SALES AND USE TAX

Retail sales tax must be collected and accounted for in every case where business and occupation tax is due as outlined above.

The following sets forth the conditions under which out-of-state vendors are required to collect and remit the retail sales tax or use tax on deliveries to customers in this state. It conforms to the recommended jurisdiction standards of the Multistate Tax Commission.

JURISDICTION STANDARD. A vendor is required to pay or collect and remit the tax imposed by chapter 82.08 RCW or chapter 82.12 RCW if within this state he directly or by any agent or other representative:

1. Has or utilizes an office, distribution house, sales house, warehouse, service enterprise or other place of business; or

2. Maintains a stock of goods; or

3. Regularly solicits orders whether or not such orders are accepted in this state, unless the activity in this state consists solely of advertising or of solicitation by direct mail; or

4. Regularly engages in the delivery of property in this state other than by common carrier or U.S. mail; or

5. Regularly engages in any activity in connection with the leasing or servicing of property located within this state.

All vendors who are registered with the Department of Revenue are required to collect use tax or sales tax from all persons to whom goods are sold for use in this state irrespective of the absence of local activity on any given sale.

Every person who engages in this state in the business of acting as an independent selling agent for unregistered principals, and who receives compensation by reason of sales of tangible personal property of such principals for use in this state, is required to collect the use tax from purchasers, and remit the same to the Department of Revenue, in the manner and to the extent set forth in WAC 458-20-221.

The use tax is imposed upon the use, including storage, of all tangible personal property acquired for any use or consumption in this state unless specifically exempt by statute.

Revised May 3, 1974. [Order ET 74-1, § 458-20-193B, filed 5/7/74; Order ET 70-3, § 458-20-193B, filed 5/29/70, effective 7/1/70.]

WAC 458-20-193C (Rule 193--Part C) Imports and exports--Sales of goods from or to persons in foreign countries.

Rule 193 [WAC 458-20-193] deals with interstate and foreign commerce and is published in four separate parts:

Part A. Sales of Goods Originating in Washington to Persons in Other States.
Part B. Sales of Goods Originating in Other States to Persons in Washington.
Part C. Imports and Exports: Sales of Goods From or To Persons in Foreign Countries.
Part D. Transportation, Communication, Public Utility Activities, or Other Services In Interstate or Foreign Commerce.

Part C.

FOREIGN COMMERCE

Foreign commerce means that commerce which involves the purchase, sale or exchange of property and its transportation from a state or territory of the United States to a foreign country, or from a foreign country to a state or territory of the United States.

IMPORTS. An import is an article which comes from a foreign country (not from a state, territory or possession of the United States) for the first time into the taxing jurisdiction of a state.

Taxation of such goods is impermissible while the goods are still in the process of importation, i.e., while they are still in import transportation. Further, such goods are not subject to taxation if the imports are merely flowing through this state on their way to a destination in some other state.

EXPORTS. An export is an article which originates within the taxing jurisdiction of the state destined for a purchaser in a foreign country. Thus ships stores and supplies are not exports.

BUSINESS AND OCCUPATION TAX

WHOLESALING AND RETAILING.

IMPORTS. Sales of imports by an importer or his agent are not taxable and a deduction will be allowed with respect to the sales of such goods, if at the time of sale such goods are still in the process of import transportation. Immunity from tax does not extend: (1) to the sale of imports to Washington customers by the importer thereof or by any person after completion of importation whether or not the goods are in the original unbroken package or container; nor (2) to the sale of imports subsequent to the time they have been placed in use in this state for the purpose for which they were imported; nor (3) to sales of products which, although imports, have

been processed or handled within this state or its territorial waters.

EXPORTS. A deduction is allowed with respect to export sales when as a necessary incident to the contract of sale the seller agrees to, and does deliver the goods (1) to the buyer at a foreign destination; or (2) to a carrier consigned to and for transportation to a foreign destination; or (3) to the buyer at shipside or aboard the buyer's vessel or other vehicle of transportation under circumstances where it is clear that the process of exportation of the goods has begun, and such exportation will not necessarily be deemed to have begun if the goods are merely in storage awaiting shipment, even though there is reasonable certainty that the goods will be exported. The intention to export, as evidenced for example, by financial and contractual relationships does not indicate "certainty of export" if the goods have not commenced their journey abroad; there must be an actual entrance of the goods into the export stream.

In all circumstances there must be (a) a certainty of export and (b) the process of export must have started.

As proof of export the seller must obtain and keep in his files a bona fide bill of lading, in which he is the consignor and by which the carrier agrees to transport the goods sold to a foreign destination; or obtain and keep a copy of the shipper's export declaration, showing export of the goods sold.

It is of no importance that title and/or possession pass in this state so long as delivery is made directly to the export channel as above set forth.

Sales of tangible personal property, of ships stores, and supplies to operators of steamships, etc., are not deductible irrespective of the fact that the property will be consumed on the high seas, or outside the territorial jurisdiction of this state, or by a vessel engaged in conducting foreign commerce.

EXTRACTING, MANUFACTURING. Persons engaged in these activities in Washington and who transfer or make delivery of articles produced to points outside the state are subject to business tax under the Extracting or Manufacturing classification and are not subject to business tax under the Retailing or Wholesaling classification. See also Rules 135 and 136 [WAC 458-20-135 and 458-20-136]. The activities taxed occur entirely within the state, are inherently local, and are conducted prior to the commercial journey. The tax is measured by the value of products as determined by the selling price. See Rule 112 [WAC 458-20-112]. It is immaterial that the value so determined includes an additional increment of value because the sale occurs outside the state.

RETAIL SALES TAX

The same principles apply to the retail sales tax as are set forth for business and occupation tax above, except that certain statutory exemptions may apply. (See Rules 174, 175, 176, 177, 238 and 239 [WAC 458-20-174, 458-20-175, 458-20-176, 458-20-177, 458-20-238 and 458-20-239].)

USE TAX

The use tax is imposed upon the use, including storage, of all tangible personal property acquired for any use or consumption in this state unless specifically exempt by statute.

Revised August 31, 1976. [Order ET 76-3, § 458-20-193C, filed 8/31/76; Order ET 70-3, § 458-20-193C, filed 5/29/70, effective 7/1/70.]

WAC 458-20-193D (Rule 193--Part D) Transportation, communication, public utility activities, or other services in interstate or foreign commerce.

WAC 458-20-193 deals with interstate and foreign commerce and is published in four separate parts:

Part A. Sales of Goods Originating in Washington to Persons in Other States.

Part B. Sales of Goods Originating in Other States to Persons in Washington.

Part C. Imports and Exports: Sales of Goods From or to Persons in Foreign Countries.

Part D. Transportation, Communication, Public Utility Activities, or other Services in Interstate or Foreign Commerce.

PART D.

BUSINESS AND OCCUPATION TAX, PUBLIC UTILITY TAX

In computing tax there may be deducted from gross income the amount thereof derived as compensation for performance of services which in themselves constitute interstate or foreign commerce to the extent that that a tax measured thereby constitutes an impermissible burden upon such commerce. A tax does not constitute an impermissible burden upon interstate or foreign commerce unless the tax discriminates against that commerce by placing a burden thereon that is not borne by intrastate commerce, or unless the tax subjects the activity to the risk of repeated exactions of the same nature from other states. Transporting across the state's boundaries is exempt, whereas supplying such transporters with facilities, arranging accomodations, providing funds and the like, by which they engage in such commerce is taxable.

EXAMPLES OF EXEMPT INCOME:

1. Income from those activities which consist of the actual transportation of persons or property across the state's boundaries is exempt.

2. That portion of commissions received by local brokers or commission merchants for interstate or foreign sales which was paid to out-of-state independent agents is exempt.

3. Income from services rendered by an out-of-state branch or office of the taxpayer regularly maintained outside the state is exempt. (See WAC 458-20-194.)

EXAMPLES OF TAXABLE INCOME:

1. Compensation received by persons engaged in business within this state for performance of business activities which are only ancillary to transportation across the state's boundaries is taxable.

2. Compensation received by merchandise brokers or commission merchants for services rendered within this state to principals engaged in interstate or foreign commerce is taxable.

3. Compensation received by contracting, stevedoring or loading companies for services performed within this state is taxable.

In computing public utility tax, there may be deducted from gross income so much thereof as is derived from actually transporting persons or property or transmitting communications or electrical energy, from this state to another state or territory or to a foreign country and vice versa.

Persons, including dock companies or wharfage companies, are permitted no deduction of gross income from services performed in this state consisting of the handling of cargo or freight even though such cargo or freight has moved or will move across the state's boundaries.

No deduction is permitted with respect to gross income derived from activities which are ancillary to transportation across the state's boundaries, such as income received by a wharf company or warehouse company for the storage of goods. The mere ownership or operation of facilities by means of which others engage in foreign or interstate commerce is an activity ancillary to such commerce and any income received therefrom is taxable.

Insofar as the transportation of goods is concerned, the interstate movement of cargo or freight ceases when the goods have arrived at the destination to which it was billed by the out-of-state shipper, and no deduction is permitted of the gross income derived from transporting the same from such point of destination in this state to another point within this state. Thus, freight is billed from San Francisco, or a foreign point, to Seattle. After arrival in Seattle it is transported to Spokane. No deduction is permitted of the gross income received for the transportation from Seattle to Spokane. Again, freight is billed from San Francisco, or a foreign point, to a line carrier's terminal, or a public warehouse in Seattle. After arrival in Seattle it is transported from the line carrier's terminal or public warehouse to the buyer's place of business in Seattle. No deduction is permitted of the gross income received as transportation charges from the line carrier's terminal or public warehouse to the buyer's place of business in Seattle.

Revised May 3, 1974 [Order ET 74-1, § 458-20-193D, filed 5/7/74; *Emergency Order ET 74-6, filed 9/30/74 and Emergency Order ET 74-7, filed 10/3/74, effective 1/1/75; Order ET 70-3, § 458-20-193D, filed 5/29/70, effective 7/1/70.]

***Reviser's note:** Order ET 74-1 was filed in the office of the Code Reviser on 5/7/74 and became effective 6/6/74, the Department of Revenue Administrative Emergency Order ET 74-6, filed 9/30/74 and Emergency Order ET 74-7, filed 10/3/74, superseded the effective date of WAC 458-20-193D and delays the effective date to 1/1/75. By the terms of RCW 34.04.030 emergency orders are effective for ninety days.

WAC 458-20-194 (Rule 194) Doing business within and without the state. Persons domiciled outside this state who (1) sell or lease personal property to buyers or lessees in this state, or (2) perform construction or installation contracts in this state, or (3) render services to others herein, are doing business in this state, irrespective of the domicile of such persons and irrespective of whether or not such persons maintain a permanent place of business in this state.

Persons domiciled in and having a place of business in this state, who (1) sell or lease personal property to buyers or lessees outside this state, or (2) perform construction or installation contracts outside this state, or (3) render services to others outside this state, are doing business both within and without this state. Whether or not such persons are subject to business tax under the law depends upon the kind of business and the manner in which it is transacted. The following general principles govern in determining tax liability or tax immunity.

BUSINESS AND OCCUPATION TAX

When the business involves a transaction in or related to interstate or foreign commerce, see WAC 458-20-193.

When the business involves a construction or installation contract in this state, no deduction from the measure of the tax is permitted, even though the contractor is domiciled outside this state and maintains a place of business outside this state which may contribute to the contract performed in this state. See WAC 458-20-137, 458-20-170, 458-20-171 and 458-20-172.

When the business involves a construction or installation contract outside this state, the tax does not apply to any part of the income derived therefrom (except such part of the income as may be applicable to the manufacture in this state by the contractor of articles used or incorporated in such construction or installation), even though the contractor is domiciled in this state and maintains a place of business herein which may contribute to the contract performed outside this state. See WAC 458-20-136.

When the business involves a transaction taxable under the classification Service and Other Business Activities, the tax does not apply upon any part of the gross income received for services incidentally rendered to persons in this state by a person who does not maintain a place of business in this state and who is not domiciled herein. However, the tax applies upon the income received for services incidentally rendered to persons outside this state by a person domiciled herein who does not maintain a place of business within the jurisdiction of the place of domicile of the person to whom the service is rendered.

For example, persons domiciled herein, but having no place of business outside this state, are taxable upon the following types of income:

1. An insurance agency upon commissions received for insurance placed without the state.

2. An attorney upon fees received from persons without the state, even though a portion of his services were necessarily performed without the state.

3. A collection agency upon income received from clients without the state or with respect to collections made from persons without the state.

4. An accountant upon income received from persons for services performed without the state.

5. A financial business upon income received from loans placed without the state.

6. A commodity broker upon commissions received from persons without the state.

7. An advertising agency upon income received from advertising solicited and secured from firms without the state.

8. An employment agency upon income received for securing employees for firms without the state.

9. A physician upon income received from the treatment of patients without the state.

10. A purchasing agency upon commissions received from clients without the state or with respect to purchases made without the state.

Persons engaged in a business taxable under the Service and Other Business Activities classification and who maintain places of business both within and without this state which contribute to the performance of a service, shall apportion to this state that portion of gross income derived from services rendered by them in this state. Where it is not practical to determine such apportionment by separate accounting methods, the taxpayer shall apportion to this state that proportion of total income which the cost of doing business within this state bears to the total cost of doing business both within and without this state.

PUBLIC UTILITY TAX

Persons engaged in a public service business in this state are not taxable with respect to gross income derived from conducting business outside this state, nor in respect to conducting business in interstate or foreign commerce.

Revised June 1, 1970. [Order ET 70-3, § 458-20-194, filed 5/29/70, effective 7/1/70.]

WAC 458-20-195 (Rule 195) Taxes, deductibility. A. DEDUCTIBILITY, GENERALLY. In computing tax liability, the amount of certain taxes may be excluded or deducted from the Gross Amount reported as the measure of tax under the business and occupation tax, the retail sales tax and the public utility tax. Such taxes may be deducted provided they (1) have been included in the Gross Amount reported under the classification with respect to which the deduction is sought, and (2) have not been otherwise deducted through inclusion in the amount of an allowable deduction taken under such classification for another reason, i.e., interstate commerce, etc.

The amount of taxes which are not allowable as deductions or exclusions must in every case be included in the Gross Amount reported.

B. MOTOR VEHICLE FUEL TAXES. So much of the sale price of motor vehicle fuel as constitutes the amount of tax imposed by the state of Washington or the United States government upon the sale thereof may be deducted by every seller thereof from the gross proceeds of sales reported under the business and occupation tax.

C. OTHER TAXES. The amount of taxes collected by a taxpayer, as agent for the state of Washington or its political subdivisions, or for the Federal government, may be deducted from the Gross Amount reported. Such taxes are deductible under each tax classification of the Revenue Act under which the Gross Amount from such sales or services must be reported.

This deduction applies only where the amount of such taxes is received by the taxpayer as collecting agent and is paid by the agent directly to the state, its political subdivisions, or to the Federal government. When the taxpayer is the person upon whom a tax is primarily imposed, no deduction or exclusion is allowed, since in such case the tax is a part of the cost of doing business. The mere fact that the amount of tax is added by the taxpayer as a separate item to the price of goods he sells, or to the charge for services he renders, does not in itself, make such taxpayer a collecting agent for the purpose of this deduction.

SPECIFIC TAXES, DEDUCTIBLE. The deductions under paragraphs B and C above apply to the following excise taxes among others:

Federal—

Tax on admission (*bona fide* price only)	26 U.S.C.A. Sec. 4231;
Tax on dues, membership and initiation fees	26 U.S.C.A. Sec. 4241;
Tax on gasoline	26 U.S.C.A. Sec. 4081;
Retailers' Excise Tax	26 U.S.C.A., chapter 31;
Tax on furs	26 U.S.C.A. Sec. 4011;
Tax on jewelry	26 U.S.C.A. Sec. 4001;
Tax on luggage, etc	26 U.S.C.A. Sec. 4031;
Tax on toilet preparations	26 U.S.C.A. Sec. 4021;
Tax on safe deposit boxes	26 U.S.C.A. Sec. 4286;
Tax on telegraph, telephone, radio and cable messages	26 U.S.C.A. Sec. 4251;
Tax on transportation of persons	26 U.S.C.A. Sec. 4261;
Tax on transportation of property	26 U.S.C.A. Sec. 4271;

State—

Motor Vehicle Fuel Tax, chapter 82.36 RCW;
Retail Sales Tax collected from buyers, chapter 82.08 RCW;
Use Tax collected from buyers, chapter 82.12 RCW;

Municipal—

City Admission Tax (imposed by city ordinance pursuant to RCW 35.21.280);
County Admissions and Recreations Tax (imposed by county ordinance pursuant to chapter 82.36 RCW).

Specific Taxes—Nondeductible. No deduction is allowed with respect to the following licenses and taxes, among others:

Federal—
A.A.A. Compensating Tax ..... 7 U.S.C.A. Sec. 615(e);
A.A.A. Processing Tax ..... 97 U.S.C.A. chapter 26;
Brewers' and Distillers' Taxes (see Occupations—Liquor)
Cabarets, roof gardens, etc., tax .... 26 U.S.C.A. Sec. 4231(6);
Capital Stock Taxes (see Stamp Taxes)
Coconut and vegetable oil processors' tax ..... 26 U.S.C.A. Sec. 4511;
Dividend taxes (see Stamp Taxes)
Employment taxes ..... 26 U.S.C.A. chapter 21–25;
Estate taxes ..... 26 U.S.C.A. chapter 11;
Filled cheese tax ..... 26 U.S.C.A. Sec. 4831;
Gift taxes ..... 26 U.S.C.A. chapter 12;
Imported fish, animal and vegetable oil tax ..... 26 U.S.C.A. Sec. 4561, 4571;
Income taxes ..... 26 U.S.C.A. Sec. 4581 et seq.;
Liquor taxes ..... 26 U.S.C.A. chapter 51;
Manufacturers' and importers of sugar tax ..... 26 U.S.C.A. Sec. 4; 501;
Manufacturers' excise and import taxes ..... 26 U.S.C.A. chapters 32, 38;
Automobiles, etc. ..... 26 U.S.C.A. Sec. 4061;
Coal imported ..... 26 U.S.C.A. Sec. 4531;
Copper imported ..... 26 U.S.C.A. Sec. 4541;
Firearms, shells and cartridges ..... 26 U.S.C.A. Sec. 4181;
Taxes imposed by Revenue Act of 1954 ..... 26 U.S.C.A. chapter 32;
Business and Store machines ..... 26 U.S.C.A. Sec. 4191;
Electric, gas and oil appliances ..... 26 U.S.C.A. Sec. 4121;
Electric light bulbs and tubes ..... 26 U.S.C.A. Sec. 4131;
Photographic apparatus ..... 26 U.S.C.A. Sec. 4171;
Sporting goods ..... 26 U.S.C.A. Sec. 4161;
Lubricating oils ..... 26 U.S.C.A. Sec. 4091;
Lumber imported ..... 26 U.S.C.A. Sec. 4551;
Matches ..... 26 U.S.C.A. Secs. 4211, 4891;
Mechanical pencils, pens and cigarette lighters ..... 26 U.S.C.A. Sec. 4201;
Petroleum and derivatives imported .... 26 U.S.C.A. Sec. 4521;
Refrigerators, quick freeze units and self–contained air–conditioned units ..... 26 U.S.C.A. Sec. 4111;
Tires and inner tubes ..... 26 U.S.C.A. Sec. 4071;
Narcotics tax ..... 26 U.S.C.A. chapter 39;
Occupation taxes:
Coin operated amusement and gaming devices ..... 26 U.S.C.A. Sec. 4461;
Handlers of marihuana ..... 26 U.S.C.A. Sec. 4751;
Handlers of narcotics ..... 26 U.S.C.A. Sec. 4721;
Importers, manufacturers and dealers in firearms ..... 26 U.S.C.A. Sec. 5801;
Liquor dealers and others ... 26 U.S.C.A. Sec. 5081; et seq.;
Manufacturers of renovated butter .. 26 U.S.C.A. Sec. 4821;
Operators of bowling alleys, billiard and pool rooms ..... 26 U.S.C.A. Sec. 4471;
Sale and transfer of firearms tax ..... 26 U.S.C.A. Sec. 5811;
Stamp taxes (corporate securities, capital stock, insurance policies, playing cards, etc. ..... 26 U.S.C.A. chapter 34 and Sec. 4451;
Tobacco excise taxes ..... 26 U.S.C.A. chapter 52;
Transportation of oil by pipeline tax ... 26 U.S.C.A. Sec. 4281;
Wagering taxes ..... 26 U.S.C.A. chapter 35;

State and Municipal—
Ad valorem property taxes ..... Title 84 RCW;
Alcoholic beverages licenses and stamp taxes ..... chapter 66.24 RCW; (Breweries, distillers, distributors and wineries)
Boxing and wrestling licenses and tax ..... chapter 67.08 RCW;
Business and occupation tax ..... chapter 82.04 RCW;
Cigarette tax ..... chapter 82.24 RCW;
Conveyance tax ..... chapter 82.20 RCW;
Gift and inheritance taxes ..... Title 83 RCW;
Local license fees
Mechanical devices tax ..... chapter 82.28 RCW;
Parimutuel tax ..... RCW 67.16.100;
Public Utility tax ..... chapter 82.16 RCW;
Real estate sales tax ..... chapter 28.45 RCW;
Regulatory fees
State license fees
Use fuel tax ..... chapter 82.40 RCW;
Use tax when not collected as agent for state ..... chapter 82.12 RCW.

The question of the right to exclude or deduct the amount of any tax other than those authorized herein should be submitted to the Department of Revenue for determination.

Revised March 1, 1954. [Order ET 70–3, § 458–20–195, filed 5/29/70, effective 7/1/70.]

WAC 458–20–196 (Rule 196) Credit losses, bad debts, recoveries.

BUSINESS AND OCCUPATION TAX

In computing business and occupation tax there may be deducted by taxpayers whose regular books of accounts are kept upon an accrual basis, the amount of business credit losses actually sustained, providing that such deduction will be allowed only with respect to transactions upon upon which a tax has been previously paid and providing that the amount thereof has not been otherwise deducted and that credits have not been issued with respect thereto.

Bad debt deductions must be taken by the taxpayer during the tax reporting period during which such bad debts were actually charged off on the taxpayer's books of account.

In cases where the amount of bad debts legitimately charged off in a particular reporting period exceeds the gross income for such period, the excess of the amount of the bad debts charged off during such period may be deducted from the gross income of the subsequent tax reporting period.

EXTRACTING OR MANUFACTURING, SPECIAL APPLICATION. Bad debt deductions will be allowed under the Extracting or Manufacturing classifications only when the value of products is computed on the basis of gross proceeds of sales.

RETAIL SALES TAX

No deduction is allowed a taxpayer under the retail sales tax because of credit losses or bad debts, or repossessions of property sold under conditional sale contracts.

PUBLIC UTILITY TAX

In computing public utility tax credit losses may be deducted under the same conditions set out under the business and occupation tax. However, the special provisions set out for the Extracting and Manufacturing classifications are not applicable to the public utility tax.

METHODS OF DETERMINING CREDIT LOSSES. The amount of credit losses actually sustained must be determined in accordance with one of the following methods:

1. Specific charge–off method. The amount which is charged off within the tax reporting period with respect to debts ascertained to be worthless.

a. Worthlessness of a debt is usually evidenced when all the surrounding and attending circumstances indicate that legal action to enforce payment would result in an uncollectible judgment.

b. A "charge–off" of a debt, either wholly or in part, must be evidenced by entry in the taxpayer's books of account.

2. Reserve method. In the discretion of the Department of Revenue a reasonable addition to a reserve for bad debts will be authorized to taxpayers who charge off credit losses at the end of their taxable year but who desire to apportion such losses on a monthly basis.

a. This will be permitted, in lieu of the specific charge–off method, only to taxpayers who have established or are allowed by the Internal Revenue Service to use for Federal Income Tax purposes, the reserve method of treating bad debts, or who, upon securing permission from the department adopt that method.

b. What constitutes a reasonable addition to a reserve for bad debts must be determined in the light of the facts and will vary as between classes of business and with conditions of business prosperity. The addition to the reserve allowed as a deduction by the Internal Revenue Service for Federal Income Tax purposes, in the absence of evidence to the contrary, will be presumed reasonable.

If the taxpayer actually determines and charges off bad debts on a tax reporting period basis, the amount so charged off each period shall be considered prima facie as a proper deduction for such period.

When bad debt losses are ascertained annually upon specific charge–off method, the deduction must be taken against the gross amount reported for the period in which the bad debts were actually charged off.

When the reserve method is employed in taking deductions for bad debts on returns and the amount of debts actually ascertained to be wholly or partially worthless and charged against the reserve account during the taxable year and reported do not agree with the amount of reserve set up therefor, adjustment of the amount of loss deducted shall be made to make the total amount claimed for the tax year coincide with the amount of loss actually sustained.

RECOVERIES. Amounts subsequently received on account of a bad debt or on account of a part of such debt previously charged off and allowed as a deduction for business tax purposes, must be included in gross proceeds of sales (including value of products when measured by gross proceeds of sales) or gross income of the business reported for the taxable period in which received. This is true even though the recoveries during such period exceed the amount of the bad debt charge–off.

Revised March 1, 1954. [Order ET 70–3, § 458–20–196, filed 5/29/70, effective 7/1/70.]

WAC 458-20-197 (Rule 197) When tax liability arises. Gross proceeds of sales and gross income shall be included in the return for the period in which the value proceeds or accrues to the taxpayer. For the purpose of determining tax liability of persons making sales of tangible personal property, a sale takes place when the goods sold are delivered to the buyer in this state. With respect to leases or rentals of tangible personal property, liability for retail sales tax arises as of the time the rental payments fall due (see WAC 458–20–211).

ACCRUAL BASIS. When returns are made upon the accrual basis, value proceeds or accrues to a taxpayer as of the time the taxpayer actually receives, becomes legally entitled to receive or in accord with the system of accounting regularly employed enters as a charge against the purchaser, customer, or client the amount of the consideration agreed upon, whether payable immediately or at a definitely determined future time.

As to amounts actually received, however, such amounts do not constitute value proceeding to the taxpayer in the period in which received if the gross proceeds of sales or gross income of the contract or transaction by virtue of which such amounts are received, pursuant to the foregoing, constitute value accruing to the taxpayer during another period. It is immaterial whether the act or service out of which the consideration proceeds or accrues is performed or rendered, in whole or in part, during a period other than the one for which return is made, the controlling factor in this case being the time as of which the taxpayer received, or takes credit for, the agreed consideration.

CASH RECEIPTS BASIS. When returns are made upon cash receipts and disbursements basis, value proceeds or accrues to a taxpayer as of the time the taxpayer receives, either actually or constructively, the consideration promised. It is immaterial that the contract is performed, in whole or in part, during a period other than the one in which payment is received. (But see WAC 458–20–199 for limitation as to persons who may report on the cash receipts basis.)

SPECIAL APPLICATION, CONTRACTORS. In the case of building and construction contractors value proceeds or accrues to the taxpayer as follows:

1. When the taxpayer maintains his accounting records on the accrual basis, as of the time the contractor becomes entitled to compensation under the contract:

a. If by the terms of the contract the taxpayer becomes entitled to compensation only upon the completion of the work, value accrues thereunder as of the time of completion;

b. If by the terms of the contract the taxpayer becomes entitled to compensation upon estimates as the work progresses, value, to the extent of such estimates, accrues as of the time that each estimate is made and the balance at the time of the completion of the work or of the final estimate.

2. When the taxpayer maintains his accounting records on the cash receipts basis, as of the time that the consideration or compensation is received, but provided that the contractor shall make an annual adjustment of accounts receivable according to the procedure set forth in Method Three of WAC 458–20–199, Accounting Methods.

WAREHOUSEMEN. In the case of warehousemen value proceeds or accrues to the taxpayer as follows:

1. When the taxpayer is reporting upon the accrual basis (whether the consideration for storage is at a fixed rate per unit per month or other period or at a flat charge regardless of the length of time and whether payable periodically or at the time of withdrawal) as of the time the charge is entered against the owner of the goods stored in accordance with the terms of the contract between the parties and the regular system of accounting employed by the taxpayer. Thus, where a warehouseman, keeping books on accrual basis, customarily enters as a charge to the owner of the goods and a credit to storage income the full amount of a flat storage charge as of the time the goods are received, even though the time for payment is deferred until withdrawal of the goods, value accrues as of the time the goods are received. However, if the warehouseman customarily does not enter such charge until the time of withdrawal, value accrues as of such later date.

2. When the taxpayer is reporting upon a cash receipts basis, value proceeds or accrues as of the time the consideration or compensation for storage is received.

For effect of rate changes, see WAC 458-20-235. [Order ET 70-3, § 458-20-197, filed 5/29/70, effective 7/1/70.]

WAC 458-20-198 (Rule 198) Conditional and installment sales, method of reporting.

BUSINESS AND OCCUPATION TAX

Persons making conditional sales or other installment sales of tangible personal property must report the total selling price of such sales in the tax reporting period in which the sale is made.

A deduction from gross proceeds of sales as a credit loss is allowed to such sellers for the amount of the unpaid balance of the contract price on any installment sale if and when the property purchased is repossessed upon default by the buyer.

RETAIL SALES TAX, USE TAX

Persons making conditional sales or other installment sales of tangible personal property must report the total selling price of such sales in the tax period in which the sale is made.

The foregoing is true irrespective of the fact that such sellers arrange to receive payment of tax in installments or that a contract may be discounted or pledged with or sold to a finance company. In the latter case, although as a part of the agreement with the seller the finance company actually makes collection of the tax from the buyer as the installments fall due, the finance company should not report to the Department of Revenue the amount of tax collected since the total tax already has been reported by the seller.

No deduction for credit losses in case of repossessions is allowed under the retail sales tax or use tax.

Revised July 1, 1956. [Order ET 70-3, § 458-20-198, filed 5/29/70, effective 7/1/70.]

WAC 458-20-199 (Rule 199) Accounting methods. In computing tax liability under the business and occupation tax and the retail sales tax, one of the following accounting methods should be used. The amount reported under the Retailing classification under the Gross Amount must be the same under the business and occupation tax and the retail sales tax.

Persons making taxable and nontaxable sales of tangible personal property must segregate such sales for the purpose of computing tax liability.

METHOD ONE, CASH BASIS. Only persons engaged in a strictly cash business will be permitted to make returns on a cash receipts basis. Certain small businesses which occasionally make a sale without receiving cash and which do not keep any file, record or general ledger account of such sales may be considered as doing a cash business, providing the volume of such sales never exceeds 5% of the gross volume of business. Under this method it is not necessary to make any adjustment at the end of the year with respect to accounts receivable.

Such businesses are not entitled to any bad debt deductions. (See WAC 458-20-196.)

METHOD TWO, ACCRUAL BASIS. Persons operating their business on the accrual basis must report under the business and occupation tax and the retail sales tax for each tax reporting period the gross proceeds from all cash sales made during such period, together with the total amount of charge sales during such period. No deduction is allowed under the retail sales tax on account of bad debts arising from such charge sales.

METHOD THREE, CASH RECEIPTS, ACCOUNTS RECEIVABLE ADJUSTMENT. Persons doing a charge business who do not record such charges as sales at the time the sale is made may report for tax purposes under Method Three.

Persons may report and pay the tax on the amount received as cash sales plus all cash received on accounts during each period. If this method is adopted, an adjustment shall be made at the end of the calendar year to add to cash received the amount of accounts receivable at the end of the year (not previously reported) to be reported along with cash receipts. A statement should accompany the return indicating the amount of accounts receivable so added. A deduction may be taken on subsequent returns filed in periods when cash is received upon accounts receivable so reported. Such receipts should be included in Column 2 (Gross Amount) and then listed as a deduction in Column 3 of the excise tax return and explained on the reverse of the return as "cash received upon accounts receivable reported as of December 31, 19__."

Persons engaged in service business activities who are not liable for the collection of the retail sales tax are not required to adjust accounts receivable at the end of the tax year.

Where bad debts are charged off during any taxable year the amount thereof must be added to the accounts receivable outstanding at the end of the year before making adjustments provided for in Method Three.

Revised June 1, 1965. [Order ET 70-3, § 458-20-199, filed 5/29/70, effective 7/1/70.]

WAC 458-20-200 (Rule 200) Leased departments. Any person leasing departments of the business conducted may include in his tax returns the business done and sales made by the lessee where such lessor keeps the books for the lessee and makes collection on the latter's account: provided, however, that each lessee must apply for and obtain from the Department of Revenue a certificate of registration, as provided under WAC 458-20-101.

When the business of such leased department is included in the return made by the lessor, a statement shall be submitted to the department showing the name of the lessee of each such department, a description of the department operated, and a statement that the lessor will make returns for each of the departments so included and assume liability for the tax accruing against the lessees of such departments; but the lessee shall not be relieved from his liability for taxes in case the lessor fails to make the proper return or fails to pay taxes due. A statement of any change occurring in the ownership or status of such leased departments must be submitted to the department, showing the date of such change and all facts relative thereto.

BUSINESS AND OCCUPATION TAX AND RETAIL SALES TAX

Any taxpayer making returns for any leased department shall report the total tax liability thereof under both the business and occupation tax and the retail sales tax, including therein all cash and charge sales. The leased department in such case is not entitled to the taxable minimum provided in WAC 458-20-104.

Where the lessor receives a flat monthly rental or a percentage of sales as rental for a leased department, such income is from the rental of real estate and is not taxable. Where, however, the rental received by the lessor includes amounts for credit and accounting services, the entire amount received is taxable under the classification Service and Other Activities unless the lessor segregates and bills separately the charge for rental and the charge for credit and accounting services.

Revised April 14, 1960. [Order ET 70-3, § 458-20-200, filed 5/29/70, effective 7/1/70.]

WAC 458-20-201 (Rule 201) Interdepartmental charges. The term "interdepartmental charges" means amounts credited to the sales account or other gross income account of a taxpayer for goods, materials or services furnished by one department or branch of a business organization to another department or branch of the same business concern of firm.

Tax is due upon interdepartmental charges covering transfers of goods from a central location to two or more retail outlets. See WAC 458-20-231, Tax on Wholesaling Functions. Tax is also due upon the value of products extracted or manufactured by one branch or department of a business for commercial or industrial use of another branch or department of the same business. See WAC 458-20-134. In other cases amounts representing interdepartmental charges may be excluded in computing tax due. This does not permit the exclusion or deduction of charges against or income derived from an affiliated corporation or other affiliated association.

Municipal corporations are entitled to an exclusion of interdepartmental charges in computing tax whether or not the charges represent an actual transfer of money or merely a bookkeeping entry (see WAC 458-20-189).

Revised June 1, 1970. [Order ET 70-3, § 458-20-201, filed 5/29/70, effective 7/1/70.]

WAC 458-20-202 (Rules 202) Pool purchases. The term "pool purchase" means the joint purchase by two or more persons, engaging in independent business activities, of commodities in carload or truck load quantities for the purpose of obtaining a purchase price or freight rate which is less than when purchased or delivered in smaller quantities.

The term "principal member" means that member of the pool to whom the goods are charged by the vendor of the commodities purchased.

In computing tax liability of the principal member under chapter 82.04 RCW, there may be deducted from gross proceeds of sales the amount received by him from other members of the pool of their proportionate share of the cost thereof of the commodities purchased.

This deduction is allowed only when all of the following conditions are met:

1. The amount received is included in gross proceeds of sales.

2. The pool purchase agreement was entered into prior to the time of placing the order for the commodities purchased.

3. The pool purchase agreement provides that each member shall accept a specific portion of the shipment.

4. Division of the shipment is made prior to warehousing of the commodities by a member of the pool.

In no event will a "pool purchase" deduction be allowed when an agreement relative to the amount of the share to be distributed to any member is made after the date of the purchase order, or where one member of a pool pays an amount for his portion in excess of the proportionate amount paid by another member.

Revised June 1, 1970. [Order ET 70-3, § 458-20-202, filed 5/29/70, effective 7/1/70.]

WAC 458-20-203 (Rule 203) Corporations, Massachusetts trusts. Each separately organized corporation is a "person" within the meaning of the law, notwithstanding its affiliation with or relation to any other corporation through stock ownership by a parent corporation by the same group of individuals.

Each corporation shall file a separate return and include therein the tax liability accruing to such corporation. This applies to each corporation in an affiliated group, as the law makes no provision for filing of consolidated returns by affiliated corporations or for the elimination of intercompany transactions from the measure of tax.

Each unincorporated association organized under the Massachusetts Trust Act of 1959 (chapter 23.90 RCW) is likewise taxable in the same way as are separate corporations.

Revised June 20, 1959. [Order ET 70-3, § 458-20-203, filed 5/29/70, effective 7/1/70.]

WAC 458-20-204 (Rule 204) Outdoor advertising and advertising display services. The term "outdoor advertising" means the business of rendering an advertising service to others by posting or painting advertising copy upon billboards owned or controlled by the outdoor advertiser.

The term "advertising display service" means the business of installing and maintaining advertising displays upon property of others, when title to the property used in the display is retained by the person engaged in such business.

BUSINESS AND OCCUPATION TAX

SERVICE AND OTHER BUSINESS ACTIVITIES. Taxable under the Service and Other Business Activities classification upon the gross income from advertising services.

RETAIL SALES TAX

Persons engaged in the business of outdoor advertising or advertising display services are performing an advertising service, and are not required to collect the retail sales tax. Persons purchasing or producing tangible personal property for use in the performance of advertising services are required to pay the retail sales tax upon purchasing such property, or the use tax upon the value of the property produced and used in the performance of such services.

Revised May 1, 1943. [Order ET 70-3, § 458-20-204, filed 5/29/70, effective 7/1/70.]

WAC 458-20-205 (Rule 205) Sales of utility services by building companies. When building companies, apartment house owners or other real estate owners or lessors furnish utility services such as heat and electrical energy to their own tenants of office buildings, apartment houses and storerooms under circumstances indicating it is a part of the normal and customary landlord-tenant relationship and the charge made therefor is the cost of this utility service to the owner or lessor prorated among his tenants based upon the use or consumption of such services, the income derived therefrom is construed to be incidental to and a part of gross income from the renting or leasing of real estate and not subject to the provisions of the business and occupation tax. This is true whether the charge therefor is included in a lump sum rental or is billed separately. However, when the furnishing of utility services is not in accordance with the foregoing, the income derived therefrom is considered to be a separate business activity and is taxable under the appropriate chapter of the Revenue Act.

Revised June 1, 1970. [Order ET 70-3, § 458-20-205, filed 5/29/70, effective 7/1/70.]

WAC 458-20-206 (Rule 206) Use tax, fuel oil, oil products, other extracted products. The use tax applies to the use of any oil products (except motor vehicle fuel for highway use) or other extracted products used within the state by the producer or extractor thereof, whether such products have been produced or extracted within or without the state, except when used as a fuel directly in the operation of the particular extractive operation or manufacturing plant which produced the same. (RCW 82.12.030(11).)

Distributors who are consumers of fuel oil, are subject to the use tax with respect to the use of such fuel oil, unless the sale of such oil has been subjected to the retail sales tax and the tax paid thereon by such distributor.

Revised March 1, 1954. [Order ET 70-3, § 458-20-206, filed 5/29/70, effective 7/1/70.]

WAC 458-20-207 (Rule 207) Court costs, exclusion. Court costs paid by a taxpayer is a business expense and may not be deducted from the Gross Amount reported as the measure of tax under the business and occupation tax.

Court costs paid by a taxpayer and recovered in an action at law may be excluded from the Gross Amount reported as the measure of tax under the business and occupation tax. The recovery of such costs is construed to be a return of capital invested rather than income.

Court costs advanced by an attorney for the account of his client may be excluded from the attorney's income upon the reimbursement by the client or recovery of such amount in an action at law. (See WAC 458-20-111.)

Revised May 1, 1943. [Order ET 70-3, § 458-20-207, filed 5/29/70, effective 7/1/70.]

WAC 458-20-208 (Rule 208) Accommodation sales. The term "accommodation sales" means only sales for resale by persons regularly engaged in the business of making sales of the type of property so sold to other persons similarly engaged in the business of selling such property where (1) the amount paid by the buyer does not exceed the amount paid by the seller to his vendor in the acquisition of the article and (2) the sale is made as an accommodation to the buyer to enable him to fill a bona fide existing order of a customer or is made within fourteen days to reimburse in kind a previous accommodation sale by the buyer to the seller.

The "amount paid by the seller to his vendor" may under some circumstances include certain actual costs incurred by the seller and billed as such to the buyer in addition to the invoice cost of the article sold at an accommodation sale. The facts concerning such added costs must be submitted to the Department of Revenue for specific rulings. The "amount paid by the seller to his vendor" shall not be reduced by the amount of any manufacturer's holdbacks or discounts received after an article has been sold at an accommodation sale even though such holdbacks or discounts may be retained by the seller.

BUSINESS AND OCCUPATION TAX

In computing tax under the Wholesaling——Other classification, there may be deducted from the reported gross amount so much as represents receipts from accommodation sales. Each seller claiming this deduction must retain as a part of his sales records sufficient evidence to prove the nature of the transactions.

Revised June 1, 1970. [Order ET 70-3, § 458-20-208, filed 5/29/70, effective 7/1/70.]

WAC 458-20-209 (Rule 209) Farming operations performed for hire. Persons engaging in the business of threshing grain, baling hay, cutting or binding hay or grain, tilling the land or performing for hire other services connected with farming activities are taxable under the Service and Other Business Activities classification of the business and occupation tax upon the gross income received from the performance of such services.

The extent to which the above functions are performed for others is determinative of whether or not a person is engaged in a taxable business in respect thereto. In other words, a person is not construed as being engaged in a taxable business when his activities are casual and incidental, such as a farmer owning baling equipment or threshing equipment which is used primarily for baling hay or threshing grain produced by himself but who may occasionally accommodate neighboring farmers by baling small quantities of hay or threshing small quantities of grain produced by them. On the other hand, persons owning baling equipment or threshing outfits whose primary business and taxable with respect thereto, irrespective of the amount or extent of such business and are required to pay the retail sales tax upon the purchase of materials and equipment used in the performance of such services.

In cases where doubt exists in determining whether or not a person is engaging in the business of performing the aforementioned services, all pertinent facts should be submitted to the Department of Revenue for a specific ruling.

Revised May 1, 1943. [Order ET 70-3, § 458-20-209, filed 5/29/70, effective 7/1/70.]

WAC 458-20-210 (Rule 210) Sales of farm products by farmers producing the same. The term "farm products" as used herein means all farm products such as poultry, livestock, fruit, vegetables and grains.

All farmers engaging in the business of making retail sales of farm products produced by them are required to apply for and obtain a certificate of registration. The registration fee is $1.00 and the certificate shall remain valid as long as the taxpayer remains in business.

BUSINESS AND OCCUPATION TAX

Farmers are not subject to tax under the Wholesaling classification of the business and occupation tax upon wholesale sales of farm products which have been raised by them upon land owned by or leased to them. This exemption does not extend to sales of manufactured or extracted products (see WAC 458-20-135 and 458-20-136), nor to the taking, cultivating, or raising of Christmas trees or timber.

Farmers are subject to tax under the Retailing classification of the business and occupation tax upon sales of farm products when the farmer holds himself out to the public as a seller by:

1. Conducting a roadside stand or a stand displaying farm products for sale at retail;
2. Posting signs on his premises, or through other forms of advertising soliciting sales at retail;
3. Operating a regular delivery route from which farm products are sold from door to door; or
4. Maintaining an established place of business for the purpose of making retail sales of farm products.

Farmers selling farm products not raised by them, should obtain information from the Department of Revenue with respect to their tax liability.

RETAIL SALES TAX

All farmers are required to collect the retail sales tax upon all retail sales made by them, except sales of food products exempt under WAC 458-20-244, when the farmer holds himself out to the public as a seller in any of the ways described above.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-210, filed 6/27/78; Order ET 70-3, § 458-20-210, filed 5/29/70, effective 7/1/70.]

WAC 458-20-211 (Rule 211) Leases or rentals of tangible personal property, bailments. The terms "leasing" and "renting" are used interchangeably and refer generally to the act of granting to another the right of possession to and use of tangible personal property for a consideration. The term "bailment" refers to the act of granting to another the right of possession to and use of tangible personal property without consideration. The terms do not include rental agreements pursuant to which the owner or lessor operates the equipment or supplies an employee operator, whether or not such employee operator works under the supervision or control of the lessee.

BUSINESS AND OCCUPATION TAX

The renting or leasing of tangible personal property constitutes a "sale" (RCW 82.04.040) and persons engaged in renting or leasing such property to users or consumers are taxable under the Retailing classification upon the gross income from rentals as of the time the rental payments fall due. Persons renting or leasing tangible personal property to persons who will rent or lease such property to others are taxable under the classification Wholesaling.

Persons who rent equipment or other tangible personal property and, in addition, operate the equipment or supply an employee to operate the same, are subject to the business and occupation tax (or public utility tax) according to the classification of the activities performed by the equipment and operator. Thus, the charge made

to a construction contractor for equipment with operator used in the construction of a building would be taxable under Wholesaling——Other and a similar charge to a contractor for use in the construction of a publicly owned road would be taxable under Public Road Construction.

RETAIL SALES TAX

Persons who rent or lease tangible personal property to users or consumers are required to collect from their lessess the retail sales tax measured by gross income from rentals as of the time the rental payments fall due.

The retail sales tax does not apply upon the rental or lease of motor vehicles and trailers to nonresidents of this state for use exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when the motor vehicle or trailer is registered and licensed in a foreign state. For purposes of this exemption, the term "nonresident" shall apply to a renter or lessee who has one or more places of business in this state as well as in one or more other states but the exemption for nonresidents shall apply only to those vehicles which are most frequently dispatched, garaged, serviced, maintained and operated from the renter's or lessee's place of business in another state.

The retail sales tax does not apply upon sales of tangible personal property to persons who purchase the same solely for the purpose of renting or leasing such property. However, the retail sales tax applies upon sales to persons who rent such property with operator or who intend to made some use of the property other than or in addition to renting or leasing.

USE TAX

Persons who rent or lease tangible personal property from others and who have not paid the retail sales tax to their lessors are liable for the use tax on the amount of the rental payments as of the time the payments fall due.

The value of tangible personal property held or used under bailment is subject to tax if the property was purchased or acquired under conditions whereby the retail sales tax was not paid by the bailor. Tax liability is that of the bailor, or of the bailee if the bailor has not paid the tax. The measure of the use tax for articles acquired by bailment is the reasonable rental for such articles to be determined as nearly as possible according to the rental price at the place of use of similar products of like quality and character. In the absence of rental prices for similar products the reasonable rental may be computed by prorating the retail selling price over the period of possession had by a bailee and payable in monthly installments. No further use tax is due upon property acquired by bailment after tax has been paid by the bailee or any previous bailee upon the full original value of the article. [Order ET 71-1, § 458-20-211, filed 7/22/71; Order ET 70-3, § 458-20-211, filed 5/29/70, effective 7/1/70.]

WAC 458-20-212 (Rule 212) Insurance adjusters. The word "adjuster," as used herein, means a person licensed as such under the provisions of chapter 48.17 RCW.

BUSINESS AND OCCUPATION TAX

Persons engaged in business as insurance adjusters are taxable under the Service and Other Business Activities classification upon the gross income of the business.

There must be included within gross income all fees received for services rendered, and all charges recovered for expenses incurred in performing services, such as transportation costs, hotel, restaurant, telephone and telegraph charges, etc.

In computing tax liability, there may be deducted from gross income (if included therein) money or credits received as reimbursement of advances made for towing, storage of and repairs to damaged automobiles, or advances for doctor, hospital, and ambulance fees and charges, and other such expenditures made with respect to damaged property or injured persons, payment of which was the obligation of the insurer or the insured.

Revised May 1, 1947. [Order ET 70-3, § 458-20-212, filed 5/29/70, effective 7/1/70.]

WAC 458-20-213 (Rule 213) Oil company bulk station agents. Persons operating oil company bulk stations under a commission agency agreement, billing in the name of the company they represent, hiring and paying employees or assistants, providing and maintaining trucks or other equipment are considered independent agents engaging in the business of distributing gas and oil rather than employees and are taxable under the Service and Other Business Activities classification of the business and occupation tax upon gross commissions.

Such persons are required to obtain a separate certificate of registration even though a branch certificate has been obtained for them by the oil company they represent, due to the fact that the oil company reports the wholesale sales made by such persons. Persons operating bulk stations under a commission agency agreement, who bill in their own name rather than in the name of the company they represent, are taxable as sellers either at wholesale or at retail, depending on the nature of the sales made.

Revised May 1, 1943. [Order ET 70-3, § 458-20-213, filed 5/29/70, effective 7/1/70.]

WAC 458-20-214 (Rule 214) Cooperative marketing associations and independent dealers acting as agents of others with respect to the sale of fruit and produce. Persons engaged in the business of buying and selling fruit or produce, as agents of others, and also in the business of washing, sorting, packing, warehousing, storing, or otherwise preparing for sale the fruit and produce of others, and activities incidental thereto, are taxable under the provisions of the business and occupation tax and the retail sales tax. Tax is due on the business activities of such persons, irrespective of whether the business is conducted as a cooperative marketing association or as an independent produce agent, as follows:

BUSINESS AND OCCUPATION TAX

RETAILING. Taxable with respect to the sale of ladders, picking bags, and similar equipment, sold for consumption.

WHOLESALING. Taxable with respect to:

1. The sale of boxes, nails, labels and similar supplies sold to growers for their use in packing fruit and produce for sale;

2. The sale of insecticides used as spray for fruits and produce;

COLD STORAGE WAREHOUSING. Taxable with respect to gross income from cold storage warehousing, but not including the rental of cold storage lockers.

SERVICE. Taxable under the Service and Other Business Activities classification with respect to:

1. Commissions for buying or selling;

2. Charges made for interest, no deduction being allowed for interest paid;

3. Charges for handling;

4. Charges for warehousing (but see WAC 458-20-182 for Public Warehouses);

5. Charges for receiving, washing, sorting, and packing of fresh perishable horticultural products and the material and supplies used therein, when performed for persons other than the grower thereof;

6. Rentals of cold storage lockers; and

7. Other miscellaneous charges, including analysis fees, but excepting actual charges made for foreign brokerage and bona fide charges for receiving, washing, sorting and packing fresh perishable horticultural crops and the materials and supplies used therein when performed for the grower, either as agent or independent contractor.

Where a seller performs packing services for the grower and furnishes the materials and supplies used therein, the amount of the charge therefor is deductible, even though the boxes and other packing material are loaned or charged to the grower prior to the time the fruit or produce is received for packing, provided that the boxes and packing materials are returned by the grower to the seller for use in packing fruit and produce for the grower.

RETAIL SALES TAX

The retail sales tax applies to sales of ladders, picking bags, and other equipment sold to consumers, whether sold by associations to members, or by agents to their principals. See WAC 458-20-244 for sales of food products.

USE TAX

The use tax applies upon the use by consumers of any article of tangible personal property, unless the user paid the Washington retail sales tax upon the sale of the property to him.

Revised April 28, 1978.

Effective July 1, 1978. [Statutory Authority: RCW 82.01.060(2) and 82.32.300. 78-07-045 (Order ET 78-4), § 458-20-214, filed 6/27/78; Order ET 70-3, § 458-20-214, filed 5/29/70, effective 7/1/70.]

WAC 458-20-215 (Rule 215) Auditing out-of-state business. Whenever it appears from a review of the returns filed by any out-of-state taxpayer, than an audit of the books and records is necessary, a notice will be sent to the taxpayer asking the taxpayer to select one of the following methods for the audit:

1. If complete records are maintained by each branch of the taxpayer within the State of Washington or at Portland, Oregon, the audit may be made by auditing each of such branches and, if this method is elected, letters of authorization to the Department of Revenue for each branch should be supplied.

2. If complete books and records are not maintained within the state of Washington or at Portland, Oregon, the taxpayer's books and records may be brought from without the state to either the Olympia, Seattle, Spokane, Tacoma, Vancouver, Bellingham, or Walla Walla offices of the Department of Revenue, and the audit will be made at one of these offices. In the event this election is made, the taxpayer must set a definite time for submitting the books and records and advise to which office he will submit them.

3. If complete books and records are not maintained within the state of Washington or at Portland, Oregon, and the taxpayer does not desire to submit such books and records for audit at any of the department offices specified, the taxpayer may elect to have the audit made by an agent designated by the department at the place where such books and records are kept.

In the event the taxpayer elects to have the audit made as provided under method "3", he should so advise the department and signify his willingness to cooperate with the department in order that audits of other taxpayers located in or near the same locality may be grouped.

Revised June 1, 1970. [Order ET 70-3, § 458-20-215, filed 5/29/70, effective 7/1/70.]

WAC 458-20-216 (Rule 216) Successors, quitting business. Whenever any taxpayer quits business, sells out, exchanges or otherwise disposes of his business or his stock of goods, any tax payable hereunder shall become immediately due and payable, and such taxpayer shall, within ten days thereafter, make a return and pay the tax due. Any person who becomes a successor to such business shall become liable for the full amount of the tax and withhold from the purchase price a sum sufficient to pay any tax due from the taxpayer until such time as the taxpayer shall produce a receipt from the Department of Revenue showing payment in full of any tax due or a certificate that no tax is due. If the tax is not paid by the taxpayer within ten days from the date of sale, exchange or disposal, the purchaser or successor shall become liable for the payment of the full amount of tax. The payment thereof by the purchaser or successor shall, to the extent thereof, be deemed a payment upon the purchase price. If such payment is greater in amount than the purchase price, the amount of the difference shall become a debt due the purchaser or successor from the taxpayer.

A successor shall not be liable for any tax due from the person from whom he has acquired a business or stock of goods, if he gives written notice to the department of such acquisition and no assessment is issued by the department within six months of receipt of such notice against the former operators of the business and a copy thereof mailed to such successors.

The word "successor" means any person who shall, through direct or mesne conveyance, purchase or succeed to the business, or portion thereof, or the whole or any part of the stock of goods, wares, merchandise or fixtures or any interest therein of a taxpayer quitting, selling out, exchanging or otherwise disposing of his business. Any person obligated to fulfill the terms of a contract shall be deemed a successor to any contractor defaulting in the performance of any contract as to which such person is a surety or guarantor.

The work "successor" includes all persons who acquire the taxpayer's equipment or merchandise in bulk, whether they operate the business or not, unless the property is acquired through insolvency proceedings or regular legal proceedings to enforce a lien, security interest, judgment, or repossession under a security agreement. The following factual situations illustrate the application of the foregoing:

1. Taxpayer sells business and stock of goods. Purchaser is the successor.

2. Taxpayer sells stock of goods in bulk. Purchaser is the successor, even though taxpayer continues in business through purchase of new stock.

3. Taxpayer sells business, including fixtures, good will, etc., to one party and his stock of goods to another. Both purchasers are successors.

4. Taxpayer sells one branch of the business and stock of goods, and continues to carry on his business at other locations. Purchaser is successor to the portion of the business purchased and liable for any tax incurred in the operation of that business.

5. Taxpayer leaves business, including fixtures and stock of goods, which his landlord holds for unpaid rent. The landlord will be a successor unless he proceeds to foreclose his landlord's lien by posting notice and holding a sale by the sheriff.

a. If the landlord, instead of foreclosing his lien, takes a bill of sale to all of the taxpayer's interest in the business or stock of goods in satisfaction of rent, he is a successor.

b. If the landlord fails to foreclose his lien and sells the fixtures or stock of goods and the purchaser continues the business or a similar business, the purchaser is a successor.

c. If the taxpayer does not leave any fixtures or stock of goods and the landlord engages in a like business in the same location or rents to a third person, neither the landlord nor the third person is a successor.

6. Taxpayer purchases business, equipment, or stock of goods under a security agreement and the property is repossessed by the vendor, the vendor is not a successor.

a. If the vendor sells to a third person who continues the business, the third persons is not a successor.

b. If the taxpayer sells his equity under the security agreement to a third person, the third person is a successor.

c. If the property is not repossessed and the vendor buys back the interest of the taxpayer, the vendor is a successor, and any third person who purchases the same from such vendor and continues the business is also a successor.

7. Taxpayer dies or becomes bankrupt, goes into receivership, or makes an assignment for the benefit of creditors.

a. The executor, administrator, trustee, receiver, or assignee is not a successor but stands in the place of the taxpayer and is responsible for payment of tax out of the proceeds derived upon disposition of the assets.

b. A purchaser from the executor, administrator, trustee, receiver, or assignee is not a successor, unless under the terms of the purchase agreement he assumes and agrees to pay taxes and/or lien claims.

8. Taxpayer is a contractor and is required to post a bond to insure completion of the contract. Taxpayer defaults on the contract and the bonding company completes it. The bonding company is a successor to the contractor to the extent of the contractor's liability for that particular contract and is also liable for taxes incurred in the completion of the contract.

BULK TRANSFERS. Under chapter 62A.6 RCW persons whose principal business is the sale of merchandise from stock (including manufacturers) who transfer

1. a major part of the materials, supplies, merchandise or other inventory of the business; or

2. all or substantially all of the equipment of the business are required to furnish to the transferee a sworn list of all creditors, showing their names, addresses, and amounts owed. The parties (both the transferor and transferee) are then required to prepare a schedule of property being transferred, the schedule to be sworn to by the transferor. The list of creditors and schedule of property must be

a. preserved by the transferee for 6 months available for inspection and copying by any creditor,

b. filed by the transferee with the county auditor, and

c. served by the transferee on the Department of Revenue.

In addition to the foregoing, the transferee must, at least 10 days prior to taking possession of the goods or making payment for them, give notice of the transfer to

1. all persons shown on the list of creditors,

2. any other persons known to hold or assert claims against the transferor, and

3. the Department of Revenue.

The notice to creditors must also be filed with the county auditor and shall state

1. that a bulk transfer is about to be made,

2. names and business addresses of the transferor and transferee,

3. whether debts of the transferor will be paid in full as they fall due and if so (a) the location and general description of the property to be transferred, (b) the estimated total of the transferor's debts, and (c) certain other information specified by RCW 62A.6–107.

Revised June 1, 1970. [Order ET 70-3, § 458-20-216, filed 5/29/70, effective 7/1/70.]

WAC 458-20-217 (Rule 217) Lien for taxes. Any tax due and unpaid, and all increases and penalties thereon, constitute a debt to the state and may be collected by court proceedings in the same manner as any other debt, which remedy is in addition to any and all other remedies.

TAX WARRANTS

When a warrant issued under RCW 82.32.210 and 82.32.220 has been filed with the clerk of the superior court and entered in the judgment docket, the warrant becomes a specific lien upon all goods, wares, merchandise, fixtures, equipment or other personal property used in the conduct of the business of the taxpayer, including property owned by third persons who have a beneficial interest, direct or indirect in the operation thereof, and no sale or transfer of such personal property in any way affects the lien. However, the lien is not superior to bona fide interests of third persons which had vested prior to the filing of the warrant when such third persons do not have a beneficial interest, direct or indirect, in the operation of the business, other than securing the payment of a debt or the receiving of a regular rental on equipment; provided that "bona fide interest of third persons" shall not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as the trustee for unsecured creditors of the taxpayer mentioned in the warrant who executed such chattel or real property mortgage or the document evidencing such credit transaction.

Thus, where an oil company leases a filling station and other equipment to an operator under conditions whereby the operator is required to sell, or does sell, the products of the lessor, the lien will attach to the personal property leased by the oil company. Likewise, where the owner of a tavern grants to another a concession to operate the lunch counter therein, the lien for unpaid taxes, increases, and penalties with respect to the operation of the lunch counter will attach to any equipment, fixtures, or other personal property owned by the tavern keeper but used by the concessionaire in the conduct of the business. Similarly, the lien attaches to a stock of merchandise supplied to a dealer by a distributor, manufacturer, bank or finance company whether on consignment or under a security agreement where it appears that the distributor, manufacturer, bank or finance company has financed the dealer by means of capital loans or has in any other way aided or assisted in maintaining the dealer in business. The amount of the warrant also becomes a lien upon the title to and interest in all other real and personal property of the taxpayer against whom it is issued and is the same as a judgment in a civil case docketed in the office of the clerk.

Warrants so docketed are sufficient to support the issuance of writs of garnishment in favor of the state, provided the taxpayer has not been denied an opportunity to be heard regarding the assessment.

WITHHOLD AND DELIVER

The Department of Revenue is authorized to issue to any person, or to any political subdivision or department of the state, a notice and order to withhold and deliver property of any kind whatsoever when there is reason to believe that there is in the possession of such person, political subdivision or department, property which is or shall become due, owing or belonging to any taxpayer against whom a warrant has been filed. The notice and order to withhold and deliver shall constitute a continuing levy on such property until the department shall issue its release of such levy.

The notice and order to withhold and deliver may be served by the sheriff of the county wherein service is made, or by his deputy, or by any authorized representative of the Department of Revenue. Persons upon whom service has been made are required to answer the notice within twenty days exclusive of the day of service. The answer must be under oath and in writing. If such answer states that it cannot be presently ascertained whether, in fact, any property is or shall become due, owing, or belonging to such taxpayer, the persons served herein are required to further answer when such fact can be ascertained with reasonable certainty.

Property which may be subject to the claim of the department must be delivered forthwith to the department or its duly authorized representative upon demand, to be held in trust by the department for application on the indebtedness involved, or for return, without interest, in accordance with final determination of liability. In the alternative, there must be furnished a good and sufficient bond satisfactory to the department conditioned upon final determination of liability.

Failure of any person to make answer to an order to withhold and deliver within the prescribed time permits the court to render a judgment by default for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

PROBATE, INSOLVENCY, ASSIGNMENT FOR THE BENEFIT OF CREDITORS, OR BANKRUPTCY

In all the above cases the claim of the state for unpaid taxes and increases and penalties thereon is a lien upon all real and personal property of the taxpayer, and the mere existence of such cases or conditions is sufficient to create the lien without any prior or subsequent action by the state, and in all such cases it is the duty of all administrators, executors, guardians, receivers, trustees in bankruptcy or assignees for the benefit of creditors, to notify the department of the existence thereof within thirty days from the date of their appointment and qualification. In the event such notice is not timely given, such persons become personally liable for the payment of the taxes and all increases and penalties.

The lien attaches as of the date of assignment or of the initiation of court proceedings, but shall not affect the validity or priority of any earlier lien that may have attached previously in favor of the state under any other provision of the Revenue Act.

PUBLIC IMPROVEMENT CONTRACTS

The amount of all taxes, increases and penalties due or to become due under any chapter of the Revenue Act from a contractor or his successors or assignees with respect to a public improvement contract wherein the contract price is $20,000 or more is a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officers, and the amount of all other taxes, increases and penalties due and owing from the contractor is a lien upon the balance of such retained percentage after all other statutory lien claims have been paid.

Any state, county or municipal officer charged with the duty of disbursing or authorizing the payment of public funds, before making final payment of the retained percentage to any person performing any such contract, or to his successors or assignees, must require the person to secure from the department a certificate that all taxes, increases and penalties due from such person, and all taxes to become due with respect to such contract have been paid in full or that they are, in the department's opinion, readily collectible without recourse to the lien and that said lien is therefore released. [Order ET 71-1, § 458-20-217, filed 7/22/71; Order ET 70-3, § 458-20-217, filed 5/29/70, effective 7/1/70.]

WAC 458-20-218 (Rule 218) Advertising agencies. Advertising agencies are primarily engaged in the business of rendering professional services, but may also make sales of tangible personal property to their clients or others or make purchases of such articles as agents in behalf of their clients. Articles acquired or produced by advertising agencies may be for their own use in connection with the rendition of an advertising service or may be for resale as tangible personal property to their clients.

BUSINESS AND OCCUPATION TAX

The gross income received for advertising services, including commissions or discounts received upon articles purchased as agents in behalf of clients, is taxable under the Service and Other Business Activities classification. (See WAC 458-20-144 for discounts or commissions allowed by printers.) Included in this classification are amounts attributable to sales of tangible personal property, unless charges for such articles are separately stated in billings rendered to clients.

The Retailing or Wholesaling classification applies to articles of tangible personal property sold to persons for whom no advertising service is rendered and also to charges to clients for such articles if separately stated from charges for advertising services in billings rendered.

The Manufacturing classification applies to articles manufactured for sale or commercial or industrial use (see WAC 458-20-134), and also to interstate sales of manufactured articles separately stated from advertising services. (General principles covering sales or services to persons in other states are contained in WAC 458-20-193.)

RETAIL SALES TAX

The retail sales tax applies upon all sales of plates, engravings, electrotypes, etchings, mats, and other articles to advertising agencies for use by them in rendering an advertising service and not resold to clients.

The retail sales tax must be paid by advertising agencies to vendors upon retail purchases made by them as agent in behalf of clients.

Advertising agencies are required to collect the retail sales tax upon charges taxable under the Retailing classification as indicated hereinabove, and resale certificates may be given by advertising agencies in respect to purchases of such articles.

USE TAX

The use tax applies upon the use of articles purchased or manufactured for use in rendering an advertising service. Articles acquired without payment of retail sales tax which are resold to clients, but not separately stated from charges for advertising service, are also subject to use tax.

Revised January 1, 1960. [Order ET 70-3, § 458-20-218, filed 5/29/70, effective 7/1/70.]

WAC 458-20-219 (Rule 219) Patronage dividends of cooperative associations, not deductible. Patronage dividends declared by co-operative selling associations or corporations and paid from the earnings of such associations or corporations are not deductible in computing tax liability under either business and occupation tax or retail sales tax.

Revised May 1, 1943. [Order ET 70-3, § 458-20-219, filed 5/29/70, effective 7/1/70.]

WAC 458-20-220 (Rule 220) Painting, paper hanging, and sign painting. The term "sign painting" means the business of painting signs upon metal, wood, paper, cloth, etc., and of lettering names or painting signs on doors, windows, buildings, walls, etc. It does not include the business of outdoor advertising, as defined in WAC 458-20-204.

BUSINESS AND OCCUPATION TAX

Persons engaged in the business of painting, paper hanging, and sign painting are taxable under the Retailing classification upon gross sales.

RETAIL SALES TAX

The retail sales tax is due upon the total charge made for work done for consumers.

The retail sales tax is not due upon sales of paint, paper and other materials resold in painting, paper hanging and sign painting.

Sales to such persons of brushes, ladders, drop cloths and all other tools and equipment used by them are retail sales and the retail sales tax applies thereto.

USE TAX

Persons operating retail stores and also performing painting or paper hanging contracts are required to pay the use tax upon the use of all tools and equipment

taken from stock and used in performing such contracts. The measure of the tax is the selling price of such articles.

Revised June 1, 1970. [Order ET 70-3, § 458-20-220, filed 5/29/70, effective 7/1/70.]

WAC 458-20-221 (Rule 221) Collection of use tax by retailers and selling agents. Every person who has obtained a Use Tax Certificate of Registration (Form 2402-C, see WAC 458-20-101) is required to collect the use tax from retail buyers in this state, and to report and remit the same to the Department of Revenue.

RCW 82.12.040 of the law provides, among other things, as follows:

"Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property of his principals made for use in this state, shall, at the time such sales are made, collect from the purchasers the tax imposed under this title, and for that purpose shall be deemed a retailer as defined in this chapter." (For exceptions as to sale to certain persons engaged in interstate or foreign commerce see WAC 458-20-175.)

However, in those cases where the agent receives compensation by reason of a sale made pursuant to an order given directly to his principal by the buyer, and of which the agent had no knowledge at the time of sale, the said agent will be relieved of all liability for the collection of or payment of the tax. Furthermore, in other cases where payment is made by the buyer direct to the principal and the agent is unable to collect the tax from the buyer, the agent will be relieved from all liability for the collection of the tax from the buyer and for payment of the tax to the department, provided that within ten days after receipt of commission on any such sale, the agent shall forward to the department a written statement showing the following: Name and address of purchaser, date of sale, type of goods sold, and selling price. (Agents may avoid all liability for collection of this tax, provided their principals obtain a use tax certificate of registration, Form 2402-C.)

The use tax is computed upon the value of the property sold. At the time of making a sale of tangible personal property, the use of which is taxable under the use tax, the seller must collect the tax from the purchaser and upon request give to the purchaser a receipt therefor. This receipt need not be in any particular form, and may be an invoice which identifies the property sold, shows the sale price thereof and the amount of the tax.

The law provides that the tax required to be collected shall be deemed to be held in trust until paid to the department and shall be available for payment on the due date thereof, and that the tax shall not be absorbed by the retailer but shall be collected as a separate item and that the retailer shall be personally liable for any tax which he fails to collect. (See WAC 458-20-178.)

Revised May 1, 1949. [Order ET 70-3, § 458-20-221, filed 5/29/70, effective 7/1/70.]

WAC 458-20-222 (Rule 222) Veterinarians. Veterinarians are primarily engaged in the business of rendering professional services, although many veterinarians, in addition to such services, also sell medicines and supplies for use in the care of animals.

BUSINESS AND OCCUPATION TAX

Taxable under the Retailing classification upon gross sales of medicine and supplies when such when such articles are sold for a specific charge and not used by the veterinarian in the rendition of services.

Taxable under the Service and Other Business Activities classification upon gross income derived from the rendition of professional services and from the boarding and training of animals.

RETAIL SALES TAX

Veterinarians purchase medicines, bandages, splints and other supplies primarily for use by them in rendering professional services. Sales of such articles to veterinarians are retail sales and the retail sales tax applies thereto.

However, veterinarians are required to collect the retail sales tax when such articles are sold by them for a specific charge and not in connection with the rendition of a professional service.

Sales of semen for use in the artificial insemination of livestock are exempt from sales tax.

(See WAC 458-20-102 on Resale Certificates, particularly that portion under the heading Purchases for Dual Purpose.)

Revised June 1, 1965. [Order ET 70-3, § 458-20-222, filed 5/29/70, effective 7/1/70.]

WAC 458-20-223 (Rule 223) Persons performing contracts on the basis of time and material, or cost-plus-fixed-fee.

BUSINESS AND OCCUPATION TAX

Such persons are subject to business tax in accordance with the principles laid down in the Department of Revenue's publishes rules, as follows:

As to Manufacturing or Processing for Hire, WAC 458-20-136;

As to Constructing and Repairing of New or Existing Buildings, WAC 458-20-170;

As to Building or Improving of Publicly Owned Roads, etc., WAC 458-20-171;

As to contracts involving only the Grading and Clearing of Land, WAC 458-20-172;

As to Service and Other Business Activities, WAC 458-20-224.

The measure of the tax under each of the foregoing types of contracts is the amount of profit or fixed fee received, plus the amount of reimbursements or prepayments received on account of sales of materials and supplies, on account of labor costs, on account of taxes paid, on account of payments made to sub-contractors, and on account of all other costs and expenses incurred by the

contractor, plus all payments made by his principal direct to a creditor of the contractor in payment of a liability incurred by the latter.

RETAIL SALES TAX

The retail sales tax applies upon sales made to or by contractors to the extent set forth in said WAC 458-20-136, 458-20-170, 458-20-171, 458-20-172 and 458-20-224.

Revised April 1, 1959. [Order ET 70-3, § 458-20-223, filed 5/29/70, effective 7/1/70.]

WAC 458-20-224 (Rule 224) Service and other business activities. Chapter 82.04 RCW imposes a tax upon every person for the privilege of engaging in business in this state. Persons engaged in the following specifically named business activities are subject to a tax which is measured by value of products, gross sales or gross income, viz: extracting, manufacturing, retailing, wholesaling, printing and publishing, and building and repairing of publicly owned streets and roads.

Persons engaged in any business activity, other than or in addition to those specifically above mentioned, are taxable under a classification known as Service and Other Business Activities, and so designated upon return forms. In general, it includes persons rendering professional or personal services to persons (as distinguished from services rendered to personal property of persons) such as accountants, aerial surveyors and map makers, agents, ambulances, appraisers, architects, assayers, attorneys, automobile brokers, barbers, baseball clubs, beauty shop owners, brokers, chemists, chiropractors, collection agents, community television antenna owners, court reporters, dentists, detectives, employment agents, engineers, financiers, funeral directors, garbage collectors, hospital owners, insurance agents and brokers, janitors, kennel operators, laboratory operators, landscape architects, lawyers, loan agents, music teachers, oculists, orchestra or band leaders contracting to provide musical services, osteopathic physicians, physicians, real estate agents, school bus operators, school operators, stenographers, warehouse operators who are not subject to public utility tax, teachers, theater operators, undertakers, veterinarians, and numerous other persons.

It does not include persons engaged in the business of cleaning, repairing, improving, etc., the personal property of others, such as automobile, house, jewelry, radio, refrigerator and machinery repairmen, laundry or dry cleaners. Also, it does not include certain personal and professional services specifically included within the definition of the term "sale at retail" in RCW 82.04.050, such as amusement businesses (golf, pool, billiards, bowling, skating, ski lifts and tows, golf driving ranges, miniature golf, shuffleboard, swimming facilities, trampolines, operation of charter boats for sport fishing, tennis facilities, dancing, badminton, croquet and handball courts, private fishing and archery); abstract, title insurance and escrow businesses, credit bureau businesses and automobile parking and storage garage businesses. Furthermore, it does not include persons who render services to others in the capacity of employees as distinguished from independent contractors. (See WAC 458-20-105.)

BUSINESS AND OCCUPATION TAX

Persons engaged in any business activity, other than or in addition to those first herein specifically mentioned, are taxable under the Service and Other Business Activities classification upon gross income from such business.

Persons engaged in a public service business taxable under chapter 82.16 RCW (see WAC 458-20-179) are exempt from business tax under chapter 82.04 RCW with respect to such businesses.

RETAIL SALES TAX

The retail sales tax applies upon all sales of tangible personal property made to persons for use or consumption in performing a business activity which is taxable under the Service and Other Business Activities classification of chapter 82.04 RCW.

Revised June 1, 1970. [Order ET 70-3, § 458-20-224, filed 5/29/70, effective 7/1/70.]

WAC 458-20-225 (Rule 225) Pattern makers.

BUSINESS AND OCCUPATION TAX

MANUFACTURING. Pattern makers are taxable under the Manufacturing classification with respect to making patterns.

RETAIL SALES TAX

Sales by pattern makers of their products to foundries, machine shops, machinery or equipment manufacturers, inventors or other persons who use or consume the patterns in producing, or in having produced, articles for sale or use are retail sales upon which the retail sales tax must be collected, irrespective of whether, after such use, such patterns are sold or title transferred along with the articles produced.

Sales by supply houses to pattern makers of lumber, nails, glue, steel, shellac or other materials becoming a component part of the patterns are sales for further processing. Accordingly, the retail sales tax is not collected on such sales by the supply houses.

On the other hand, sales by supply houses to pattern makers of machinery, equipment, tools and other articles or materials which are used in the production of the patterns, but do not become a component part thereof, are retail sales upon which the retail sales tax must be collected.

Revised June 1, 1970. [Order ET 70-3, § 458-20-225, filed 5/29/70, effective 7/1/70.]

WAC 458-20-226 (Rule 226) Landscape gardeners. The business of landscape gardening ordinarily includes one or more of the following activities: (a) The performance of contracts for grading, filling, leveling and planting of yards, lawns, and grounds. (b) The sale and planting of ornamental trees, plants, shrubs, etc. (c) The performance of contracts for the construction of structures, such as walks, pools, fences or trellises, rockeries and retaining walls. (d) The maintenance of lawns and

gardens, including grass cutting, hedge trimming and the pruning of trees and shrubs.

BUSINESS AND OCCUPATION TAX

Landscape gardeners are taxable under the classification Retailing upon gross proceeds of sales of tangible personal property at retail and upon gross income from performing contracts of types (a), (b), and (c) for consumers. Landscape gardeners are taxable under the classification Wholesaling on gross proceeds of sales for resale and upon gross income from performing contracts of types (a), (b), and (c) for other contractors for resale. Such persons are taxable under the classification Service and Other Activities upon gross income from activities of type (d).

RETAIL SALES TAX AND USE TAX

Landscape gardeners must collect and report the retail sales tax upon the full contract price when performing contracts of types (a), (b), and (c) for consumers. Such persons must pay the retail sales tax to their vendors when purchasing tools, equipment and supplies which are not resold, either directly or as a component part of the finished work. The use tax must be paid upon the value of any such property purchased or acquired without payment of the Washington retail sales tax. Landscape gardeners may give resale certificates to their vendors and are not liable for payment of the retail sales tax upon purchases of plants, shrubs, seed, ornamental trees, fertilizer, peat moss, building materials and any other tangible personal property which is resold either directly or as a component part of the finished work.

Revised June 1, 1970. [Order ET 70-3, § 458-20-226, filed 5/29/70, effective 7/1/70.]

WAC 458-20-227 (Rule 227) Community television antenna services. Persons furnishing community television antenna services operate a central television receiving station or antenna from which cables are run to individual locations. The cost of the service to the subscriber consists of a flat fee for installation plus a monthly charge for the maintenance of the service. Title to the cable extensions remains at all times in the person furnishing the reception service.

Persons engaging in this business are subject to the business tax under the classification Service and Other Activities upon the gross income of the business. "Gross income," in this instance, includes both the charge made for installation and the monthly rental or service fee.

Revised July 1, 1952. [Order ET 70-3, § 458-20-227, filed 5/29/70, effective 7/1/70.]

WAC 458-20-228 (Rule 228) Returns, remittances, penalties, extensions. The taxes imposed under chapter 82.20 RCW (Tax on Conveyances) and under chapter 82.24 RCW (Tax on Cigarettes) are collected through sales of revenue stamps.

As to taxes imposed under chapter 82.04 RCW (Business and Occupation Tax), chapter 82.08 RCW (Retail Sales Tax), chapter 82.12 RCW (Use Tax), chapter 82.16 RCW (Public Utility Tax), and chapter 82.26 RCW (Tobacco Products Tax), returns and remittances are due on the fifteenth day of the month next succeeding the period in which the tax accrued. Returns are filed monthly, quarterly or annually. Reporting periods are assigned by the Department of Revenue on the basis of the amount of tax liability. Returns shall be made upon forms prepared by the department, which forms are forwarded by mail to all registered taxpayers approximately ten days prior to the due date of the tax.

Remittances in payment of tax may be made by uncertified bank check, but if any such check or remittance, other than legal tender, be not honored by the bank on which drawn, the taxpayer shall remain liable for the payment of the tax and for all legal penalties thereon. The department may refuse to accept any check which, in its opinion, would not be honored by the bank on which such check is drawn. The remittance covered by any check which is so refused will be deemed not to have been made and the taxpayer will remain liable for the tax due and for the applicable penalties.

If payment of any tax due is not received by the department by the last day of the month in which the tax becomes due, there shall be assessed a penalty of five percent of the amount of the tax; and if the tax is not received by the last day of the month next succeeding the month in which the due date falls, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received by the last day of the second month next succeeding the month in which the due date falls, there shall be assessed a total penalty of twenty percent of the amount of the tax.

The department may refuse to accept any return which is not accompanied by a remittance of the tax shown to be due thereon, and if not accepted, the taxpayer shall be deemed to have failed or refused to file a return, and shall be subject to the foregoing penalties.

Under the law, none of the penalties referred to above may be less than two dollars. The aggregate of penalties for failure to file a return, late payment of any tax, increase or penalty, or issuance of a warrant may not exceed twenty-five percent of the tax due, or seven dollars, whichever is greater.

The department shall apply the payment of the taxpayer first against penalties and interest, and then upon the tax, without regard to any direction of the taxpayer.

The department will waive or cancel the penalties imposed under RCW 82.32.090 and interest imposed under RCW 82.32.050 upon finding that the failure of a taxpayer to pay any tax by the due date was due to circumstances beyond the control of the taxpayer. The department has no authority to cancel penalties or interest for any other reason.

The following situations will constitute the only circumstances under which a cancellation of penalties will be considered by the department.

1. The return was filed on time but inadvertently mailed to another agency.

2. The delinquency was due to erroneous information given the taxpayer by a department officer or employee.

3. The delinquency was caused by death or serious illness of the taxpayer or his immediate family, or illness

or death of his accountant or in the accountant's immediate family, prior to the filing date.

4. The delinquency was caused by unavoidable absence of the taxpayer, prior to the filing date.

5. The delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.

6. The taxpayer, prior to the time for filing return, made timely application to the Olympia or district office, in writing, for proper forms and these were not furnished in sufficient time to permit the completed return to be paid before its delinquent date.

A request for a waiver of penalties must be in letter form or, if filed through a district office, in the form of an affidavit witnessed by an agent of the department and should contain all pertinent facts and be accompanied by such proof as may be available. In all such cases the burden of proving the facts is upon the taxpayer.

The following situations will constitute circumstances under which a cancellation of interest upon assessments pursuant to RCW 82.32.050 will be considered by the department.

1. The failure to pay the tax prior to issuance of the assessment was the direct result of written instructions given the taxpayer by the department.

2. Extension of the due date for payment of an assessment was not at the request of the taxpayer and was for the sole convenience of the department.

EXTENTIONS

The department, for good cause, may extend the due date for filing any return. Any permanent extension, and any temporary extension in excess of thirty days, must be conditional upon deposit by the taxpayer with the department of an amount equal to the estimated tax liability for the reporting period or periods for which the extension is granted. This deposit is credited to the taxpayer's account and may be applied to the taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where a temporary extension of more than thirty days has been granted.

The amount of the deposit is subject to departmental approval. The amount will be reviewed from time to time, and a change may be required at any time that the department concludes that such amount does not approximate the tax liability for the reporting period or periods for which the extension was granted.

Revised May 3, 1974. [Order ET 74-1, § 458-20-228, filed 5/7/74; Order ET 71-1, § 458-20-228, filed 7/22/72; Order ET 70-3, § 458-20-228, filed 5/29/70, effective 7/1/70.]

WAC 458-20-229 (Rule 229) Refunds. If upon written application for a refund or an audit of his records, or upon examination of the returns or records of any taxpayer, it is determined by the Department of Revenue that within the two years immediately preceding the commencement by the department of such an examination, a tax has been paid in excess of that properly due, the excess amount paid within said period of two years will be credited to the taxpayer's account or will be refunded to him.

No refund or credit may be allowed with respect to any payments made to the department more than two years before the date of such application or examination. Where a refund or credit may not be made because of the lapse of said two year period, the amount of the refund credit which would otherwise be allowable for the portion of the statutory assessment period preceding the two year period may be offset against the amount of any tax deficiency which may be determined by the department for such statutory assessment period.

Notwithstanding the foregoing limitation, there will be refunded or credited to taxpayers engaged in the performance of United States Government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States which the taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund or credit is filed with the department within one year of the date that the amount of refund or credit due to the United States is finally determined, and such claim is filed with the department within four years of the date on which the tax was paid. No interest will be allowed on such refunds to said contractors.

All refunds are made by means of vouchers signed by the taxpayer and approved by the department pursuant to which there is issued to taxpayers state warrants drawn upon and payable from such funds as the legislature may provide.

Any judgment entered by a court of competent jurisdiction, not appealed from, for recovery of any tax, penalty and interest which were paid by the taxpayer, and costs, shall be paid in like manner, upon the filing with the department of a certified copy of the judgment.

Interest at the rate of 3% per annum will be allowed by the department and by any court on the amount of any refund allowed to a taxpayer for taxes, penalties or interest paid by him and interest at the same rate is allowed on any judgment recovered by a taxpayer for taxes, penalties or interest paid.

Revised June 13, 1963. [Order ET 70-3, § 458-20-229, filed 5/29/70, effective 7/1/70.]

WAC 458-20-230 (Rule 230) Statutory limitations on assessments. No assessment or correction of an assessment for additional taxes due may be made by the Department of Revenue more than four years after the close of the tax year, except:

1. Against a taxpayer who has not registered as required by chapter 82.32 RCW.

2. Upon a showing of fraud or of misrepresentation of a material fact by the taxpayer.

3. Where the taxpayer has executed a written waiver of such limitation.

4. Sales tax collected by a seller upon retail sales. Such tax shall be deemed to be held in trust until paid to the department. (RCW 82.08.050).

Revised June 1, 1965. [Order ET 70-3, § 458-20-230, filed 5/29/70, effective 7/1/70.]

WAC 458-20-231 (Rule 231) Tax on wholesaling functions. Persons engaged in the business of distributing in this state articles of tangible personal property owned by them from their own warehouse or other central location in this state to two or more of their own retail stores or outlets, though no change in title or ownership to such property occurs, are taxable under the wholesaling functions classification of the business and occupation tax on the value of the articles so distributed, the intent being to impose a tax equal to the wholesaler's tax upon persons performing functions essentially comparable to those of a wholesaler, but not actually making sales.

WAREHOUSE OR OTHER CENTRAL LOCATION

The term "warehouse or other central location" generally means any facility regardless of the type of activity conducted there, which is operated in this state by a person who distributed tangible personal property from that facility to two or more of his own retail stores or outlets.

The said term includes any retail outlet irrespective of how the distributed goods may be inventoried or stored at such outlet. The term includes any facility, central distributing point, building, loading platform and adjacent areas operated by the taxpayer where articles of tangible personal property are received and from which they are distributed. Such facilities, distributing points, buildings, platforms and areas are included within the term regardless of how long such property may remain at such places and regardless of the nature of the activity performed at such places with respect to such property.

The said term also includes any manufacturing or processing facility operated by the taxpayer from which such distribution is made. The term does not include facilities operated by other persons at which team track deliveries are made into trucks for distribution to retail outlets nor does it include any individual trucks owned by the taxpayer from which deliveries are made at facilities or places not owned by the taxpayer to other trucks for distribution to retail outlets.

TWO OR MORE RETAIL STORES OR OUTLETS

The term "two or more of their own retail stores or outlets" means two or more retail stores operated within this state separate and apart from any "warehouse or other central location." The term does not include a retail store or retail outlet, a part of which is operated as a warehouse from which distribution is made. The term does not include delivery trucks or vans. The term "retail store or outlet" does not include vending machines or similar devices through which sales are activated by coin deposits. However, the term includes, but is not limited to, automats or business establishments retailing diversified goods primarily through the use of such devices.

ARTICLES OF TANGIBLE PERSONAL PROPERTY

The term "articles of tangible personal property" means all commodities distributed from a warehouse or central location for sale, including particular articles which may be distributed to only one of two or more retail stores or outlets.

TAXABLE DISTRIBUTIONS

In cases where the taxpayer sells at both wholesale and retail, the wholesaling functions tax will not be applicable with respect to articles distributed for sale at wholesale and upon the sale of which tax will be due under the classification Wholesaling——All Others. Further, the wholesaling functions tax will not be applicable where the person liable for the tax can show by proper invoice, or by certification from his vendor that he has purchased such property from a wholesaler who has paid the business and occupation tax to the state upon the sale of such property to such person. The tax is applicable, however, to transfers of merchandise purchased from manufacturers in this state, as defined in RCW 82.04.110, even though the manufacturer may have paid business and occupation tax on the manufacture and sale of such merchandise. When transfers of all merchandise purchased from a particular vendor will be exempt from the wholesaling functions tax under the conditions set forth above, certification by the vendor may be in blanket form covering all prior and subsequent transactions between the taxpayer and the certifying vendor. In such case, the certificate should be in substantially the following form:

CERTIFICATE OF VENDOR——WHOLESALING FUNCTIONS TAX

The undersigned vendor hereby certifies that he is registered with the Department of Revenue of the State of Washington under Certificate No. _____ and that he has paid, or will pay, the applicable Business and Occupation Tax (chapter 82.04 RCW) upon all sales heretofore or hereafter made to _____. The undersigned vendor further certifies that he is not a "manufacturer" in this state, as the term is defined in RCW 82.04.110, in respect to any of the commodities sold or to be sold to the above named purchaser.

Date _____

Signed _____
For _____
Position or Title _____

Articles distributed from independent manufacturers or distributors directly to the taxpayer's retail customers are not taxable distributions by the taxpayer. However, property transferred from the taxpayer's own warehouse or central location directly to his retail customer pursuant to orders placed at a retail outlet of the taxpayer are taxable distributions if distribution of the property would have been subject to the tax had it been distributed from such warehouse or central location to the store at which the customer's order was taken. Articles

distributed from independent manufacturers or distributors directly to the taxpayer's retail stores or outlets are not taxable distributions by the taxpayer. Only the first distribution of seasonal or other goods from a warehouse or central location is taxable, whether or not such goods were originally received in a retail store and later transferred to the warehouse or central location from which taxable distribution is later made.

DETERMINATION OF THE VALUE OF THE ARTICLES DISTRIBUTED

The value of articles distributed shall correspond as nearly as possible to gross proceeds of sales at wholesale in this state by other taxpayers of similar articles of like quality and character and in similar quantities. Taxpayers may determine the value of articles distributed by one of the following methods:

METHOD 1. COST.

A. COST OF PRODUCTION. The value of articles distributed may be computed upon the basis of the cost of manufacturing or producing such articles. In such case there shall be included every item of cost attributable to the particular article or articles manufactured or produced, including cost of transportation to the local distribution point. In such event tax liability accrues during the period in which the articles are distributed.

B. PURCHASE PRICE. The value of articles distributed may be computed upon the basis of purchase price of such articles delivered at the local distribution point. The purchase price must include the amount of state and federal excise taxes imposed upon the distributor for the sale, handling or distribution of the articles distributed, whether such taxes are paid by the distributor to his vendor, or are paid by him directly to the taxing body. In such event tax liability accrues during the period in which the articles were purchased, even though the particular articles purchased may not be distributed until a later date. (Not available to those who manufacture or produce the articles distributed.)

METHOD 2. INVOICE PRICE TO RETAIL STORE. The value of articles distributed may be computed upon the basis of charges or memorandum invoices rendered to the retail stores at the time the articles are distributed, providing the amount of such charges or invoices is not less than the cost price of such articles. In computing the cost price, there must be included the amount of state and federal excise taxes imposed upon the distributor for the sale, handling or distribution of the articles distributed, whether such taxes are paid by the distributor to his vendor, or are paid by him directly to the taxing body. In such event tax liability accrues during the period in which the articles are distributed.

METHOD 3. RETAIL SELLING PRICE LESS 15%. The value of articles distributed may be computed upon the basis of the retail selling price less 15%. In such event tax liability accrues during the period in which the articles are sold at retail.

METHOD 4. CORRESPONDING WHOLESALE SALES. The value of articles distributed may be determined according to the gross proceeds of sales of similar articles of like quality, character and quantity where bona fide wholesale sales are made during the same period, either by the taxpayer or by others, and providing a general standard price is established for such articles during said period. In such event tax liability accrues during the period in which the articles are distributed.

A taxpayer may elect to report upon the basis of any one of the four above methods, providing that the method elected shall be applied to all articles distributed, and after such election is made such taxpayer shall not be permitted to change to any other method without securing the written consent of the Department of Revenue. A taxpayer may use both method 1A and 1B if conditions warrant. Intricate or unusual problems concerning determination of the value of articles distributed should be submitted to the department for special ruling.

The statute provides that the wholesaling functions tax may not be assessed twice to the same person for the same article. In lieu of separate accounting for articles upon which the tax has or has not been paid, determination may be based upon the percentage formula computed according to a factual segregation of articles distributed for a test period of at least two representative months. Any such formula is subject to approval by the department.

Revised April 1, 1959. [Order 70-3, § 458-20-231, filed 5/29/70, effective 7/1/70.]

WAC 458-20-232 (Rule 232) Sales of intoxicating liquor.

SALES OF INTOXICATING LIQUOR

Intoxicating liquor as covered by this rule means spirits, wine, beer and strong beer as those terms are defined in chapter 66.04 RCW.

BUSINESS AND OCCUPATION TAX

Persons selling intoxicating liquor to consumers by the drink, opened bottle or unopened bottle are subject to the business and occupation tax under the Retailing classification upon the gross proceeds of sales. No deduction is allowable for the special liquor sales taxes levied on these commodities.

Persons selling intoxicating liquor, mixers, ice, etc., for resale are subject to the business and occupation tax under the Wholesaling——Others classification upon the gross proceeds of sales.

LIQUOR AGENCIES. Persons operating liquor agencies on a commission basis are employees of the Washington State Liquor Control Board and are not subject to business and occupation tax on income from this activity.

SPECIAL LIQUOR SALES TAXES

These taxes are imposed by RCW 82.08.150 and are collected and administered by the Washington State Liquor Control Board.

GENERAL RETAIL SALES TAXES OF CHAPTER 82.08 RCW (STATE SALES TAX) AND CHAPTER 82.14 RCW (LOCAL SALES TAX)

Sales of wine and beer to consumers by the drink, opened bottle or unopened bottle, and sales of spirits by the drink, are subject to the retail sales taxes imposed by chapters 82.08 and 82.14 RCW. These taxes are also collectible by the Washington State Liquor Control Board and its agencies on sales of wine and beer. The measure of the tax is the gross selling price without deduction for special liquor sales taxes. Sales of spirits and strong beer in the original package by the Washington State Liquor Control Board and its agencies are not subject to these retail sales taxes. [Order ET 73-1, § 458-20-232, filed 11/2/73; Order ET 71-1, § 458-20-232, filed 7/22/71; Order ET 70-3, § 458-20-232, filed 5/29/70, effective 7/1/70.]

WAC 458-20-233 (Rule 233) Tax liability of medical and hospital service bureaus and associations and similar health care organizations. All medical service bureaus, medical service corporations, hospital service associations and similar health care organizations engaging in business within this state are subject to the provisions of the business and occupation tax and are taxable under the Service and Other Business Activities classification upon their gross income. The term "gross income" as defined in RCW 82.04.080 is construed to include the total contributions, fees, premiums or other receipts paid in by the members or subscribers. Insofar as tax liability is concerned it is immaterial that such organizations may be incorporated as charitable or nonprofit corporations.

Certain of these organizations operate under contracts by the terms of which the bureau or association acts solely as the agent of a physician, hospital, or ambulance company in offering to its members or subscribers medical and surgical services, hospitalization, nursing, and ambulance services. In computing tax liability such bureaus and associations, therefore, will be entitled to deduct from their gross income the amounts paid to member physicians, hospitals and ambulance companies. No deduction will be allowed with respect to amounts retained as surplus or reserve accounts or to amounts expended for the purchase of supplies or for any other expense of the bureau or association other than as provided herein.

Under contracts wherein these organizations furnish to their members medical and surgical, hospitalization and ambulance services as a principal and not as an agent, no such deduction is allowed.

Revised July 1, 1956. [Order ET 70-3, § 458-20-233, filed 5/29/70, effective 7/1/70.]

WAC 458-20-234 (Rule 234) Business tax on flour millers. RCW 82.04.260(2) imposes business and occupation tax upon the manufacture of wheat into flour as follows:

"Upon every person engaging within this state in the business of manufacturing wheat into flour; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour manufactured, multiplied by the rate of one-eighth of one percent."

This is limited strictly to those manufacturing "wheat into flour" and does not apply to the milling of any other type of grain; nor does it apply to the manufacture of any other product from wheat than flour. The term "flour" shall have its ordinary meaning and shall not include such by-products as bran and shorts. Insofar as such other products are concerned, the tax under the general manufacturing classification (RCW 82.04.240) will apply.

Accordingly a miller milling wheat into flour will be taxable under Manufacturing Wheat Into Flour on the value of the flour manufactured and Manufacturing——Other on the value of the offal produced as a result of the milling process.

Persons making sales in this state of flour which they have manufactured are subject to business tax under either the Retailing or Wholesaling——All Others classification and are not subject to tax under the classification Manufacturing Wheat Into Flour. (RCW 82.04.440.)

Revised January 1, 1960. [Order ET 70-3, § 458-20-234, filed 5/29/70, effective 7/1/70.]

WAC 458-20-235 (Rule 235) Effect of rate changes on prior contracts and sales agreements. The following principles govern the applicability of changes in the rates of tax imposed under the Revenue Act with respect to contracts and sales agreements made prior to the effective date of the change:

When an unconditional contract to sell tangible personal property is entered into prior to the effective date of a rate change, and the goods are delivered after that date, the new rates will be applicable to the transaction. When an unconditional contract to sell tangible property is entered into prior to the effective date, and the goods are delivered prior to that date, the tax rates in effect for the prior period will be applicable.

When a contract to sell tangible personal property contains a specific provision to pass title at some time prior to delivery of the goods, such a specific provision will be deemed controlling and the tax rates in effect at that time will be applicable.

The retail sales tax and business and occupation tax due on conditional and installment sales must be wholly reported during the period in which the sale is made (See WAC 458-20-198), irrespective of the fact that the seller may elect to receive payment of the sales tax in installments. Therefore, sellers who receive installment payments after the effective date of a rate change on conditional and installment sales made prior to that date must collect the sales tax due on such installments at the rate applicable when the contract was written and the sale was made.

Lessors who lease tangible personal property are required to collect from their lessees the retail sales tax measured by the gross income from rentals as of the time the rental payments fall due (WAC 458-20-211). Lessors must collect the retail sales tax and pay the business and occupation tax at the new rates on all

rental payments which fall due on and after the effective date of a rate change, including rental payments on leases entered into prior to that date.

Persons installing, repairing, cleaning, altering, imprinting or improving tangible personal property for others, or constructing, repairing, decorating or improving buildings or other structures upon the real property of others will collect retail sales tax and pay the business and occupation tax at the new rates with respect to all such services performed and billed on and after the effective date of a rate change. With respect to contracts requiring the above services or construction which were executed prior to the effective date of a change in rates, the new rates will be applicable to the full contract price unless the contract work is completed and accepted prior to the effective date. If, however, under the terms of the contract, the seller is entitled to periodic payments which amounts are calculated to compensate the seller for the work completed to the date of payment, the applicable tax rates upon such payments (including, in the case of public works contracts, the percentage retained by the public agency pursuant to the provisions of RCW 60.28.010) will be those in effect at the time the contractor becomes entitled to receive said payments.

Taxpayers filing returns on the cash basis (i.e., reporting charge sales at the time payment is received rather than at the time of sale) must make an accounts receivable adjustment (See WAC 458-20-199) at the time of a change in tax rates. For example, if a change of tax rate becomes effective July 1, a cash basis taxpayer should report along with the June cash receipts all accounts receivable outstanding as of June 30.

Intricate questions should be submitted in writing to the Department of Revenue for specific rulings.

Revised June 1, 1970. [Order ET 70-3, § 458-20-235, filed 5/29/70, effective 7/1/70.]

WAC 458-20-236 (Rule 236) Baseball clubs and other sport organizations.

BUSINESS AND OCCUPATION TAX

Baseball clubs and other sport organizations are taxable under the classification of Service and Other Business Activities upon the total income derived from games for which such clubs are the sponsors or hosts, even though a fixed amount or a certain percentage of such income is paid to another team or club.

Conversely, amounts received by baseball clubs or other sport organizations as their share of the proceeds from games for which they are not the sponsor or host may be excluded from the measure of tax.

Issued July 1, 1956. [Order ET 70-3, § 458-20-236, filed 5/29/70, effective 7/1/70.]

WAC 458-20-237 (Rule 237) Retail sales tax collection schedules. By its terms the proviso of RCW 82-.08.020 setting the state retail sales tax rate at 4.6% expired June 30, 1979, thereby reinstating the previous rate of 4.5% effective July 1, 1979. RCW 82.14.030 authorizes counties and cities to levy a local sales and use tax of .5%, such local tax to be collected along with the 4.5% state tax, making a total combined tax of 5% in areas imposing the local tax. By RCW 82.14.045 all cities and counties, after voter approval, are authorized to levy an additional sales and use tax of .1%, .2%, or .3%, and, in the case of a class AA county, .4%, .5%, or .6%, to finance public transportation systems, which tax is also to be collected along with the state tax, making a total combined tax of 5.1%, 5.2%, 5.3%, 5.4%, 5.5%, or 5.6%.

Under the authority of RCW 82.08.060 and 82.14-.070, and in accordance with chapter 34.04 RCW, the department of revenue has adopted the following 4.5%, 5%, 5.1%, 5.2%, 5.3%, 5.4%, 5.5%, and 5.6% schedules to govern the collection of retail sales tax on all retail sales.

RETAIL SALES TAX COLLECTION SCHEDULE
July 1, 1979

4.5 Percent

Sale	Tax
.12– .33	.01
.34– .55	.02
.56– .77	.03
.78– .99	.04
1.00– 1.22	.05
1.23– 1.44	.06
1.45– 1.66	.07
1.67– 1.88	.08
1.89– 2.11	.09
2.12– 2.33	.10
2.34– 2.55	.11
2.56– 2.77	.12
2.78– 2.99	.13
3.00– 3.22	.14
3.23– 3.44	.15
3.45– 3.66	.16
3.67– 3.88	.17
3.89– 4.11	.18
4.12– 4.33	.19
4.34– 4.55	.20
4.56– 4.77	.21
4.78– 4.99	.22
5.00– 5.22	.23
5.23– 5.44	.24
5.45– 5.66	.25
5.67– 5.88	.26
5.89– 6.11	.27
6.12– 6.33	.28
6.34– 6.55	.29
6.56– 6.77	.30
6.78– 6.99	.31
7.00– 7.22	.32
7.23– 7.44	.33
7.45– 7.66	.34
7.67– 7.88	.35
7.89– 8.11	.36
8.12– 8.33	.37
8.34– 8.55	.38
8.56– 8.77	.39
8.78– 8.99	.40

Sale	Tax
9.00– 9.22	.41
9.23– 9.44	.42
9.45– 9.66	.43
9.67– 9.88	.44
9.89–10.11	.45

RETAIL SALES TAX COLLECTION SCHEDULE
July 1, 1979

5.0 Percent

Sale	Tax
.10– .29	.01
.30– .49	.02
.50– .69	.03
.70– .89	.04
.90– 1.09	.05
1.10– 1.29	.06
1.30– 1.49	.07
1.50– 1.69	.08
1.70– 1.89	.09
1.90– 2.09	.10
2.10– 2.29	.11
2.30– 2.49	.12
2.50– 2.69	.13
2.70– 2.89	.14
2.90– 3.09	.15
3.10– 3.29	.16
3.30– 3.49	.17
3.50– 3.69	.18
3.70– 3.89	.19
3.90– 4.09	.20
4.10– 4.29	.21
4.30– 4.49	.22
4.50– 4.69	.23
4.70– 4.89	.24
4.90– 5.09	.25
5.10– 5.29	.26
5.30– 5.49	.27
5.50– 5.69	.28
5.70– 5.89	.29
5.90– 6.09	.30
6.10– 6.29	.31
6.30– 6.49	.32
6.50– 6.69	.33
6.70– 6.89	.34
6.90– 7.09	.35
7.10– 7.29	.36
7.30– 7.49	.37
7.50– 7.69	.38
7.70– 7.89	.39
7.90– 8.09	.40
8.10– 8.29	.41
8.30– 8.49	.42
8.50– 8.69	.43
8.70– 8.89	.44
8.90– 9.09	.45
9.10– 9.29	.46
9.30– 9.49	.47

Sale	Tax
9.50– 9.69	.48
9.70– 9.89	.49
9.90–10.09	.50

RETAIL SALES TAX COLLECTION SCHEDULE
July 1, 1979

5.1 Percent

Sale	Tax
.10– .29	.01
.30– .49	.02
.50– .68	.03
.69– .88	.04
.89– 1.07	.05
1.08– 1.27	.06
1.28– 1.47	.07
1.48– 1.66	.08
1.67– 1.86	.09
1.87– 2.05	.10
2.06– 2.25	.11
2.26– 2.45	.12
2.46– 2.64	.13
2.65– 2.84	.14
2.85– 3.03	.15
3.04– 3.23	.16
3.24– 3.43	.17
3.44– 3.62	.18
3.63– 3.82	.19
3.83– 4.01	.20
4.02– 4.21	.21
4.22– 4.41	.22
4.42– 4.60	.23
4.61– 4.80	.24
4.81– 4.99	.25
5.00– 5.19	.26
5.20– 5.39	.27
5.40– 5.58	.28
5.59– 5.78	.29
5.79– 5.98	.30
5.99– 6.17	.31
6.18– 6.37	.32
6.38– 6.56	.33
6.57– 6.76	.34
6.77– 6.96	.35
6.97– 7.15	.36
7.16– 7.35	.37
7.36– 7.54	.38
7.55– 7.74	.39
7.75– 7.94	.40
7.95– 8.13	.41
8.14– 8.33	.42
8.34– 8.52	.43
8.53– 8.72	.44
8.73– 8.92	.45
8.93– 9.11	.46
9.12– 9.31	.47
9.32– 9.50	.48
9.51– 9.70	.49

Sale	Tax
9.71– 9.90	.50
9.91–10.09	.51

RETAIL SALES TAX COLLECTION SCHEDULE
July 1, 1979
5.2 Percent

Sale	Tax
.10– .28	.01
.29– .48	.02
.49– .67	.03
.68– .86	.04
.87– 1.05	.05
1.06– 1.24	.06
1.25– 1.44	.07
1.45– 1.63	.08
1.64– 1.82	.09
1.83– 2.01	.10
2.02– 2.21	.11
2.22– 2.40	.12
2.41– 2.59	.13
2.60– 2.78	.14
2.79– 2.98	.15
2.99– 3.17	.16
3.18– 3.36	.17
3.37– 3.55	.18
3.56– 3.74	.19
3.75– 3.94	.20
3.95– 4.13	.21
4.14– 4.32	.22
4.33– 4.51	.23
4.52– 4.71	.24
4.72– 4.90	.25
4.91– 5.09	.26
5.10– 5.28	.27
5.29– 5.48	.28
5.49– 5.67	.29
5.68– 5.86	.30
5.87– 6.05	.31
6.06– 6.24	.32
6.25– 6.44	.33
6.45– 6.63	.34
6.64– 6.82	.35
6.83– 7.01	.36
7.02– 7.21	.37
7.22– 7.40	.38
7.41– 7.59	.39
7.60– 7.78	.40
7.79– 7.98	.41
7.99– 8.17	.42
8.18– 8.36	.43
8.37– 8.55	.44
8.56– 8.74	.45
8.75– 8.94	.46
8.95– 9.13	.47
9.14– 9.32	.48
9.33– 9.51	.49
9.52– 9.71	.50

Sale	Tax
9.72– 9.90	.51
9.91–10.09	.52

RETAIL SALES TAX COLLECTION SCHEDULE
July 1, 1979
5.3 Percent

Sale	Tax
.10– .28	.01
.29– .47	.02
.48– .66	.03
.67– .84	.04
.85– 1.03	.05
1.04– 1.22	.06
1.23– 1.41	.07
1.42– 1.60	.08
1.61– 1.79	.09
1.80– 1.98	.10
1.99– 2.16	.11
2.17– 2.35	.12
2.36– 2.54	.13
2.55– 2.73	.14
2.74– 2.92	.15
2.93– 3.11	.16
3.12– 3.30	.17
3.31– 3.49	.18
3.50– 3.67	.19
3.68– 3.86	.20
3.87– 4.05	.21
4.06– 4.24	.22
4.25– 4.43	.23
4.44– 4.62	.24
4.63– 4.81	.25
4.82– 4.99	.26
5.00– 5.18	.27
5.19– 5.37	.28
5.38– 5.56	.29
5.57– 5.75	.30
5.76– 5.94	.31
5.95– 6.13	.32
6.14– 6.32	.33
6.33– 6.50	.34
6.51– 6.69	.35
6.70– 6.88	.36
6.89– 7.07	.37
7.08– 7.26	.38
7.27– 7.45	.39
7.46– 7.64	.40
7.65– 7.83	.41
7.84– 8.01	.42
8.02– 8.20	.43
8.21– 8.39	.44
8.40– 8.58	.45
8.59– 8.77	.46
8.78– 8.96	.47
8.97– 9.15	.48
9.16– 9.33	.49
9.34– 9.52	.50

Sale	Tax
9.53– 9.71	.51
9.72– 9.90	.52
9.91–10.09	.53

RETAIL SALES TAX COLLECTION SCHEDULE
January 1, 1981

5.4 Percent

Sale	Tax
.10– .27	.01
.28– .46	.02
.47– .64	.03
.65– .83	.04
.84– 1.01	.05
1.02– 1.20	.06
1.21– 1.38	.07
1.39– 1.57	.08
1.58– 1.75	.09
1.76– 1.94	.10
1.95– 2.12	.11
2.13– 2.31	.12
2.32– 2.49	.13
2.50– 2.68	.14
2.69– 2.87	.15
2.88– 3.05	.16
3.06– 3.24	.17
3.25– 3.42	.18
3.43– 3.61	.19
3.62– 3.79	.20
3.80– 3.98	.21
3.99– 4.16	.22
4.17– 4.35	.23
4.36– 4.53	.24
4.54– 4.72	.25
4.73– 4.90	.26
4.91– 5.09	.27
5.10– 5.27	.28
5.28– 5.46	.29
5.47– 5.64	.30
5.65– 5.83	.31
5.84– 6.01	.32
6.02– 6.20	.33
6.21– 6.38	.34
6.39– 6.57	.35
6.58– 6.75	.36
6.76– 6.94	.37
6.95– 7.12	.38
7.13– 7.31	.39
7.32– 7.49	.40
7.50– 7.68	.41
7.69– 7.87	.42
7.88– 8.05	.43
8.06– 8.24	.44
8.25– 8.42	.45
8.43– 8.61	.46
8.62– 8.79	.47
8.80– 8.98	.48
8.99– 9.16	.49
9.17– 9.35	.50
9.36– 9.53	.51
9.54– 9.72	.52
9.73– 9.90	.53
9.91–10.09	.54

RETAIL SALES TAX COLLECTION SCHEDULE
January 1, 1981

5.5 Percent

Sale	Tax
.10– .27	.01
.28– .45	.02
.46– .63	.03
.64– .81	.04
.82– .99	.05
1.00– 1.18	.06
1.19– 1.36	.07
1.37– 1.54	.08
1.55– 1.72	.09
1.73– 1.90	.10
1.91– 2.09	.11
2.10– 2.27	.12
2.28– 2.45	.13
2.46– 2.63	.14
2.64– 2.81	.15
2.82– 2.99	.16
3.00– 3.18	.17
3.19– 3.36	.18
3.37– 3.54	.19
3.55– 3.72	.20
3.73– 3.90	.21
3.91– 4.09	.22
4.10– 4.27	.23
4.28– 4.45	.24
4.46– 4.63	.25
4.64– 4.81	.26
4.82– 4.99	.27
5.00– 5.18	.28
5.19– 5.36	.29
5.37– 5.54	.30
5.55– 5.72	.31
5.73– 5.90	.32
5.91– 6.09	.33
6.10– 6.27	.34
6.28– 6.45	.35
6.46– 6.63	.36
6.64– 6.81	.37
6.82– 6.99	.38
7.00– 7.18	.39
7.19– 7.36	.40
7.37– 7.54	.41
7.55– 7.72	.42
7.73– 7.90	.43
7.91– 8.09	.44
8.10– 8.27	.45
8.28– 8.45	.46
8.46– 8.63	.47

Sale	Tax
8.64– 8.81	.48
8.82– 8.99	.49
9.00– 9.18	.50
9.19– 9.36	.51
9.37– 9.54	.52
9.55– 9.72	.53
9.73– 9.90	.54
9.91–10.09	.55

RETAIL SALES TAX COLLECTION SCHEDULE
January 1, 1981

5.6 Percent

Sale	Tax
.09– .26	.01
.27– .44	.02
.45– .62	.03
.63– .80	.04
.81– .98	.05
.99– 1.16	.06
1.17– 1.33	.07
1.34– 1.51	.08
1.52– 1.69	.09
1.70– 1.87	.10
1.88– 2.05	.11
2.06– 2.23	.12
2.24– 2.41	.13
2.42– 2.58	.14
2.59– 2.76	.15
2.77– 2.94	.16
2.95– 3.12	.17
3.13– 3.30	.18
3.31– 3.48	.19
3.49– 3.66	.20
3.67– 3.83	.21
3.84– 4.01	.22
4.02– 4.19	.23
4.20– 4.37	.24
4.38– 4.55	.25
4.56– 4.73	.26
4.74– 4.91	.27
4.92– 5.08	.28
5.09– 5.26	.29
5.27– 5.44	.30
5.45– 5.62	.31
5.63– 5.80	.32
5.81– 5.98	.33
5.99– 6.16	.34
6.17– 6.33	.35
6.34– 6.51	.36
6.52– 6.69	.37
6.70– 6.87	.38
6.88– 7.05	.39
7.06– 7.23	.40
7.24– 7.41	.41
7.42– 7.58	.42
7.59– 7.76	.43
7.77– 7.94	.44
7.95– 8.12	.45
8.13– 8.30	.46
8.31– 8.48	.47
8.49– 8.66	.48
8.67– 8.83	.49
8.84– 9.01	.50
9.02– 9.19	.51
9.20– 9.37	.52
9.38– 9.55	.53
9.56– 9.73	.54
9.74– 9.91	.55
9.92–10.08	.56

Note: Brackets are repetitive above $10.

Revised November 19, 1980 [Statutory Authority: RCW 82.08.060 and 82.14.070. 81–01–099 (Order 80–5), § 458–20–237, filed 12/23/80. Statutory Authority: RCW 82.08.060, 82.14.070 and 82.32.300. 79–06–036 (Order ET 79–1), § 458–20–237, filed 5/17/79, effective 7/1/79; Order ET 76–2, § 458–20–237, filed 5/19/76; Order ET 72–3, § 458–20–237, filed 11/30/72; Order ET 70–3, § 458–20–237, filed 5/29/70, effective 7/1/70.]

WAC 458–20–238 (Rule 238) Sales to nonresidents of watercraft requiring Coast Guard registration. The term "Coast Guard registration," in addition to its ordinary meaning, will include registration numbering by the state of principal use when this function has been assumed by the state under the Federal Boating Act of 1958.

BUSINESS AND OCCUPATION TAX

In computing tax under the Retailing classification, no exemption or deduction is allowed by reason of the fact that watercraft requiring Coast Guard registration are sold to nonresidents for use outside this state.

RETAIL SALES TAX

Under RCW 82.08.030(15) an exemption from retail sales tax is allowed in respect to sales to nonresidents of this state for use outside of this state of watercraft requiring Coast Guard registration, even though delivery be made within this state, but only when (a) the watercraft will not be used within this state for more than forty–five days and (b) the seller receives from the buyer an exemption certificate as hereafter provided, and examines acceptable proof that the buyer is a resident of a state or country other than the state of Washington. The exemption certificate should be in substantially the following form, one copy to be filed with the Department of Revenue with the regular excise tax return and a duplicate to be retained by the dealer as a part of his records.

EXEMPTION CERTIFICATE

I, (printed or typed name of purchaser), hereby certify: That I am a bona fide resident of the state of ---------- and my address is (street and number or

route) , (city, town or post office) , (state) . That on this date I have purchased from (dealer) the following described watercraft:

Make and Model _____ Length _____
How propelled: Inboard _____ Outboard _____
Horsepower _____

I further certify that this water craft will be registered with the (Coast Guard or State of Principal Use) , forty–five days and is exempt from Washington State Retail Sales Tax under RCW 82.08.030(15).

I hereby declare, under penalty of perjury, that the above statements are true and correct to the best of my knowledge and belief.

Date _____ Signature _____

CERTIFICATION OF DEALER

I hereby certify that I personally examined the following items of documentary evidence submitted by the above purchaser to establish his residence in the state of _____:

___Draft Card
___Payroll or W–2 Forms
___Insurance Policies
___Driver's License
___Union Card
___Professional License
___Fishing or Hunting License
___Voter's Registration Card
___Copies of Conditional Sales Contracts
___Oil Co. or Dept. Store Credit Card
___Poll Tax or Property Tax Receipts
___Copies of Income Tax Returns
___Club Card
___Rent or Utility Receipts

_____	_____
(signature of dealer or representative	(Dealer's registration number with Department of Revenue)

_____
title–officer or agent

The foregoing exemption is limited to sales of watercraft requiring Coast Guard registration or, where the state in which the boat will be principally used has assumed the registration and numbering function under the Federal Boating Act of 1958, to sales of watercraft which have been registered and numbered by such state of principal use. The exemption is not available in respect to sales of vessels which are documented by the U.S. Bureau of Customs.

USE TAX

The use tax will be applicable to the use by a nonresident of watercraft registered with the Coast Guard or with the state of principal use when the watercraft was purchased from a Washington vendor and is first used within this state for more than forty–five days.

Issued April 1, 1959. [Order ET 70–3, § 458–20–238, filed 5/29/70, effective 7/1/70.]

WAC 458–20–239 (Rule 239) Sales to nonresidents of farm machinery or implements.

BUSINESS AND OCCUPATION TAX

In computing tax under the Retailing classification, no exemption or deduction is allowed by reason of the fact that farm machinery or implements are sold to nonresidents for use outside this state when delivery is made in this state.

RETAIL SALES TAX

Under RCW 82.08.030(17) an exemption from retail sales tax is allowed in respect to sales to nonresidents of this state of machinery and implements for use in conducting a farming activity outside this state, when such machinery and implements are transported outside the state immediately after sale. This exemption is allowed even though the goods sold are delivered to the purchaser in this state, but only where the seller receives from the buyer an exemption certificate as hereinafter provided and examines acceptable proof that the buyer is a resident of a state or country other than the State of Washington. The exemption certificate should be in substantially the following form and is to be retained by the seller as a part of his records. Each sale claimed exempt must be supported by a separately executed certificate. Certificates for other or prior transactions or "blanket" certificates are not acceptable.

EXEMPTION CERTIFICATE

I, (printed or typed name of purchaser) hereby certify: That I am a bona fide resident of the state of _____ and my address is (street and number or box and route) , (city, town or post office) , (state) . That on (date) I purchased from (seller) the following machinery or implements:

(name or description) (brand)

(model) That the machinery or implements named above are purchased for my use in conducting a farming activity at (address) , and the date of transporting the same outside the state of Washington is (month, day and year)

_____	_____
(date)	(signature of purchaser)

CERTIFICATION OF DEALER

I hereby certify that I personally examined the following items of documentary evidence submitted by the above purchaser which show his residence to be the state of _____

___Draft Card
___Payroll or W–2 Forms
___Insurance Policies

___Driver's License
___Union Card
___Professional License
___Fishing or Hunting License
___Voter's Registration Card
___Copies of Conditional Sales Contracts
___Oil Co. or Dept. Store Credit Card
___Poll Tax or Property Tax Receipts
___Copies of Income Tax Returns
___Club Card
___Rent or Utility Receipts

(signature of dealer or representative	(Dealer's registration number with Department of Revenue)
title–officer or agent	

Effective June 8, 1961. [Order ET 70-3, § 458-20-239, filed 5/29/70, effective 7/1/70.]

WAC 458-20-240 (Rule 240) Manufacturing, tax credits. GENERAL RULE. RCW 82.04.435 provides for a credit against the business and occupation tax otherwise payable by qualified manufacturers as a result of tax actually paid under chapter 82.08 RCW (Retail Sales Tax) or chapter 82.12 RCW (Use Tax) on materials, labor and services in the construction of new buildings or the enlarging of existing buildings directly used in such manufacturing activities. In general, the credit is extended to those persons whose activities are defined in RCW 82.04.120 (the definition of the term "to manufacture") with respect to retail sales tax or use tax paid by such persons, their lessors or their contract vendors, on materials, labor and services in connection with such construction or enlarging. The following general principles will apply.

LIMITATIONS:

1. By statutory restriction this credit is available only to "persons engaging in activities defined in RCW 82-.04.120" (the definition of the term "to manufacture"), which will include only those persons whose business activities falling within the purview of the business and occupation tax occur under RCW 82.04.240 Tax on Manufacturers, RCW 82.04.260(2) Flour Manufacturers, (3) Seafood Products Manufacturers, (4) Manufacturing Fruit and Vegetables, (5) Manufacturing Aluminum, and RCW 82.04.280 Printing and Publishing, and including manufacturing activities which might be reported for tax under RCW 82.04.250 (Retailing) or RCW 82.04.270 (Wholesaling) according to the provisions of RCW 82.04.440. As to persons taxable under RCW 82.04.260(8) (slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale) the credit will be allowable only as to tax paid on the construction of new buildings or the enlarging of existing buildings directly used in those of the listed activities which constitute "manufacturing" as defined in RCW 82.04.120 and not with respect to tax paid on buildings, or portions of buildings used in the storage, handling or marketing of unprocessed fresh perishable meat products.

2. Credits will not be allowable until an application therefor has been filed with and approved by the Department of Revenue. Such application must be made within two years of the date of payment of the taxes giving rise to such credits.

3. Credits are allowable only in respect to tax paid on the construction of new buildings or the enlargement of existing buildings (as hereinafter defined) directly used in manufacturing activities. Where a building is used partly for manufacturing and partly for purposes which do not qualify for credit under this rule, the applicable tax credit shall be determined by apportionment according to the ratio which the construction cost per square foot of that portion of the building directly used for manufacturing purposes bears to the construction cost per square foot of the total building.

4. The terms "manufacturer" and "manufacturing" are to be narrowly construed and the credit is not allowable in respect to buildings utilized for such nonmanufacturing activities as extracting, marketing, parking and transportation, nor to office and storage facilities except as specifically provided herein.

5. Credits are allowable only in respect to tax paid on the construction of new or enlarged buildings, not on the repair or renovation of existing buildings.

6. Credits may be taken only against tax payable which is attributable to manufacturing activities conducted in the particular factory, mill or manufacturing plant in which such buildings are located. Thus, the credit may not be taken against business and occupation tax liability occurring as the result of manufacturing activities conducted at a separate plant nor against the tax due on any nonmanufacturing activities.

7. No credit will be allowable for tax paid on purchases of labor, material or services on which the supplier becomes entitled to compensation after January 1, 1971, except that with respect to purchases made pursuant to any contract entered into prior to January 1, 1971, credit will be allowed in respect to tax paid on such purchases prior to July 1, 1972; further, as to the construction of buildings used directly in the manufacture of metals, the credit will include taxes paid on all purchases for construction which was in progress on January 1, 1971 and was completed after that date.

DEFINITIONS:

1. The term "contract vendor" shall mean only those persons who will convey by a contract of sale buildings, as defined herein, to a manufacturer to be used as a new manufacturing facility. The term will not include contractors who may be engaged by manufacturers for the purpose of the construction of structures, nor will it include vendors who will supply tangible personal property under contract to a manufacturer. The term will not include vendors of buildings which have been previously used for any purpose.

2. The term "lessors" shall mean only those persons who will rent or lease buildings, as herein defined, to a manufacturer to be used as a new manufacturing facility. The term will not include lessors of tangible personal property to manufacturers nor will it include lessors of manufacturing buildings which have previously been used for any purpose.

3. The term "manufacturer" shall include only those persons operating a manufacturing plant whose activities are described under the provisions of RCW 82.04.120 "to manufacture" and as further defined under the subheading "Definitions" of the Department of Revenue's published WAC 458-20-136, Manufacturing, Processing for Hire, Fabricating.

4. The term "buildings" means and includes only those structures used to house or shelter manufacturing activities, including the usual lighting, heating, and sanitary plumbing facilities. The term does not include any construction performed outside the exterior walls of the building such as landscaping, walks and driveways, parking areas, septic tanks and drain fields, water, electrical or sewer lines and the like. The term does include plant offices and facilities for the storage of raw materials or finished goods when such facilities are essential to and an integral part of the factory, mill or manufacturing plant in which they are located. The term includes potlines and furnaces used directly in the manufacture of metals, but does not include any other manufacturing or industrial fixtures or equipment such as tanks, conveyor systems, cranes, industrial machinery and related facilities irrespective of whether or not such facilities or equipment are affixed to the realty.

CHANGES IN OWNERSHIP. In general, a tax credit may be taken only by the person who has paid the retail sales tax or use tax, or whose lessors or contract vendors have paid the tax, and the credit may not be transferred or sold to a successor as defined in RCW 82.04.180. However, when the control of and beneficial interest in the subject matter of the transfer of assets remains in the same individuals or entity after completion, and the transfer of assets is deemed exempt from retail sales tax or use tax according to the principles set forth in WAC 458-20-106, any portion of the tax credit remaining unused may be utilized by the surviving entity under the limitations otherwise provided by the law.

DETERMINING ALLOWABLE CREDITS. Prior to taking any deduction under the business and occupation tax on a regular return filed, the amount of the sales tax or use tax paid on the constructing or enlarging of buildings directly used in performing manufacturing activities is to be established and approved by the Department of Revenue so that the appropriate credit can be established on the manufacturer's account, against which subsequent deductions will apply. In no event may a tax credit be deducted until the retail sales tax has been paid. In the case of a complex project where an advisory ruling is desired, application for a tentative determination by the Department of Revenue as to the eligibility of the project for credit may be made in letter form at any time. Application for tax credit shall be made by letter describing the project, setting forth all pertinent facts including the following: name of contractor or material vendor, nature and location of work performed or materials supplied, date of invoice, date of payment, amount of invoice exclusive of sales tax and amount of tax paid. Tentative authorization must be secured from the department before deductions or offsets against the business and occupation tax will be allowed. Upon such authorization, special reporting forms will be supplied the taxpayer for purposes of deducting and reconciling the tax credit. [Order ET 71-1, § 458-20-240, filed 7/22/71; Order ET 70-3, § 458-20-240, filed 5/29/70, effective 7/1/70.]

WAC 458-20-241 (Rule 241) Radio and television broadcasting. For the purpose of this rule:

"Broadcast" or "broadcasting" includes both radio and television commercial broadcasting stations unless it clearly appears from the context to refer only to radio or television.

"Local advertising" means all broadcast advertising other than national, network or regional advertising as herein defined.

"National advertising" means broadcast advertising paid for by sponsors which supply goods or services on a national or international basis and which advertising is billed to an advertising agency office, national representative or sponsor located outside the state of Washington.

"Network advertising" means broadcast advertising originated by national or regional broadcast networks from outside the state of Washington, the broadcast advertising being supplied by national or regional network broadcasting companies.

"Regional advertising" means broadcast advertising paid for by sponsors which supply goods or services on a regional basis over two or more states and which advertising is billed to an advertising agency office, regional representative or sponsor located outside the state of Washington.

BUSINESS AND OCCUPATION TAX

RADIO AND TELEVISION BROADCASTING. Taxable or gross income from the sale of radio or television advertising, and any other gross income from broadcasting, including sales to other broadcasters of the right to broadcast material on processed film, sound recorded magnetic tape and other transcriptions (see Retail Sales Tax).

DEDUCTIONS FROM GROSS INCOME FROM ADVERTISING:

1. AGENCY FEES. It is a general trade practice in the broadcasting industry to make allowances to advertising agencies in the form of the deduction or exclusion of a certain percentage of the gross charge made for advertising ordered by the agency for the advertiser. This allowance will be deductible as a discount in the computation of the broadcaster's tax liability in the event that the allowance is shown as a discount or price reduction in the billing or that the billing is on a net basis, i.e., less the discount.

2. GROSS RECEIPTS FROM NATIONAL, NETWORK AND REGIONAL ADVERTISING. The taxpayer may deduct either actual gross receipts from national, network and regional advertising as herein defined, as included in the gross amount reported under Radio and Television Broadcasting or may take a "standard deduction" as provided by RCW 82.04.280, as amended by chapter 149, Laws of 1967 ex. sess., which will be a percentage arrived at annually for all broadcast stations in the state of Washington which use the standard deduction method. This percentage will be determined by dividing the total broadcast advertising receipts in the nation from network, national and regional advertising (as annually announced by the Federal Communications Commission) by the total broadcast advertising receipts in the nation (as annually announced by the Federal Communications Commission).

This standard deduction will be based on the most current figures published by the Federal Communications Commission at the beginning of the calendar year and shall be used throughout that calendar year notwithstanding the publishing of the following year's figures within that calendar year.

Example of computation:

The standard deduction for persons engaged in radio and television broadcasting is 64% for the calendar year 1970. The deduction is computed from 1968 F.C.C. figures, which are the most recent available:

1. Total radio advertising receipts 1968	$1,076,300,000
2. Total television advertising receipts 1968	2,087,600,000
3. Total broadcast advertising receipts	3,163,900,000
4. Total national, network, regional advertising receipts, radio, 1968	379,200,000
5. Total national, network, regional advertising receipts, television, 1968	1,635,100,000
6. Total broadcast advertising receipts from national, network and regional advertising	2,014,300,000
7. Standard deduction for 1970 will be the quotient of line 6 divided by line 3 or	64%

3. INTERSTATE BUSINESS, ALLOCATION. It is recognized that radio and television broadcasting is an interstate business and that under the Constitution of the United States a tax is prohibited upon so much of the revenue of a radio or television broadcasting station as is derived from the service of broadcasting to persons in other states or foreign countries. Accordingly, revenues from local advertising shall be allocated to remove from the tax base the gross income from advertising which is intended to reach potential customers of the advertiser who are located outside the state of Washington.

It will be presumed that the entire gross income of radio and television stations located within the state of Washington from local advertising as herein defined is subject to tax unless and until the taxpayer submits proof to the Department of Revenue that some portion of such income is exempt according to the principles set forth herein and until a specific allocation formula has been approved by the department.

METHOD OF ALLOCATION. When the total daytime listening area of a radio or television station extends beyond the boundaries of the state of Washington, the allowable deduction is that portion of revenue represented by the out–of–state audience computed as a ratio to the station's total audience as measured by the 100 microvolt signal strength and delivery by wire, if any. The out–of–state audience may therefore be determined by delivery "over the air" and by community antenna television systems. However, community antenna television audiences may not be claimed by a station in the same area in which it claims an audience served over the air, thus eliminating a claim for double exemption.

The most current U.S. and Canadian census figures will be used to determine the in–state and out–of–state audience.

An engineer holding at least a first class operator's license from the Federal Communications Commission must compute the 100 microvolt contour for the station claiming the exemption. The 100 microvolt contour will be applicable to all broadcasting stations, whether standard (AM), frequency modulation (FM), or television (TV), and the applicable contour will be the daytime ground–wave contour. The computation must be submitted to the Department of Revenue in map form, showing the scale used in miles, with the contour drawn on the map and the counties or cities within the contour indicated. The map must be certified as being correct by the personal signature of the engineer making the computation. The type of license held by the engineer should be indicated. The map must have attached to it the population covered both within and without the state according to the applicable U.S. and Canadian census.

In the event that cable antenna television subscribers are claimed as part of the out–of–state audience, the name of the systems, the location, and the number of subscribers must also be attached to the map. The number of subscribers will be multiplied by a factor of 3, representing the average size household family.

The foregoing exhibits must be forwarded to the Department of Revenue, Olympia, Washington 98501, and must be approved by the department before any deduction is allowable.

SERVICE AND OTHER ACTIVITIES. Taxable on gross income from personal or professional services which are not included within the definition of the term "sale at retail" in RCW 82.04.050, including gross income from fees for providing writers, directors, artists and technicians, as well as charges for the granting of a

license to use facilities (as distinct from the leasing or renting of tangible personal property, see WAC 458-20-211).

RETAILING OR WHOLESALING. Taxable on gross proceeds of sales of tangible personal property or of services included within the definition of "sale at retail" in RCW 82.04.050. (See subheading Retail Sales Tax.)

RETAIL SALES TAX. Sales to broadcasters of equipment, supplies and materials for use and not for resale without intervening use are subject to the retail sales tax. This includes sales of unprocessed film or magnetic tape and other transcription material as well as processed film, recorded magnetic tape or other transcriptions unless vended under a lease or contract granting a mere license to use.

Sales to broadcasters of the right to broadcast the material on processed film, sound recorded magnetic tape and other transcriptions under a right or license granted by lease or contract are not retail sales and the retail sales tax is not applicable.

USE TAX. Broadcasters of radio and television programs are subject to use tax on the value of articles manufactured or produced by them for their own use and on the use of tangible personal property purchased or acquired under conditions whereby the retail sales tax has not been paid. The use tax is applicable to the value of processed film, sound recorded magnetic tape and other transcriptions when the taxpayer vends merely the right to broadcast such material under a right or license granted by lease or contract.

Revised June 1, 1970. [Order ET 70-3, § 458-20-241, filed 5/29/70, effective 7/1/70.]

WAC 458-20-242A (Rule 242--Part A) Pollution control exemption and/or credits for single purpose facilities added to existing production plants to meet pollution control requirements and which are separately identifiable equipment principally for pollution control. RULE 242 deals with pollution control facilities and is published in two parts:

Part A. Single purpose facilities added to existing production plants as separately identifiable equipment principally for pollution control and which are not designed for production of products other than recovered products which but for the facility would be released as pollutants.

Part B. Dual purpose facilities which consist of new plant equipment which achieves pollution control in the process of production of the plant's products rather than through the add on of a pollution device to existing plant equipment at some point in processing or upon completion of processing.

DEFINITION OF TERMS

For purposes of this rule:

1. "Facility" shall mean an "air pollution control facility" or a "water pollution control facility" as herein defined:

a. "Air pollution control facility" includes any treatment works, control devices and disposal systems, machinery, equipment, structures, property or any part or accessories thereof, installed or acquired for the primary purpose of reducing, controlling or disposing of industrial waste which if released to the outdoor atmosphere could cause air pollution. "Air pollution control facility" shall not mean any motor vehicle air pollution control devices used to control the emission of air contaminants from any motor vehicle.

b. "Water pollution control facility" includes any treatment works, control device or disposal system, machinery, equipment, structures, property or any accessories thereof installed or acquired for the primary purpose of reducing, controlling or disposing of sewage and industrial waste, which if released to a water course could cause water pollution; provided, that the word "facility" shall not be construed to include any control device, machinery, equipment, structure, disposal system or other property installed or constructed for a municipal corporation or for the primary purpose of connecting any commercial establishment with the waste collecting facilities of public or privately owned utilities.

2. For the purpose of tax credit or exemption, "cost" shall be limited to capital expenditures directly related to the acquisition and installation of the control facility as described in the application. For the purposes of this definition, capital expenditures may include engineering, architecture, legal fees, overhead and other costs which may be directly attributed to the control facility.

3. "Net commercial value of recovered products" shall mean the value of recovered products less the costs incurred in processing, including overhead costs, and costs attributable to their sale, or other disposition for value. The term shall not include a deduction for the cost or the depreciation of the facility.

4. "Certificate" shall mean a pollution control tax exemption and credit certificate for which application has been timely made.

5. "Appropriate control agency" shall mean the state department of ecology; or the operating local or regional air pollution control agency within whose jurisdiction a facility is or will be located.

6. For the purposes of this rule "depreciation" shall be determined by the straight line method. That is, the cost of the facility, less the salvage or residual value, divided by months of useful life yields the amount by which the facility is depreciated monthly. In computing depreciation for purposes of obtaining a certificate, depreciation shall be computed through the last full month prior to the month in which the application for certificate is filed.

7. "Department" shall mean the Washington State Department of Revenue.

FILING APPLICATION AND ISSUANCE OF CERTIFICATES

An application for a certificate will be made available by the department to cover the following conditions:

1. Existing facilities, to provide the basis for a tax credit.

2. Proposed facilities

a. to provide the basis for a tax exemption on the purchase of material and equipment;

b. to provide the basis for a tax credit.

The application must show the cost of the facility, specifically stating costs of materials and equipment incorporated into it. When the certificate is for the purposes referred to in "2" above, estimated costs must be shown. The certificate issued on an application based on estimated costs will not permit the holder to claim the credit referred to in "2b" above until an application showing actual costs has been filed and a supplement to the certificate issued.

Applications showing actual costs must also show the total depreciation which is applicable to the facility to the date of the application, the net commercial value of all materials recovered or captured by the facility during the entire period of operation prior to the date of application, and the amount of Federal tax credit taken on federal tax returns filed prior to the date of application.

If, subsequent to the issuance of a certificate for a facility, a determination is made to modify or replace such facility, the certificate holder may file an application for a new or a supplemental certificate covering the modification or replacement following the same procedures provided for making application for original certificate. After the issuance by the department of any new certificate or supplement, all subsequent tax exemption and credits for the modified replacement facility shall be based thereon.

The application will be submitted to the department which will forward it to the appropriate control agency within ten days of its receipt from the applicant. The determination that a facility is designed and operated or is intended to be operated primarily for the control, capture and removal of pollutants from the air, or for the control and reduction of water pollution, and that the facility is suitable and reasonably adequate, and meets the intent and purposes of chapter 70.94 RCW (air pollution) or chapter 90.48 RCW (water pollution) will be made by the appropriate control agency. The control agency will notify the department of its findings within thirty days of the date the application was received for approval. The department will make the final determination of cost.

In making a determination, the appropriate control agency will afford to the applicant an opportunity for a hearing. If the local or regional air pollution control agency fails to act or if the applicant feels aggrieved by the action of the local board, the applicant may appeal to the department of ecology pursuant to rules and regulations established by that department.

Upon notification of the action taken by the control agency the department will issue a certificate or notice of denial within thirty days of the receipt of the application from the control agency. The department will send a certificate or supplement, when issued, by certified mail. Notice of refusal to issue a certificate will likewise be sent by certified mail.

TIME LIMITATIONS. Application must be made no later than December 31, 1969, except that with respect solely to a facility required to be installed in an industrial, manufacturing, waste disposal, utility, or other commercial establishment which is in operation or under construction as of July 30, 1967, such application will be deemed timely if made within one year after the effective date of specific requirements for such facility promulgated by the appropriate control agency; whether or not the determination is made before or after the limitation date of December 31, 1969.

UTILIZATION OF EXEMPTION AND CREDIT

SALES TAX EXEMPTION. The original acquisition of a facility, or the modification (meaning a substantial improvement resulting from added capacity in the removal of pollutants from the air or water) of an existing facility by the holder of a certificate shall be exempt from sales tax imposed by chapter 82.08 RCW and use tax subsequent to the effective date of the certificate. For applications filed subsequent to January 1, 1975 certificate holders shall receive credit for sales and use tax paid on acquisition of the facility prior to receiving certification. This exemption does not extend to servicing, maintenance, repairs or replacement parts after a facility is complete and placed in service.

Subsequent to July 30, 1967, a certificate holder may elect to pay sales or use tax on the acquisition and installation of a control facility and, subsequently, take a credit against future liability under business and occupation, use, or public utility tax to the extent of the foregoing exemption, except that a person so electing may not take any further manufacturing tax credit as provided in RCW 82.04.435 on the same facility.

BUSINESS AND OCCUPATION, USE, OR PUBLIC UTILITY TAX CREDIT. With respect to a facility which has been placed in operation and for which a certificate has been issued, a tax credit not exceeding 2 percent of the cost of a new facility or of the depreciated cost of an existing facility may be taken for each year the certificate is in force. Such credit may be claimed against business and occupation, use, or public utility tax liability; however, it shall not exceed 50 percent of the tax liability for any reporting period for which it is claimed nor shall the cumulative amount of credit allowed for any facility exceed 50 percent of the cost of the facility.

CREDITS TO BE REDUCED. Credits claimed will be reduced by the net commercial value of materials captured or recovered by the pollution control facility. The value of such material shall first reduce the credit available in the current reporting period and then be applied against the cumulative credit balance which has been established but which may not be currently available to the certificate holder. Applicants and certificate holders shall provide the department with information

required to establish the net commercial value of recovered or captured material and will be required to make books and records available to the department to verify the correctness of information furnished. The cumulative credit will also be reduced by the amount of Federal investment tax credit or other Federal tax credits allowed to the certificate holder which are applicable to the facility. The Federal tax credits shall be taken as an offset against a pollution control tax credit claimed in the first reporting period following the date of filing the tax return on which the Federal tax credit was taken, and thereafter as an offset shall advise the department of adjustments to the Federal tax credits, either increase or decrease, resulting from either an audit by the Internal Revenue Service, or otherwise. Adjustments to the credit allowable under this rule will be made by the department accordingly.

The department will issue instructions and forms to the certificate holder covering the accounting for the credit for which the certificate holder is eligible. Where a certificate holder is also eligible for manufacturing tax credit, the department may issue special instructions covering the separate accounting for the tax credits.

Credit will be allowable only in any period in which a certificate is in force.

Issued October 30, 1967. [Order ET 77-1, § 458-20-242A, filed 12/8/77 (formerly codified WAC 458-20-242); Order ET 70-3, § 458-20-242, filed 5/29/70, effective 7/1/70.]

WAC 458-20-242B (Rule 242--Part B) Pollution control exemption and/or credits for dual purpose facilities which are constructed to meet pollution control requirements and which achieve pollution control in the process of production of the plant's products. Rule 242 deals with pollution control facilities and is published in two parts:

Part A. Single purpose facilities added to existing production plants as separately identifiable equipment principally for pollution control and which are not designed for production of products other than recovered products which but for the facility would be released as pollutants.

Part B. Dual purpose facilities which consist of new plant equipment which achieves pollution control in the process of production of the plant's products rather than through the add on of a pollution device to existing plant equipment at some point in processing or upon completion of processing.

This rule sets out instructions for determining pollution control tax exemption and/or credit for a dual purpose pollution control facility.

A dual purpose pollution control facility is defined as a single, integrated facility which is installed to meet standards for air or water pollution, or both, and which is also necessary to the manufacture of products. It refers to a facility in which the portion of the total facility to be identified as for the purpose of pollution control is so integrated into the total facility that physical separation into identifiable component parts—that is, that which is for manufacturing and that which is for pollution control—is not possible. If these criteria are met, the following net cost approach shall be used to determine tax exemption and/or credit.

The application for certification shall be filed with the Department of Revenue in accordance with chapter 82-.34 RCW and WAC 458-20-242A. Upon approval by the appropriate control agency, subject to the qualification that the facility described in the application is a dual purpose facility and that all requirements outlined in chapter 82.34 RCW are met, an exemption/credit certificate shall be issued. To determine the net cost attributable to the pollution control element of the dual function facility, the computations described in the following steps are required.

(1) Obtain cost estimates (for facilities under construction) and final cost figures (for completed facilities) directly related to the new dual function facility. (Actual allowable credits will be based on final costs of completed facilities.) Add to this final cost the amount of unrecovered depreciation on existing equipment replaced, if any. Subtract from this the salvage value of the replaced equipment, if and. Sales and use tax paid shall not be included as part of the facility cost.

(2) Determine the percentage that actual production capacity per unit of time of the existing plant equipment (before installation of the control facility) is of the actual capacity per unit of time of the new dual purpose facility. If the percentage so obtained is equal to or greater than 100 percent, use the figure obtained in step (1) for calculations commencing at step (3).

If the percentage so obtained is less than 100 percent, multiply that percentage times the figure derived in step (1) above. This figure represents the gross cost of constructing the new facility which meets pollution control requirements and obtains productive capacity of the existing plant. Productive capacity shall include all production of commercial or industrial value other than recovered or captured materials deductible from credits under provisions of RCW 82.34.060.

(3) All computations used to adjust the gross cost (as determined in step (2) above) shall be expressed in terms of current dollars at the start up date as defined in this step (3). To this end, a discount rate suitable for determining the present value of future income or expenditures is required. The basis of the discount rate will be the average cost of borrowed capital based on Aa Industrial Bonds as reported in Moody's Bond Record and the cost of equity capital as established by the price earnings ratio for the particular industry class as reported in The Value Line. This will be the average of amounts so reported for the 12 months preceding and 12 months succeeding the start up date. This date is the first date the new dual purpose facility is both in operation and in compliance with the requirements of the appropriate pollution control agency.

The discount rate to be applied will be a combination of these rates. The two rates shall be weighted 50/50. The same discount rate shall be used for all adjustments to the gross cost.

(4) The next step in the procedure is to calculate the present value of future capital that will not be spent at some specific future date due to the expenditure now of the amount determined in (2) above. This "specific future date" is the date determined by the department as the date of projected replacement of the existing plant absent the need to meet pollution control requirements. This will be the amount of expenditure calculated in (2) above multiplied by the discount factor (as determined by use of the discount rate as calculated in (3) above) which will equal the present worth of that amount of money received or expended on the date representing the end of the useful life of the existing plant by the new installation (the date of "projected replacement"). This calculated amount shall be reduced by the present value, if any, of the undepreciated balance that would remain after the end of the depreciation period for the new facility if construction had been delayed to the date used as the end of the useful life of the facility replaced. This net calculation is then subtracted from the amount computed as the "gross cost" in (2).

(5) From the amount determined in (4) deduct the present value, after deduction of a percentage equal to the maximum corporate federal income tax rate as of the start up date, of operating savings expected to accrue to the date of projected replacement used in (4) applying the discount factor for annual savings based on the discount rate calculated in (3). Operating savings shall not include the net commercial value of materials captured or recovered by virtue of the new installation deductible under RCW 82.34.060(2)(b).

(6) The next step is to deduct from the balance as computed in (5) the present net value of federal income tax savings to be derived from depreciation of the gross cost of the dual purpose facility due to its construction sooner than at the date of projected replacement using straight line depreciation over the useful life of the facility. The determination of net present value of federal income tax reductions due to depreciation allowances will consist of three steps.

(a) Calculate the present value of depreciation allowances from date of completion of the new facility using straight line depreciation to the projected replacement date.

(b) Deduct from (a) the present value to depreciation that would have been allowable after the date of full depreciation of the new facility had been delayed until the projected replacement date of the existing facility.

(c) Multiply the result of (a) minus (b) by the maximum corporate federal income tax rate as of the start up date.

The net amount of federal tax benefits arrived at in (c) shall then be deducted from the balance determined in step (5).

(7) The remaining amount from that calculated in (2) after adjustments provided for in steps (3) through (6) is the "net cost" of pollution control equipment to be used as the base for calculation of credits.

Calculation of Credits

A. Determine 2 percent of the amount computed in step 7. this is the gross annual credit.

B. Multiply the amount shown in step (7) by 50 percent to determine maximum total credit allowable.

C. The gross credit allowable per year must first be reduced by the net commercial value of captured or recovered materials. Captured or recovered materials means materials which, but for compliance with pollution control requirements, would be discharged into the air or water and which discharge is required to be reduced or eliminated by requirements of the appropriate pollution control agency. The result is the *net* credit allowable per year.

The formula for "C" is the value of materials captured or recovered from the new plant less the value of materials which would have been captured or recovered over a comparable period of time from the existing plant, but for compliance with pollution control requirements, multiplied by the percentage derived by dividing net cost (step 7) by total cost (step 1).

If the net commercial value of recovered materials exceeds the gross credit allowable per year, the excess must be carried forward for purposes of reducing credits for future years. The amount of the net commercial value of recovered materials reduces both the annual and total credit allowable.

D. Determine the total amount of Federal Investment Tax Credit or other federal tax credit actually received. Then multiply this tax credit by the percentage which the net cost portion (step 7) is to the total cost of the facility (step 1) to arrive at the portion of the tax credit applicable to the pollution control element of the dual purpose facility.

E. Deduct the amount determined in step (D) from the amount determined in step (C) until total federal tax credits are totally offset. This is to be an annual calculation.

F. If the annual amount of net credit to be taken after computation through step (E) exceeds 50 percent of the firm's tax liability under chapters 82.04, 82.12, and 82.16 RCW, it must be reduced to 50 percent of such tax liability.

Adopted December 8, 1977. [Order ET 77-1, § 458-20-242B, filed 12/8/77.]

WAC Appendix The Buck Act APPENDIX--BUCK ACT

AN ACT OF CONGRESS COMMONLY KNOWN AS THE BUCK ACT H. R. 6687

AN ACT TO PERMIT THE STATES TO EXTEND THEIR SALES, USE, AND INCOME TAXES TO PERSONS RESIDING OR CARRYING ON BUSINESS, OR TO TRANSACTIONS OCCURRING, IN FEDERAL AREAS, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

Section 1.

a. That no person shall be relieved from liability for payment of, collection of, or accounting for any sales or use tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, on the ground that the sale or use, with respect to which such tax is levied, occurred in whole or in part within a Federal area; and such State or taxing authority shall have full jurisdiction and power to levy and collect any such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

b. The provisions of subsection "a" shall be applicable only with respect to sales or purchases made, receipts from sale received, or storage or use occurring, after December 31, 1940.

Section 2.

a. No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

b. The provisions of subsection "a" shall be applicable only with respect to income or receipts received after December 31, 1940.

Section 3.

a. The provisions of sections 1 and 2 of this Act shall not be deemed to authorize the levy or collection of any tax on or from the United States or any instrumentality thereof, or the levy or collection of any tax with respect to sale, purchase, storage, or use of tangible personal property sold by the United States or any instrumentality thereof to any authorized purchaser.

b. A person shall be deemed to be an authorized purchaser under this section only with respect to purchases which he is permitted to make from commissaries, ship's stores, or voluntary unincorporated organizations of Army or Navy personnel, under regulations promulgated by the Secretary of War or the Secretary of the Navy.

Section 4.

The provisions of the Act shall not for the purposes of any other provision of law be deemed to deprive the United States of exclusive jurisdiction over any Federal area over which it would otherwise have exclusive jurisdiction or to limit the jurisdiction of the United States over any Federal area.

Section 5.

Nothing in sections 1 and 2 of this Act shall be deemed to authorize the levy or collection of any tax on or from any Indian not otherwise taxed.

Section 6.

As used in this Act:

a. The term "person" shall have the meaning assigned to it in section 3797 of the Internal Revenue Code.

b. The term "sales or use tax" means any tax levied on, with respect to, or measured by, sales, receipts from sales, purchases, storage, or use of tangible personal property, except a tax with respect to which the provisions of section 10 of the Federal Highway Act, approved June 16, 1936, are applicable.

c. The term "income tax" means any tax levied on, with respect to, or measured by, net income, gross income, or gross receipts.

d. The term "State" includes any Territory or possession of the United States.

e. The term "Federal area" means any lands or premises held or acquired by or for the use of the United States or any department, establishment, or agency of the United States, and any Federal area, or any part thereof, which is located within the exterior boundaries of any State shall be deemed to be a Federal area located within such State.

Section 7.

a. Subsection "a" of section 10 of the Federal Highway Act, approved June 16, 1936, is amended (1) by striking out the words "upon sales of gasoline and other motor vehicle fuels" and inserting in lieu thereof the words "upon, with respect to, or measured by, sales, purchases, storage, or use of gasoline or other motor vehicle fuels;" and (2) by striking out the words "upon such fuels" and inserting in lieu thereof the words "with respect to such fuels."

b. Subsection "b" of such section 10 is amended by striking out the words "not sold for the exclusive use of the United States during" and inserting in lieu thereof the words "with respect to which taxes are payable under subsection "a" for."

Passed by the 76th Congress and
signed by the President on October 9, 1940.

WAC 458-20-243 (Rule 243) Litter tax. Section 12, chapter 307, Laws of 1971 1st ex. sess., levies an annual litter assessment upon manufacturers, wholesalers, and retailers of certain products. The rate of this special tax is .00015 (.015%) and it applies to sales within this state made on and after May 21, 1971.

The tax is to be computed on and paid with the last return for the calendar year. Space on this return designated as line 34-A is to be used for reporting the litter tax.

The measure of the tax is the gross proceeds of the sales of the business and will apply to places of business on sales of products falling into the thirteen categories listed in section 13 of the law which are defined as follows:

1. **Food for human or pet consumption** means any substance, except drugs, the chief general use of which is for human or pet nourishment, including candy, chewing gum, and condiments. It includes sales of meals, snacks, lunches, or other food by restaurants, drive-ins, snack bars, concessions, and taverns. Drugs means substances or products appearing in the latest listing of U.S. Pharmacopoeia or National Formulary the chief general use of which is as medicine for treating disease, healing, or relieving pain, but excluding devices, apparatus, instruments, prostheses and the like.

2. **Groceries** means all products, except drugs, sold by persons in a place of business selling food for off premises consumption, but excluding building materials, clothing, furniture, and appliances.

3. **Cigarettes and tobacco products** include all of the products subject to the excise taxes of chapters 82.24 and 82.26 RCW.

4. **Soft drinks and carbonated waters** means all beverages, excluding liquor as defined by Title 66 RCW or rules and regulations of the Washington State Liquor Control Board, but including fruit juices, milk, and all mixtures or dilutions of nonalcoholic beverages.

5. **Beer and other malt beverages** means all beverages defined as beer or malt liquor by Title 66 RCW or rules and regulations of the Washington State Liquor Control Board.

6. **Wine** means all alcoholic beverages defined as wine in Title 66 RCW or rules and regulations of the Washington State Liquor Control Board.

7. **Newspapers and magazines** means all daily and periodical publications.

8. **Household paper and paper products** means materials or substances made into sheets or leaves from natural organic or synthetic fibrous material for home or other personal use. It includes also products or articles made from such sheets or leaves for home or other personal use.

9. **Glass containers** means articles made wholly or in substantial part of processed silicates which can be, or are, used to hold other things within themselves.

10. **Metal containers** means articles made wholly or in substantial part of materials such as iron, steel, tin, aluminum, copper, zinc, lead, silver and any alloys thereof and which can be, or are, used to hold other things within themselves.

11. **Plastic or fiber containers made of synthetic material** means articles which can be, or are, used to hold other things within themselves and which are made of synthetically produced ethylene derivatives, resins, waxes, adhesives, or polymers or by synthesis of fiber materials with adhesives, polymers, waxes, resins, or other materials. It includes containers made of paper, pasteboard, or cardboard in which the container materials consists of fibrous substances synthesized with other materials. Synthetic material means that produced by synthesis which is the process of making or building up by a composition or union of simpler parts or elements as distinguished from the process of extraction or refinement.

12. **Cleaning agents** means all soaps, detergents, solvents, or other cleansing substances used for cleaning buildings, places, persons, animals, or other things.

Toiletries means all substances such as soap, powder, cologne, perfume, cosmetics, toothpaste, etc., used in connection with personal dressing or grooming.

13. **Nondrug drugstore sundry products** means all products, goods, or articles, except drugs, sold by persons in a place of business selling drugs, but excluding building materials, clothing, furniture, and appliances.

"Place of business" for purposes of this rule means any location, department, or division even though it be a part of a larger business operation provided it is separate from such other or additional business physically, operationally, and in its books and records. Thus, a department store which consists of a grocery department and a clothing department, each with its own space and having separate employees, cash registers, and accounting records would not be subject to the groceries litter tax on the sales of its clothing department merely because it was located in the same building and under the same ownership as the grocery department.

"Gross proceeds of the sales of the business" means the value proceeding or accruing from the sale of tangible personal property and/or for services rendered without any deduction for costs or expenses. In the case of publishers of newspapers and magazines the measure of the litter tax is the same as specified in WAC 458-20-143 for business and occupation tax; i.e., gross income from the publishing business including advertising income.

The law intends that the tax be limited to sales within this state and therefore there may be deducted from the measure of the tax sales to persons in other states or transfers to points outside the state without sale. Out of state firms making sales in or into Washington will be subject to the litter tax under the principles set out for business and occupation tax in WAC 458-20-193B.

Persons operating drugstores may report and pay the litter tax measured by 50% of total sales in lieu of separately accounting for sales of drugstore sundry products. Persons operating grocery stores may report and pay the litter tax measured by 95% of total sales in lieu of separately accounting for grocery and nongrocery products sold. [Order ET 71-2, § 458-20-243, filed 10/27/71.]

WAC 458-20-244 (Rule 244) Food products. Initiative Measure No. 345, approved November 8, 1977, added new subsections to RCW 82.08.030 and RCW 82.12.030 exempting certain food products for human consumption away from the retailer's premises from retail sales tax and use tax. There is no food products exemption for business and occupation tax. The effective

date of these exemptions is July 1, 1978. The word "tax" as used hereafter in this rule means retail sales tax. "Food products" include generally those products normally ingested by humans for nourishment; but the term excludes seeds, seedlings, trees, and the like, for home gardens, as well as breeding stock of animals, birds, insects, and other animate creatures.

The law exempts most, but not all, food products from tax, but even the food products qualified for exemption are made subject to tax by the law if any one of the following circumstances is present:

a. The food products are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware whether provided by the seller or by a person with whom the retailer contracts to furnish, prepare, or serve food products to others;

OR,

b. The food products are ordinarily sold for immediate consumption on or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location. Where such facilities are provided the tax applies even if the food products are sold on a "take out" or "to go" order and it is immaterial that the products are actually packaged or wrapped and that they are in fact taken from the premises of the retailer;

OR,

c. The food products are sold for consumption within a place (except national or state parks or monuments), the entrance to which is subject to an admission charge. But, even if the admission–charged place is a national or state park or monument such that the admission charge does not negate the exemption, the tax will apply if either circumstances a or b above are present.

VENDORS WHO ARE REQUIRED TO COLLECT TAX:

1. Sales of food products are subject to tax when sold by cafes, caterers, restaurants, pizza parlors, food drive–ins, vending machine operators, and businesses which are operated in such a way as to invite or permit consumption of the food at or near the premises where the food is sold. This circumstance is presumed to occur where customers are provided facilities for immediate consumption of food sold, such as tables, chairs, or counters; trays, glasses, dishes, or tableware (whether reusable or not); or a nearby parking area available for immediate use of customers in consuming the food. It is the intent of the law that tax be charged by retailers who sell food products ready for consumption at or near the premises of the vendor by furnishing cups, spoons, straws or the like to facilitate immediate consumption. If such facilities are provided the tax applies even though the food is sold, packaged, or wrapped "to go" and even if the food is in fact removed from the premises of the retailer and is consumed elsewhere. The test is not where the food is actually consumed but whether the customer is provided any of the described facilities for consumption of the food.

2. Sales by theaters, fair grounds concessions, athletic arena concessions, and any other businesses selling food products within a place to which an admission price is charged are taxable. The only exceptions as to admission–charged areas are national or state parks or monuments, but even sales of food products within such state or national areas are taxable if customers are provided facilities for consumption as described in paragraph #1.

EXEMPT AND TAXABLE SALES BY GROCERS:

The following are lists of exempt and taxable items normally sold by grocery stores, supermarkets, and similar businesses. The examples are meant to be illustrative and are not all inclusive.

The exempt products listed are exempt when sold for off premises consumption but are taxable if sold for immediate consumption as described in paragraph #1 above.

Exempt if Consumption Facilities Not Provided

- Baby foods
- Bakery products
- Baking Soda
- Bouillon cubes
- Candy
- Cereal products
- Chocolate
- Cocoa
- Coffee and coffee substitutes
- Condiments
- Crackers
- *Diet food
- Eggs, egg products
- Extracts and flavoring for food
- Fish, fish products
- Flour
- Food coloring
- Frozen foods
- Fruit, fruit products
- Gelatin
- Honey
- Ice cream, toppings
- Jam, jelly, jello
- Marshmallows
- Mayonnaise
- Meat, meat products
- Milk, milk products
- Mustard
- Noncarbonated soft drinks
- Nuts
- Oleomargarine
- Olives, olive oil
- Peanut butter
- Popcorn
- Popsickles
- Potato chips
- Powdered drink mixes
- Sandwich spreads
- Sauces
- Sherbet
- Shortening
- Soup
- Sugar, sugar products, *Health foods
- Sugar substitutes
- Syrups
- Tea
- Vegetables, vegetable products
- Yeast

The products listed as taxable are subject to tax however sold or prepared.

Specific Classes Of Items Taxable In All Cases

- Alcoholic beverages
- Aspirin
- Beer or wine making supplies
- Calcium tablets
- Carbonated beverages
- Chewing tobacco
- Cod liver oil
- Cough medicines (liquid or lozenge)
- *Dietary supplements or adjuncts
- First aid products
- Ice, bottled water (mineral or otherwise)
- Mouthwashes
- Nonedible cake decorations
- Nonprescription medicines
- Patent medicines
- Pet food and supplies
- Seeds and plants for gardens
- Tonics, vitamins
- Toothpaste

*NOTE: Sales of dietary supplements which are subject to regulation by the U.S. Federal Drug Administration are subject to tax. Regulated dietary

supplements are those preparations which provide 50 percent or more of the U.S. Recommended Daily Allowance (U.S. RDA) of essential vitamins and minerals per serving.

Health foods or dietary preparations containing less than 50 percent of U.S. RDAs per serving may be sold tax exempt as food and FDA regulations (21 CFR, chapter I, Part 80) adopted October 12, 1976, effective January 1, 1978, prohibit any claim that such preparations are "dietary supplements." Dietary supplements do not include any food in its raw or natural state, which means that nothing has been done to the product, other than superficial treatment (such as washing its surface), to change the product physically or chemically before marketing.

Dietary adjuncts are vitamin/mineral preparations taken to meet special vitamin or mineral needs occasioned by drug therapy. Dietary adjuncts are not tax exempt food products.

Retailers of food products are required to keep adequate records to demonstrate that any sales claimed tax exempt in fact qualify for exemption under this rule and the law.

COMBINATION BUSINESS:

Persons operating a combination of two businesses at one location, one of which provides facilities for consumption on the premises (see paragraph #1, "Vendors Who Are Required to Collect Tax"), such as a lunch counter along with a grocery store or a cafe along with a bakery, are required to keep their inventories, accounting records, and sales receipts segregated between the two businesses. If the two businesses are commingled in operation and accounting, all sales will be deemed subject to tax.

COMBINATION PACKAGES:

When a package consists of both food and nonfood products, such as a holiday or picnic basket containing beer and pretzels, cups or glasses containing food items, or carbonated beverages along with cheese and crackers, the food portion may be tax exempt if its price is stated separately; if the price is a lump sum, the tax applies to the entire price.

However, promotional give–aways of nonfood items to enhance food sales, such as coffee sold in a decorative apothecary container or cheese sold in a serving dish are not taxable and are not deemed combination packages where it is clear that the container or dish is simply a gift furnished as a sales inducement for the food. In the same way, promotional give–aways of food items as an inducement for sales of nonfood items are not exempt (e.g., the sale of fancy crystal ware containing candy or nuts is fully subject to sales tax).

COMMISSARIES OR GROCERY SHOPS IN INSTITUTIONS OR OTHER RESTRICTED (NOT OPEN TO THE PUBLIC) AREAS:

Food products sold by commissaries which restrict sales generally to residents, inmates, or a similarly limited group of customers are tax exempt if the food products are for consumption away from the general area reserved for merchandizing such products.

OTHER FOOD VENDORS:

1. Restaurants and transportation companies (e.g., air, rail, water), and businesses furnishing meals to employees, see Rule 119 [WAC 458–20–119].

2. Hotels, motels, boarding or rooming houses, resorts, and trailer camps, see Rule 166 [WAC 458–20–166].

3. Religious, charitable, benevolent, and nonprofit service organizations, see Rule 169 [WAC 458–20–169].

4. Certain persons, groups, or institutions purchase food products for purposes of serving meals to individuals and historically have been required to pay sales tax as consumers on such purchases because of a unique relationship between the food purchases and the nature of the services rendered by such groups. Food sales taxed in this way were the following:

(a) Furnishing of meals by hospitals, rest homes, sanitariums, and similar institutions to patients as a part of the service rendered in the conduct of such institutions.

(b) Serving of meals to members by fraternities, sororities, and other similar groups who reside in one place and jointly share the expenses of the household including expenses of meals provided by them.

(c) Providing of meals by public schools, high schools, colleges, universities, or private schools operating lunch rooms, cafeterias, or dining rooms for the exclusive purpose of providing students and faculty with meals as a part of the educational program.

(d) Providing of meals by guest ranches or summer camps which, in addition to supplying meals and lodging, offer special recreation facilities and instruction in sports, boating, riding, outdoor living, etc., and which make an unsegregated charge for meals, lodging, and services, and report such charges under the service classification as provided by Rule 166 [WAC 458–20–166].

Since purchase of food products in any of these four situations has been subject to sales tax in the past, the food products exemption applies to these purchases of food products for human consumption. However, sales of meals by such groups in circumstances other than furnishing them in connection with services in the four situations described above are governed by Rule 119 [WAC 458–20–119]. Further, when such groups do not provide their own meals, but the meals are purchased

from caterers or concessionaries, the caterers or concessionaries are making retail sales subject to the tax.

USE TAX:

All of the foregoing provisions of this rule dealing with sales tax are equally applicable with respect to the use tax of chapter 82.12 RCW.

Adopted April 21, 1978 [Statutory Authority: RCW 82.01.060(2) & 82.32.300. 78-05-041 (Order ET 78-1), § 458-20-244, filed 4/21/78, effective 7/1/78.]

Reviser's Note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

Chapter 458-24 WAC
UNFAIR CIGARETTE SALES ACT RULES AND REGULATIONS

WAC

458-24-010 General.
458-24-020 Unlawful practices.
458-24-030 Licenses, bond.
458-24-040 Legal action, remedies.
458-24-050 Administrative remedies.
458-24-060 Form and contents of petition.

WAC 458-24-010 General. Chapter 19.91 RCW (chapter 286, Laws of 1957, as amended) defines certain unlawful practices by wholesalers and retailers of cigarettes, prescribes penalties for violations, provides remedies for persons injured by competitors violating provisions of the chapter, and requires payment of special annual license fees by wholesalers and retailers of cigarettes.

These rules are intended to summarize certain of the provisions of chapter 19.91 RCW and to promulgate rules and regulations authorized by RCW 19.91.130 and 19.91.180. [Order ET 72-2, § 458-24-010, filed 9/29/72.]

WAC 458-24-020 Unlawful practices. (1) It is unlawful for any retailer or wholesaler of cigarettes with intent to injure competitors, destroy or substantially lessen competition to:

(a) advertise, offer, or sell at less than cost;

(b) offer or give a rebate in price, the effect of which would be a sale at less than cost, or;

(c) offer or give a concession of any kind, the effect of which would be a sale at less than cost.

(2) It is unlawful for a cigarette retailer with intent to injure competitors, destroy or substantially lessen competition to:

(a) purchase or attempt to purchase cigarettes at less than cost to wholesalers, or

(b) get or attempt to get a rebate or concession, the effect of which would be a purchase at less than cost to wholesalers.

(3) It is unlawful to engage in the business of purchasing, selling, consigning or distributing cigarettes without holding a current and valid cigarette wholesalers or retailers license issued by the department of revenue.

(4) Commission of any of the unlawful practices proscribed by RCW 19.91.020 is a misdemeanor and, in addition, the law provides for a fine up to $500 for each offense. [Order ET 72-2, § 458-24-020, filed 9/29/72.]

WAC 458-24-030 Licenses, bond. (1) "Wholesaler" means any person who

(a) purchases cigarettes directly from the manufacturer, or

(b) purchases cigarettes from others for sale to persons who will resell such cigarettes in the regular course of business, or

(c) services retail outlets through an established place of business for the purchase, warehousing, and distribution of cigarettes.

Each wholesaler shall, prior to July 1 of each year, make application for a wholesale cigarette dealer's license on forms supplied by the department of revenue (SF 8695) and remit therewith the license fee of $300. If the wholesaler sells, or intends to sell, cigarettes at more than one place of business, whether temporary or established, a separate license with a license fee of $25 shall be required for each additional place of business. Each license shall be exhibited in the place of business for which it is issued. "Place of business" means any location where business is transacted with, or sales are made to, customers. It includes any vehicle, truck, vessel, or the like at which sales are made.

Each licensed wholesaler shall file a bond with the department in an amount determined by the department, which amount shall not be less than $1,000. The bond shall be executed by the wholesaler as principal, and by a corporation approved by the department and authorized to engage in business as a surety company in this state, as surety. The bond shall run concurrently with the wholesaler's license.

(2) "Retailer" means any person who makes sales of cigarettes at retail whether by operation of a store, stand, booth, concession, vending machine or other manner whatsoever.

Each retailer shall, prior to July 1 of each year, make application for a retail cigarette dealer's license on forms supplied by the department and remit therewith the license fee of $5. Retailers operating cigarette vending machines are required to pay an additional annual license fee of $1 for each such vending machine.

(3) Persons may sell cigarettes both at retail and wholesale only if appropriate licenses are first secured for both such capacities. [Order ET 72-2, § 458-24-030, filed 9/29/72.]

WAC 458-24-040 Legal action, remedies. (1) A criminal action may be filed for commission of any of the unlawful practices listed in RCW 19.91.020.

(2) A civil action may be maintained under RCW 19.91.110 in any court of equitable jurisdiction by any person injured because of any violation of chapter 19.91

from caterers or concessionaries, the caterers or concessionaries are making retail sales subject to the tax.

USE TAX:

All of the foregoing provisions of this rule dealing with sales tax are equally applicable with respect to the use tax of chapter 82.12 RCW.

Adopted April 21, 1978 [Statutory Authority: RCW 82.01.060(2) & 82.32.300. 78-05-041 (Order ET 78-1), § 458-20-244, filed 4/21/78, effective 7/1/78.]

Reviser's Note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

Chapter 458-24 WAC
UNFAIR CIGARETTE SALES ACT RULES AND REGULATIONS

WAC

458-24-010 General.
458-24-020 Unlawful practices.
458-24-030 Licenses, bond.
458-24-040 Legal action, remedies.
458-24-050 Administrative remedies.
458-24-060 Form and contents of petition.

WAC 458-24-010 General. Chapter 19.91 RCW (chapter 286, Laws of 1957, as amended) defines certain unlawful practices by wholesalers and retailers of cigarettes, prescribes penalties for violations, provides remedies for persons injured by competitors violating provisions of the chapter, and requires payment of special annual license fees by wholesalers and retailers of cigarettes.

These rules are intended to summarize certain of the provisions of chapter 19.91 RCW and to promulgate rules and regulations authorized by RCW 19.91.130 and 19.91.180. [Order ET 72-2, § 458-24-010, filed 9/29/72.]

WAC 458-24-020 Unlawful practices. (1) It is unlawful for any retailer or wholesaler of cigarettes with intent to injure competitors, destroy or substantially lessen competition to:

(a) advertise, offer, or sell at less than cost;

(b) offer or give a rebate in price, the effect of which would be a sale at less than cost, or;

(c) offer or give a concession of any kind, the effect of which would be a sale at less than cost.

(2) It is unlawful for a cigarette retailer with intent to injure competitors, destroy or substantially lessen competition to:

(a) purchase or attempt to purchase cigarettes at less than cost to wholesalers, or

(b) get or attempt to get a rebate or concession, the effect of which would be a purchase at less than cost to wholesalers.

(3) It is unlawful to engage in the business of purchasing, selling, consigning or distributing cigarettes without holding a current and valid cigarette wholesalers or retailers license issued by the department of revenue.

(4) Commission of any of the unlawful practices proscribed by RCW 19.91.020 is a misdemeanor and, in addition, the law provides for a fine up to $500 for each offense. [Order ET 72-2, § 458-24-020, filed 9/29/72.]

WAC 458-24-030 Licenses, bond. (1) "Wholesaler" means any person who

(a) purchases cigarettes directly from the manufacturer, or

(b) purchases cigarettes from others for sale to persons who will resell such cigarettes in the regular course of business, or

(c) services retail outlets through an established place of business for the purchase, warehousing, and distribution of cigarettes.

Each wholesaler shall, prior to July 1 of each year, make application for a wholesale cigarette dealer's license on forms supplied by the department of revenue (SF 8695) and remit therewith the license fee of $300. If the wholesaler sells, or intends to sell, cigarettes at more than one place of business, whether temporary or established, a separate license with a license fee of $25 shall be required for each additional place of business. Each license shall be exhibited in the place of business for which it is issued. "Place of business" means any location where business is transacted with, or sales are made to, customers. It includes any vehicle, truck, vessel, or the like at which sales are made.

Each licensed wholesaler shall file a bond with the department in an amount determined by the department, which amount shall not be less than $1,000. The bond shall be executed by the wholesaler as principal, and by a corporation approved by the department and authorized to engage in business as a surety company in this state, as surety. The bond shall run concurrently with the wholesaler's license.

(2) "Retailer" means any person who makes sales of cigarettes at retail whether by operation of a store, stand, booth, concession, vending machine or other manner whatsoever.

Each retailer shall, prior to July 1 of each year, make application for a retail cigarette dealer's license on forms supplied by the department and remit therewith the license fee of $5. Retailers operating cigarette vending machines are required to pay an additional annual license fee of $1 for each such vending machine.

(3) Persons may sell cigarettes both at retail and wholesale only if appropriate licenses are first secured for both such capacities. [Order ET 72-2, § 458-24-030, filed 9/29/72.]

WAC 458-24-040 Legal action, remedies. (1) A criminal action may be filed for commission of any of the unlawful practices listed in RCW 19.91.020.

(2) A civil action may be maintained under RCW 19.91.110 in any court of equitable jurisdiction by any person injured because of any violation of chapter 19.91

RCW in order to prevent, restrain, or enjoin such violation and for recovery of costs, attorney's fees, and damages. Under RCW 19.91.060(2) an injured party may elect not to seek injunctive relief but upon proof of actual damages, may recover the same plus costs and attorney's fees. If injunctive relief is sought the same may be awarded upon establishment of violation, whether or not damages are alleged or proved. [Order ET 72-2, § 458-24-040, filed 9/29/72.]

WAC 458-24-050 Administrative remedies. (1) Any licensed cigarette retailer or wholesaler, believing himself injured by a competitor violating any provision of chapter 19.91 RCW or chapter 458-24 WAC, may file with the department of revenue, Olympia, Washington, a petition for a hearing and request an opportunity to present the evidence referred to in RCW 19.91.080 pertaining to "cost to the retailer" or "cost to the wholesaler", or in RCW 19.91.020(4) pertaining to evidence of advertisements, offers, or sales at less than cost, evidence of rebates or concessions given or offered resulting in sales at less than cost, or such other evidence as may tend to show that the competitor complained against has violated the law with intent to injure, destroy, or substantially lessen competition. Such petition shall conform to WAC 458-24-060 as to form and contents.

(2) Upon receipt of such a petition the department will promptly consider the petition and may grant or deny it, depending on whether in its judgment sufficient probable cause exists that a violation has occurred. One copy of the petition shall be furnished by the petitioner to the dealer complained against.

(3) If the hearing is granted, the department will give written notice to the petitioner and the dealer complained against of the time and date of hearing. All such hearings will be held before the director of the Interpretation and Appeals Division or his designee in the department's Olympia offices unless otherwise specified in the notice of hearing.

(4) The hearing will be conducted in accordance with the provisions of chapter 34.04 RCW and the petitioner and person complained against will each be given an opportunity to present evidence and argument at the hearing. The right to appear in a representative capacity in such hearings shall be limited to

(a) taxpayers who are natural persons representing themselves;

(b) attorneys duly qualified and entitled to practice in the courts of the state of Washington; or

(c) attorneys entitled to practice before the highest court of record of any other state, if attorneys licensed in Washington state are permitted to appear before the courts of such other state in a representative capacity.

(5) After the hearing the department will issue an order setting out such determination as may appear to it to be just and lawful and will mail a copy thereof to the petitioner and the person complained against. The department may revoke or suspend the license or permit of any wholesale or retail dealer found to have violated the provisions of chapter 19.91 RCW or chapter 458-24 WAC. Upon a finding by the department of a failure to comply with the provisions of either, it shall

(a) for the first offense, suspend the license or licenses of the offender for not less than 5 nor more than 20 consecutive business days;

(b) in the case of a second or plural offender, suspend the license or licenses of the offender for not less than 20 consecutive days nor more than 12 months;

(c) in the event of finding the offender guilty of wilful and persistent violations, revoke the offender's license or licenses. [Order ET 72-2, § 458-24-050, filed 9/29/72.]

WAC 458-24-060 Form and contents of petition. (1) The petition shall set forth the following:

(a) the name and address of the complaining party who shall be the petitioner;

(b) the name and address of the person against whom the complaint is made;

(c) the nature of the complaint in clear and concise language with sufficient detail to notify the department of the specific violation or violations which constitute the subject matter of the complaint; and

(d) those facts which complainant alleges as of his own knowledge and those facts that are alleged on information and belief.

(2) The petition shall be signed by the party making the complaint and the facts alleged in the complaint, except those facts alleged to be on information and belief, shall be sworn to by the petitioner. [Order ET 72-2, § 458-24-060, filed 9/29/72.]

Chapter 458-28 WAC
TAXATION OF FINANCIAL BUSINESSES BY CITIES OR TOWNS

WAC

458-28-010 Scope of rule.
458-28-020 Gross income defined.
458-28-030 Deductions.
458-28-040 Branch locations, division of income.

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 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 458-30 WAC
OPEN SPACE TAXATION ACT RULES

WAC

458-30-005 Definitions.
458-30-010 Classified lands.
458-30-015 Agreement.
458-30-020 Application.
458-30-025 Application fee.
458-30-030 Withdrawal—Change of use.
458-30-045 Removal of a portion.
458-30-050 Removal of classification.
458-30-055 Notification upon removal.
458-30-056 Additional tax.
458-30-057 Penalty.
458-30-060 Additional tax—Date due.
458-30-070 Agreement may be abrogated by legislature.
458-30-075 Assessor.
458-30-080 Assessor to act on agricultural classification.
458-30-085 Assessor to determine value.
458-30-090 Assessor may require reports—Failure to comply.
458-30-095 Assessor to note classification on assessment and tax roll.
458-30-100 Assessor to record agreement and other notices.
458-30-105 Notice of withdrawal to be filed with assessor—Assessor to withdraw.
458-30-110 Assessor to notify owner of value change.
458-30-115 Granting authority.
458-30-120 Granting authority's action on application.
458-30-125 Owner applicant.
458-30-130 Treasurer.
458-30-135 Advisory committee.
458-30-140 Basis for assessment.
458-30-145 Valuation procedures.
458-30-146 Valuation cycle.
458-30-150 Change of timber land classification to chapter 84.33 RCW.
458-30-155 Reclassification of farm and agricultural land under 1973 amendatory act.
458-30-160 Training.

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.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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.

458-30-065 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.

WAC 458-30-005 Definitions. "Additional tax" shall mean the difference between the property tax paid as "open space land", "farm and agricultural land" or "timber land" and the amount of property tax otherwise due and payable for the seven years last past had the land not been so classified plus interest upon the amounts of such additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which such additional tax could have been paid without penalty if the land had been assessed without regard to classification.

"Approval" means a determination by the granting authority or county assessor that the land qualifies for classification under chapter 84.34 RCW.

"Assessment year" shall mean the year in which the property is listed and assessed by the county assessor which shall be the year prior to the year the tax is due and payable.

"Classified lands," within the meaning of these rules, shall mean those lands that have been qualified through use of the appropriate procedure for taxation under the "Open Space Taxation Act."

"Commercial purposes," shall mean presently being used in a continuous and regular effort and with an intent to obtain a monetary profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of or products of livestock, poultry, furbearing animals, or honey bees, or for dairying and sale of dairy products of any other agricultural or horticultural use of animal husbandry or any combination thereof. The determination of qualifications of a commercial purpose will be determined by the use of the farm in the past or by submission of a farm management plan.

"Conjunction" will have as its ordinary meaning parcels of land containing appurtenances which are separated from or contiguous with farm and agricultural land which parcel in itself could not qualify because of size or income but is being used in association with the farm and agricultural land.

"Contiguous" means land adjoining and touching other property held by the same ownership. Land divided by a public road, railroad, public right of way, or waterway, but otherwise an integral part of a farming operation, shall be considered contiguous.

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

"Farm woodlots" land areas of 5 to 20 acres within the farm and agricultural land classification not devoted to agricultural purpose but devoted to the growth and harvest of forest crops. Farm woodlots shall be valued at the agricultural land value.

"Net cash rental" shall mean earning or productive capacity.

"Parcel of land" shall mean any contiguous ownership.

"Principle or primary use" shall mean the classified use of a parcel of land such that it limits or excludes other uses. In other words, a "principle" or "primary" use is a use that would be reflected in the total character of a designated parcel of land in such a manner that effectively excludes other unrelated uses.

"Qualification" of land shall mean that application for classification has been approved either by (1) the granting authority in the case of open space and timber land and that an Open Space Taxation Agreement has been signed and returned to the granting authority, or by (2) the county assessor in the case of farm and agricultural land.

The term "power of eminent domain" as used in RCW 84.34.080, applies to the exercise of that power by any entity, public or private, which has authority to use it. [Order PT 73-9, § 458-30-005, filed 10/30/73. Prior: 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.]

WAC 458-30-010 Classified lands. Land shall be classified under one of three categories described as:

(1) "Open Space Land" means

(a) any land area so designated by an official comprehensive land use plan adopted by any city or county and zoned accordingly or

(b) any land area, the preservation of which in its present use would

(i) conserve and enhance natural or scenic resources, or

(ii) protect streams or water supply, or

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

(iv) enhance the value to the public of abutting or neighboring parks, forest, wildlife preserves, natural reservations or sanctuaries or other open space, or

(v) enhance recreation opportunities, or

(vi) preserve historic sites, or

(vii) retain in its natural state tracts of land of not less than five acres situated in an urban area and open to public use on such conditions as may be reasonably required by the Legislative Body granting the open space classification.

Open space land, with no current use, shall not receive an assessed valuation less than that which would result if the land was to be assessed for agricultural uses.

(2) "Farm and agricultural land" means either

(a) Land in any contiguous ownership of twenty or more acres devoted primarily to the production of livestock or agricultural commodities for commercial purposes; or

(b) any parcel of land five acres or more but less than twenty acres devoted primarily to agricultural uses, which has produced a gross income from agricultural uses equivalent to one hundred dollars or more per acre per year for three of the five calendar years preceding the date of application for classification under this act; or

(c) any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income of one thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this act.

Agricultural lands shall also include farm woodlots of less than twenty and more than five acres and the land on which appurtenances necessary to the production, preparation or sale of the agricultural products exist in conjunction with the lands producing such products.

Agricultural lands shall also include any parcel of land of one to five acres, which is not contiguous but which otherwise constitutes an integral part of farming operations being conducted on land qualifying under this section as "farm and agricultural lands."

(3) "Timber land" means land in any contiguous ownership of five or more acres which is devoted primarily to the growth and harvest of forest crops and which is not classified as reforestation land pursuant to chapter 84.28 RCW. Timber land means the land only.

The acreage and gross income requirements for farm and agricultural lands are conditions precedent for classification. Thereafter no part of the land can be devoted to any other purpose. It is not necessary that the income requirements be maintained after classification but the use of all the acreage must be so maintained.

Once land has been classified as farm and agricultural land, or as open space, or as timber land, the owner cannot change it from one use to the other. Different factors for each separate use must be considered by the granting authority before land can qualify for classification. Land classified as timber land does not mean that it would necessarily qualify as farm and agricultural, or open space land. Land that has been classified shall not be used for any purpose other than that for which it was classified.

A mining claim on the land sought to be classified would not necessarily prevent the land from being primarily used for one of the stated purposes. The granting authority must consider the effect of the claim on the land and whether it was of such a nature as to seriously interfere with its other use. If a mining claim is obtained after classification, the same determination must be made to decide whether the classified use had been materially changed.

If application is made to classify land where zoning exists, the zoning ordinance must effect. For example, if land is zoned against agriculture, land within that area could not be classified for agricultural use. [Order PT 73-9, § 458-30-010, filed 10/30/73. Prior: Order 71-2, § 458-30-010, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458-30-015 Agreement. The Open Space Taxation Agreement is a document prescribed by the State Department of Revenue containing conditions and requirements of open space and timberland as defined in RCW 84.34.020(1) and (3) and as determined by the granting authority.

Upon approval of the application, in whole or in part, by the granting authority, that body shall send the signed Open Space Taxation Agreement to the applicant for his signature within five days of the approval date, showing the land classification and conditions imposed.

The applicant may accept or reject the agreement. If the applicant accepts, he must sign and return the agreement to the granting authority.

All parties having a fee interest in the land, or all vendees in a real estate contract shall sign the Open Space Taxation Agreement.

In the event the interests are community property, the agreement shall be signed by both husband and wife.

The granting authority shall assume the agreement has been rejected by the applicant if the agreement is not signed and returned to the granting authority within twenty-five days after the mailing of the agreement by the granting authority.

The agreement shall be effective commencing upon the date the granting authority receives the signed agreement from the property owner.

When land has been classified as "open space" or "timber land" under this act, it shall remain under such classification and shall not be applied to other use for at least ten years from the date of classification and shall continue under such classification until and unless withdrawn from classification after notice or request for withdrawal shall be made by the owner.

The agreement shall run with the land described in the agreement and the conditions and requirements shall be binding upon the heirs, successors and assigns of the parties thereto. [Order PT 73-9, § 458-30-015, filed 10/30/73. Prior: Order 71-2, § 458-30-015, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458-30-020 Application. Application for classification as open space land, farm and agricultural land, and timber land shall be made from January 1 to December 31 (both dates inclusive) for classification and assessment to begin on January 1 in the year following application.

The Department of Revenue shall supply the county assessor with application forms for farm and agricultural land and open space land and timber land.

A. Applications for classification as farm and agricultural land shall be made directly to the assessor, who shall act on such applications.

Parcels of land of one to five acres, which is not contiguous, but which otherwise constitutes an integral part of farming operations being conducted on land qualifying for classification may be included in the application submitted for that farm and agricultural land.

B. Applications for classification as open space or timber land shall be made directly to the county legislative authority, which shall forward the application to the

appropriate granting authority who acts on such applications. If land is to be classified into open space and timber land only one application form is necessary; however, they must be separated by description and must be judged separately on their merits by the granting authority.

C. The following shall be applicable to all classifications:

(1) Land that lies in the jurisdiction of more than one granting authority shall require a separate application to be submitted for each portion of the land in each jurisdiction.

(2) Once an application is denied, an application covering the same land may not be submitted before one year has elapsed from the date of the original application. [Order PT 73-9, § 458-30-020, filed 10/30/73. Prior: Order 71-2, § 458-30-020, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458-30-025 Application fee. A reasonable fee, for processing the application, may be established by the city or county legislative authority.

The fee, if established, shall not exceed thirty dollars, a portion of which shall be used to pay the initial auditor's filing fee. The application fee shall accompany the application and shall be made payable to the county treasurer which fee shall, upon approval of the application for classification, be deposited in the general fund of the county. The treasurer shall forward the filing fee or portion thereof to the city if the land is located within a city.

If the application is denied, then the application fee shall be returned to the applicant. The application fee shall not be returned if the application is approved in part or the property owner does not return the signed agreement. [Order PT 73-9, § 458-30-025, filed 10/30/73. Prior: Order 71-2, § 458-30-025, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458-30-030 Withdrawal--Change of use. Land classified for current use tax purposes as open space, agricultural land, or timber land, shall remain under such classification and shall not be applied to any other use for at least ten years from the date of classification.

After the land has been in classification for eight years, the owner may file a request for withdrawal with the county assessor. The request for withdrawal may be on all or a portion of the land. The request for withdrawal shall be irrevocable.

When the county assessor receives the request for withdrawal, he shall, within seven days, transmit one copy of the request to the city or county legislative authority. [Order PT 73-9, § 458-30-030, filed 10/30/73. Prior: Order 71-2, § 458-30-030, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458-30-045 Removal of a portion. Should the use of a part of the parcel be changed, the remainder of the parcel shall be removed from classification and will be subject to the additional tax and penalty if it does not satisfy the requirements under which the entire parcel was originally classified.

If only a part of the parcel is withdrawn from classification using the proper withdrawal procedure, the remaining portion must satisfy the requirements of original classification.

Land shall be subject to the additional tax and penalty if the mandatory ten years have elapsed and the use is changed without filing a request for withdrawal with the assessor, or if the use is changed prior to two years following the request for withdrawal.

If the use of the land is changed before the mandatory ten years have elapsed, the owner shall notify the assessor of the county or counties within sixty days of the change. [Order PT 73-9, § 458-30-045, filed 10/30/73.]

WAC 458-30-050 Removal of classification. When land has once been classified as open space land, agricultural land or timber land, a notation of such designation shall be made each year upon the assessment and tax rolls. Such land shall be valued pursuant to the provisions of chapter 84.34 RCW and these rules until removal of all or a portion of such classification by the assessor upon the occurrence of any of the following:

(a) Receipt of notice from the owner to remove all or a portion of such classification;

(b) Passage of sixty days following the sale or transfer of all or a portion of such land to a new owner without receipt of a notice of compliance from the new owner. Notice of compliance forms shall be prepared by the State Department of Revenue and supplied by the county assessor. Said notice shall contain a statement that the new owner is aware of the use classification of the land and of the potential tax liability involved when such land ceases to be designated as open space land, agricultural land, or timber land;

(c) Sale or transfer to an ownership making all or a portion of such land exempt from ad valorem taxation;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that all or a portion of such land is no longer primarily devoted to and used for the purposes under which it was granted classification. [Order PT 73-9, § 458-30-050, filed 10/30/73.]

WAC 458-30-055 Notification upon removal. Within thirty days after such removal of all or a portion of such land from current use classification, the assessor shall notify the owner in writing, setting forth the reasons for such removal. The owner may appeal such removal to the next regular July meeting of the county board of equalization.

Unless the removal is reversed on appeal, the assessor shall revalue the affected land with reference to full market value on the date of removal from classification. The assessed valuation before and after the removal classification shall be listed and taxes shall be allocated according to that part of the year to which each assessed valuation applies. [Order PT 73-9, § 458-30-055, filed 10/30/73.]

WAC 458-30-056 Additional tax. (1) Land which is removed from classification shall be subject to an additional tax, unless the removal resulted solely from:

(a) Transfer to a government 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 sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land;

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

(e) Official action by an agency of the state of Washington or by the county or city within which the land is located which disallows the present use of such land;

(f) Transfer to a church and such land would qualify for property tax exemption pursuant to RCW 84.36.020. These conditions shall apply to the affected land only and shall not relieve any portion not so affected from the potential tax liability.

(2) The additional tax shall be equal to the sum of:

(a) The difference between the tax that was levied as classified lands and the tax that would have been levied for the last seven years, had the land not been classified; plus

(b) Interest at the statutory rate charged on delinquent property taxes (RCW 84.56.020) from April 30 of the year the tax would have been paid without penalty to the date the additional tax is paid. [Statutory Authority: RCW 84.34.141. 78-07-027 (Order PT 78-3), § 458-30-056, filed 6/16/78.]

WAC 458-30-057 Penalty. A penalty of twenty percent shall be added to the additional tax specified in WAC 458-30-056 unless the removal was the result of a notice from the owner to remove the land from classification, providing such notice was:

(1) Submitted after the land had been classified for not less than eight years; and

(2) Submitted not less than two years before the removal or change of use. [Statutory Authority: RCW 84.34.141. 78-07-027 (Order PT 78-3), § 458-30-057, filed 6/16/78.]

WAC 458-30-060 Additional tax--Date due. The additional tax shall be imposed which shall be due and payable to the county treasurer on or before April 30 of the following year. The assessor shall compute the amount of such additional tax and the treasurer shall mail notice to the owner of the amount thereof and the date on which payment is due.

Any additional tax and penalty unpaid on its due date shall thereupon become delinquent and together with applicable interest thereon, shall as of said date become a lien on such land which shall have priority to and shall be fully paid and satisfied before any recognizance, mortgage, judgment debt, obligation or responsibility to or with which such land may become charged or liable. Such lien may be foreclosed upon expiration of the same period after delinquency and in same manner provided by law, for foreclosure of liens for delinquent real property taxes as provided in RCW 84.64.050 now or as amended. From the date of delinquency until paid, interest shall be charged at the same rate applied by law to delinquent ad valorem property taxes. [Order PT 73-9, § 458-30-060, filed 10/30/73.]

WAC 458-30-070 Agreement may be abrogated by legislature. The agreement to tax by use shall not be considered to be a contract and can be abrogated at any time by the legislature in which event no additional tax or penalty shall be imposed. [Order PT 73-9, § 458-30-070, filed 10/30/73.]

WAC 458-30-075 Assessor. The assessor shall have application forms for land classification available and shall supply them upon request. [Order PT 73-9, § 458-30-075, filed 10/30/73. Prior: Order 71-2, § 458-30-035, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458-30-080 Assessor to act on agricultural classification. The assessor shall act on all applications for farm and agricultural classification with due regard to all relevant evidence. These applications shall be deemed to have been approved unless, prior to the first of May of the year after such application was mailed or delivered to the assessor, he shall notify the applicant in writing to the extent to which the application is denied.

Except to the extent allowed by law, such as qualification requirements, the county assessor cannot impose conditions upon the approval of classification as farm and agricultural land. [Order PT 73-9, § 458-30-080, filed 10/30/73.]

WAC 458-30-085 Assessor to determine value. The assessor shall determine the true and fair value of farm and agricultural land according to the procedures outlined in these rules. In determining the true and fair value of open space land and timber land, which have been classified as such under the provisions of this act, the assessor shall consider only the use to which such property and improvements is currently applied and shall not consider potential uses of such property; provided, that the value of open space land shall not be less than the value of that land as if it were under a farm and agricultural classification. [Order PT 73-9, § 458-30-085, filed 10/30/73.]

WAC 458-30-090 Assessor may require reports--Failure to comply. The assessor shall, at all times, be authorized to require owners of classified land to report data regarding the use of the land, productivity of typical crops, and other information pertinent to continued classification and appraisal of the land. If the owner shall fail after ninety days notice in writing by certified

mail sent to the address specified for notices given pursuant to RCW 84.40.045, to comply with such demand, the assessor may immediately withdraw the land from classification and apply the penalty provided in RCW 84.34.080. [Order PT 73-9, § 458-30-090, filed 10/30/73.]

WAC 458-30-095 Assessor to note classification on assessment and tax roll. The assessor shall, as to any classified land, make a notation each year on the assessment list and the tax roll showing the assessed value of such land for current use, and in addition, shall note the assessed value of such land as though it were not so classified. The assessor shall also file notice of both such values with the county treasurer who shall record such notice in the place or manner provided for recording delinquent taxes. [Order PT 73-9, § 458-30-095, filed 10/30/73.]

WAC 458-30-100 Assessor to record agreement and other notices. Within ten days following receipt of the executed Open Space Taxation Agreement from the granting authority that such land qualifies under the act as either "Open Space" or "Timber land" and within ten days following the assessor's approval of an application for farm and agricultural classification, the assessor shall submit such agreements and notices of approval to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

After recording, the auditor shall return the agreement or notification of approval to the assessor.

The county auditor shall also record all notices of withdrawal or of breach which shall be received from the county assessor. [Order PT 73-9, § 458-30-100, filed 10/30/73.]

WAC 458-30-105 Notice of withdrawal to be filed with assessor--Assessor to withdraw. During any year, after eight years of the initial ten-year classification period have elapsed, notice of request for withdrawal, which shall be irrevocable, may be given by the owner to the county assessor of the county in which such land is situated.

Although the agreement shall be effective commencing upon the date the granting authority receives the signed agreement from the property owner, classification shall begin on January 1 of the year following the year the application was filed by the property owner.

Land shall remain in classification for ten assessment years before it can be removed from classification without being subjected to the penalty as provided in RCW 84.34.080.

Application for withdrawal may be made during any year after the eighth assessment year has elapsed (this shall be during or after the ninth assessment year). The withdrawal time shall be calculated from the January 1 assessment date of the year in which the notice of withdrawal was received by the county assessor.

After two assessment years have elapsed, including the assessment year when the notice of withdrawal was filed with the assessor, the assessor shall remove the land from classification and shall value the land without regard to classification.

To comply with the provisions of the law, the land shall be classified for current use value and assessed as such for ten assessment years. [Order PT 73-9, § 458-30-105, filed 10/30/73.]

WAC 458-30-110 Assessor to notify owner of value change. The county assessor shall report to the owner of classified lands any change in his determination of true and fair value and/or current use value in the same manner as prescribed in RCW 84.40.045. [Order PT 73-9, § 458-30-110, filed 10/30/73.]

WAC 458-30-115 Granting authority. "Granting Authority" shall mean the county legislative body in all unincorporated areas and a combination of three members of the county legislative body and three members of the city legislative body in all incorporated areas, for open space and timber land classifications. The county assessor shall act on applications for farm and agricultural land classification. [Order PT 73-9, § 458-30-115, filed 10/30/73. Prior: Order 71-2, § 458-30-040, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458-30-120 Granting authority's action on application. With comprehensive plan: An application for classification shall be acted upon in a city or county which has a comprehensive plan, in the same manner in which an amendment to the comprehensive plan is processed.

Without a comprehensive plan: The application shall be acted upon in a city or county without a comprehensive plan after a public hearing, and after a notice of the hearing shall have been given by one publication in a newspaper of general circulation in the city or county at least ten days before the hearing. In either event, the owner shall be notified of the hearing.

The granting authority shall consider applications for open space or timber land classification and shall approve or disapprove those applications within six months of receiving the application as provided by law. The assessment of the land at current use value shall begin on January 1 of the year following the year of the application. Except, if the application is approved on or after July 1 in the year following the year of application, then the assessment of the land at current use value shall begin on January 1 of the year following the date of approval of the application.

The granting authority may approve all or part of an application and an applicant may withdraw his application if a part of it is rejected. The granting authority may require conditions to be met including, but not limited to, the granting of easements by the owner. Any conditions imposed shall be in consideration of the benefits to the general public and shall be for the length of the agreement only. Owner shall mean vendor.

Upon qualification of the land, the granting authority shall send one copy of the executed agreement to the assessor within ten days of the receipt of the signed agreement by the granting authority.

Upon the applicant's showing of good cause for the delay, the granting authority may accept agreements which have not been returned to it within twenty-five days.

If the application is disapproved, the granting authority shall immediately notify the applicant.

The granting authority shall keep a record of each application, agreement and records relating to each agreement until a notice of withdrawal is received from the assessor. [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.]

WAC 458-30-125 Owner applicant. "Owner" means (a) party having the fee interest in land, except when the land is subject to a real estate contract, or (b) the vendee when the land is subject to a real estate contract.

The applicant must be the owner of the land as designated on the application, and must use the forms prepared or approved by the State Department of Revenue and available from the county assessor. An application for current use assessment shall be signed by the owner (both husband and wife in the case of community property), notarized, and delivered to the proper authority as stated on the application form together with any required application fee.

If classified land is put to some use contrary to the Open Space Taxation Act, RCW 84.34.080 provides for the imposition of additional taxes, interest and penalties. The owner may contest the determination of a breach of the agreement or classified use by appeal to the county board of equalization at its next July meeting.

The owner of classified lands shall have the right of appeal as provided for in RCW 84.48.010 on both the current use value and actual value assessments as established by the county assessor.

The owner (new purchaser) of classified land shall file a notice of compliance with the county assessor within 60 days of sale or transfer of all or a portion of such land. Failure to file such notice of compliance shall constitute grounds for removal of classification as open space, farm and agricultural or timber land. [Order PT 73-9, § 458-30-125, filed 10/30/73. Prior: Order 71-2, § 458-30-045, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458-30-130 Treasurer. Upon receipt of the notice of the current use value and the market value, which shall be sent by the assessor, the county treasurer shall record those values in the place and manner provided for recording delinquent taxes.

Upon receipt of a Notice of Withdrawal from the assessor, the treasurer shall levy tax for the past seven years in an amount equal to the difference between the current use value tax and the market value tax. The treasurer shall impose interest upon the amounts of such additional tax at the rate charged on delinquent property taxes from the dates such tax could have been paid without penalty had the land been assessed according to market value.

The additional taxes and interest provided for in case of withdrawal accrue only when the lands are removed from classification at the request of the owner. The Treasurer shall compute the amount of tax to which the land is subject and notify the owners of the amount due and due date.

Upon receipt of a breach of agreement notice the treasurer shall levy a tax in an amount equal to the difference between the property tax paid as "open space land," "farm and agricultural land," or "timber land" and the amount of property taxes from the dates due and payable for the seven years last past had the land not been so classified; plus, interest upon the amounts of such additional tax paid at the same statutory rate charged on delinquent property taxes from the dates on which such additional tax could have been paid without penalty if land had not been assessed as a current use land. Also, the land shall be subject to a penalty equal to twenty per cent of the additional tax.

All additional tax interest and penalties shall be due on or before April 30 of the year following the year of removal from classification.

Such additional taxes, penalties and interest provided for in event of withdrawal or breach when collected shall be distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. The treasurer shall handle overdue accounts in the same manner as delinquent taxes. [Order PT 73-9, § 458-30-130, filed 10/30/73. Prior: Order 71-2, § 458-30-050, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458-30-135 Advisory committee. The county legislative authority shall appoint a five-member advisory committee representing the active farming community to advise the county assessor in implementing assessment guidelines as established by the Department of Revenue for "farm and agricultural", "open space" and "timber land."

The term of each member of the advisory committee shall be for one year following appointment by the county legislative authority. Members may be removed from the advisory committee by majority vote of the county legislative authority.

The advisory committee shall not give advice as to the valuation or assessment of specific pieces of property. However, they shall supply the assessor with advice on typical crops, land quality, and net cash rental so that the assessor can make more knowledgeable assessments.

The committee shall meet at its own discretion or at the request of the county assessor and shall elect its own chairman. [Order PT 73-9, § 458-30-135, filed 10/30/73.]

WAC 458-30-140 Basis for assessment. A land capability classification system shall be used as a guide for determining the productive capacity of agricultural lands

as provided in chapter 84.34 RCW. Soils may be classified into five capability classes based on their potential to produce crops most typically grown in the area averaged over a (5)–year period.*

Class I – Soils have few limitations that restrict their use.

Class II – Soils have some limitations that reduce the choice of plants or require moderate conservation practices.

Class III – Soils have severe limitations that reduce the choice of plants or require special conservation practices, or both.

Class IV – Soils have very severe limitations that restrict the choice of plants, require very careful management, or both.

Class V – Soils limited in use and generally not suited to cultivation.

*In establishing the soil classification, the Department of Revenue has conformed to soil classification as established by the Soil Conservation Service.

Where agricultural lands have not been classified by the Soil Conservation Service, the assessor shall use all available information to determine the soil classification of such agricultural land. If the information available is insufficient to determine the property classification, the basis for valuing agricultural lands shall be on an acre–unit value using valuation procedures as provided in chapter 84.34 RCW and these rules. [Order PT 73–9, § 458–30–140, filed 10/30/73. Prior: Order 71–3, § 458–30–055, filed 4/29/71. Prior: Order 71–2, § 458–30–055, filed 3/26/71.] [See reviser's note following chapter digest.]

WAC 458–30–145 Valuation procedures. In determining the current use value of farm and agricultural land and the current use value of open space land with no current use, the assessor shall value each class of soil by the capitalization of income method in the following manner:

(1) The Net Cash Rental to be capitalized shall be determined as follows:

(a) The assessor will use leases of land which are currently leased or have been available for lease for the last three years. If leases do not meet this requirement, they will not be used. The lease payments will be averaged as follows:

(i) Each annual lease payment (or rent) will be averaged for the typical crops within that area; and

(ii) The typical average cash rental for each year will be averaged over the immediate past five years. The typical cash rental shall include all income including subsidies. Payments in lieu of production may be included as income, in which case the acreage kept out of production because of those payments will be included in total acreage valued by capitalization of income. If payments in lieu of production are not included as income, the values computed for the land in production shall be extended to that acreage held out of production at the same value per acre. A deduction will be allowed for those production costs which are customarily (or typically) paid by the land owner.

(b) When there is an insufficient number of leases available to adequately determine net cash rental, then the net cash rental shall be determined by using the following:

(i) The cash value of the typical or usual crops grown in a typical area will be determined each year; and

(ii) The standard costs of production will be deducted; or

(iii) The landlord's share of the crops cash value will be determined. The landlord's typical production expenses will be deducted.

This amount will then be averaged over the immediate past five years.

(c) Where the land being valued is not capable of producing agricultural income or is not being used to produce agricultural income or where sufficient information is not available by which agricultural income can be determined, the assessor shall impute, on its estimated capability to the land, a reasonable amount to be capitalized as income.

(2) The capitalization rate to be used in valuing land shall be the sum of the following component parts:

(a) An interest component to be determined by the Department of Revenue and certified to the county assessor on or before January 1st of each year, and shall be comparable to interest rates charged on long–term loans secured by mortgages on farms or agricultural lands averaged over the last five years, plus;

(b) A component for property taxes which shall be determined by:

(i) Dividing the total assessed value of the county into the total taxes levied within the county for the year previous to the assessment; and

(ii) Multiplying the dividend by one hundred percent.

(3) The value of the agricultural land shall be the net cash rental of the land divided by the capitalization rate determined in subsection (2).

(4) The department's determination of the interest rate established in (2)(a) may be appealed to the State Board of Tax Appeals by any owner of farm or agricultural land or the assessor of any county containing farm and agricultural land.

(5) Land which is being used as a residential building site shall be valued at true and fair value. [Statutory Authority: RCW 84.34.141. 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 in 1977 edition of the Washington Administrative Code.]

WAC 458–30–146 Valuation cycle. In the determination of the true and fair value and the current use value of classified lands, the assessor shall follow a definite valuation cycle that adheres to the requirements contained in WAC 458–12–335 through 458–12–339, as now or hereafter amended. 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 which is not arbitrary, capricious, or intentionally discriminatory. (See Sator v. Dept. of Revenue 89 Wn 2d 338 (1977).) [Statutory Authority: RCW 84.34.141. 78-07-027 (Order PT 78-3), § 458-30-146, filed 6/16/78.]

WAC 458-30-150 Change of timber land classification to chapter 84.33 RCW. Land classified under the provisions of chapter 84.34 RCW as timber land, which meets the definition of forest land under the provisions of chapter 84.33 RCW, shall be designated as forest land under chapter 84.33 RCW by the county assessor, provided a request for such change is made by the owner to the county assessor.

The change of classification shall be made without additional tax, penalty or other requirements of chapter 84.34 RCW. After this change in classification the land shall be fully subject to the provisions of chapter 84.33 RCW. [Order PT 73-9, § 458-30-150, filed 10/30/73.]

WAC 458-30-155 Reclassification of farm and agricultural land under 1973 amendatory act. Land classified under the provisions of chapter 84.34 RCW prior to May 1, 1973 which meets the definition of farm and agricultural land under the provisions of chapter 212, Laws of 1973 1st ex. sess., upon request for such change made by the owner to the county assessor, shall be reclassified by the county assessor under the provisions of chapter 212, Laws of 1973 1st ex. sess. This change in classification shall be made without additional tax, penalty or other requirements. After such reclassification, the land shall be fully subject to the provisions of chapter 84.34 RCW, as now or hereafter amended.

Each county assessor shall on or before March 1, 1974 notify each owner of land classified under the provisions of chapter 84.34 RCW of this provision for reclassification and to send the necessary forms for reclassification. [Order PT 73-9, § 458-30-155, filed 10/30/73.]

WAC 458-30-160 Training. The Department of Revenue shall provide the guidelines and necessary training for land valuation and administration to permit effective operation of this act.

Members of the advisory committee and members of any granting authority may attend the training sessions provided in this rule. [Order PT 73-9, § 458-30-160, filed 10/30/73. Prior: Order 71-3, § 458-30-065, filed 4/29/71.] [See reviser's note following chapter digest.]

Chapter 458-40 WAC
TAXATION OF TIMBER AND FOREST LANDS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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.

Reviser's note: WAC 458-40-170 through 458-40-184 (stumpage values, adjustments, and quality classes for 1972 through 1976) and 458-40-18601 through 458-40-18642 (definitions, hauling distance zone maps, and tables of timber quality code numbers, stumpage values, and harvester adjustments for 1977 through June 30, 1980) have been previously published in either the 1977 edition of the Washington Administrative Code or the 1978-1979 Supplement. The large volume of these materials and their limited period of applicability make further reprinting unduly cumbersome and expensive, and pursuant to RCW 34.04.050(3) they are therefore omitted from publication in this 1980 edition of the WAC.

WAC 458-40-010 Definitions. "Forest land" is synonymous with timberland and means all land in any contiguous ownership of twenty or more acres which primarily is devoted to and used for growing and harvesting timber and means land only.

"Site Index" describes the productive quality of forest land and is determined by the total height reached by the dominant and codominant trees on a particular site at a given age. "Timber County" means any county within which any (*commercially significant*) timber is located. [Order 71-4, § 458-40-010, filed 10/8/71.]

WAC 458-40-020 Forest land grading rules. (1) On, or before March 1, 1972, each assessor shall grade the forest land within his county in accordance with these rules. Land which is not initially assessed as forest land but is later designated as forest land pursuant to chapter 294, Laws of 1971 1st ex. sess. or is otherwise determined to be forest land shall also be graded in accordance with these rules.

Forest land shall be graded on the basis of its quality, accessibility and topography. Land shall be graded according to the quality of the growing site as "good," "average" or "poor." Accessibility and topography shall be graded as "favorable," "average," "difficult" or "inoperable," according to distance from a usable road, distance from a market for logs and the topographical characteristics of the land.

In grading forest land, the following schedules shall be used.

(2) Forest Land Quality Classification For Douglas Fir and Western Hemlock Stands in Western Washington

(Average Height of Dominant and Codominant Trees (in feet))

Forest Land Quality Class	Age of Trees In Years	All Douglas Fir Types[1]	All Hemlock Types[2]	General Description
GOOD Site Index 170 And Over	10	10' and over	10' and over	Usually consists of bottom lands, lower slopes and coves. Deep, rich soil. Moist condition. Use this class when 60% or more of the tract area meets specifications and most of remainder is in Average Class.
	20	45' and over	35' and over	
	30	80' and over	65' and over	
	40	100' and over	90' and over	
	50	120' and over	110' and over	
	60	130' and over	125' and over	
	70	145' and over	140' and over	
	80	155' and over	150' and over	
	90	165' and over	160' and over	
	100	170' and over	170' and over	
	Old Growth	225' and over	190' and over	
AVERAGE Site Index 120 to 170	10	5' to 10'	5' to 10'	Usually consists of middle and upper slopes. Medium to shallow soil. Moderate moisture condition. 60% or more of area in this class and better.
	20	30' to 45'	25' to 35'	
	30	55' to 80'	45' to 65'	
	40	70' to 100'	65' to 90'	
	50	80' to 120'	75' to 110'	
	60	90' to 130'	90' to 125'	
	70	100' to 145'	100' to 140'	
	80	110' to 155'	105' to 150'	
	90	115' to 165'	110 to 160'	
	100	120' to 170'	120' to 170'	
	Old Growth	150' to 225'	125' to 190'	
POOR Under Site Index 120	10	Under 5'	Under 5'	Consists of gravel flats, rocky slopes and shallow, poor soil types with dry moisture condition. 50% or more of area in this class.
	20	Under 30'	Under 25'	
	30	Under 55'	Under 45'	
	40	Under 70'	Under 65'	
	50	Under 80'	Under 75'	
	60	Under 90'	Under 90'	
	70	Under 100'	Under 100'	
	80	Under 110'	Under 105'	
	90	Under 115'	Under 110'	
	100	Under 120'	Under 120'	
	Old Growth	Under 150'	Under 125'	

[1] U.S.D.A. Technical Bulletin No. 201, Page 12, Table 1, October, 1949.

[2] U.S.D.A. Technical Bulletin No. 1273, Page 6, Table 1, September, 1962.

(3) Forest Land Access and Topography Classification Western Washington.

Access and Topography	Road Development Characteristics To Tract	Topography On Tract	Distance From Log Market	Total Grade In Class*
FAVORABLE	Grade 1 Tract within 1 mile of usable road. Easy road construction. No rock outcrops or swamp barriers.	Grade 1 Flat to gentle slopes generally under 40%. No rock outcrops or swamps. Good tractor logging ground.	Grade 1 Less than 15 miles.	3 and 4

Access and Topography	Road Development Characteristics To Tract	Topography On Tract	Distance From Log Market	Total Grade In Class*
AVERAGE	Grade 2 Tract within 3 miles of usable road. No difficult road problems. Average construction.	Grade 2 Variable slopes under 60%. Some rock outcrop or swampy ground. Average logging conditions.	Grade 2 15 to 50 miles.	5, 6 and 7
DIFFICULT	Grade 3 Tract over 3 miles from usable road. Also includes tracts closer to road but with difficult construction problems such as rock or water barriers and rough terrain.	Grade 3 Rough, broken ground. Steep slopes. Numerous rock outcrops and bluffs or other features which would make logging difficult.	Grade 3 Over 50 miles.	8 and 9
INOPERABLE	Extreme physical barriers preventing access. Legal barriers. (rights of way, etc.) Area within commercial forest zone, but too rocky, steep or sterile to produce merchantible timber.			

* – Total grade in class is arrived at by adding any combination of rating of road development, topography on tract, and distance from log market.

(4) Forest Land Quality Classification For Ponderosa Pine and Douglas Fir Stands in Eastern Washington.

(Average Height of Dominant and Codominant Trees (in feet))

Forest Land Quality Class	Age of Trees In Years	Ponderosa Pine[1]	Douglas Fir[2]	General Description
GOOD	10	8' and over	10' and over	This class of forest land is rare in Eastern Washington. Consists of moist flats bottom land and coves with deep soil. Use this class when 60% or more of the tract area meets specifications and most of remainder is in Average class.
	20	25' and over	45' and over	
	30	35' and over	80' and over	
	40	50' and over	100' and over	
	50	60' and over	120' and over	
	60	70' and over	130' and over	
	70	80' and over	145' and over	
	80	90' and over	155' and over	
	90	100' and over	165' and over	
	100	105' and over	175' and over	
	Old Growth	150' and over	200' and over	
AVERAGE	10	4' to 8'	5' to 10'	Includes lower slopes, flats and coves with moderate to good soils and moisture conditions. Use this class when 60% or more of the tract area meets this class or better.
	20	15' to 25'	30' to 45'	
	30	25' to 35'	50' to 80'	
	40	35' to 50'	65' to 100	
	50	40' to 60'	75' to 120'	
	60	50' to 70'	85' to 130'	
	70	55' to 80'	95' to 145'	
	80	60' to 90'	100' to 155'	
	90	65' to 100'	105' to 165'	
	100	70' to 105'	110' to 170'	
	Old Growth	100' to 150'	150' to 200'	
POOR	10	Under 4'	Under 5'	Consists of upper slopes, ridges, rocky areas and fringe lands where dry moisture conditions and poor soil types prevail. Use this class when 50% or more of the tract area meets these specifications.
	20	Under 15'	Under 30'	
	30	Under 25'	Under 50'	
	40	Under 35'	Under 65'	
	50	Under 40'	Under 75'	
	60	Under 50'	Under 85'	
	70	Under 55'	Under 95'	
	80	Under 60'	Under 100'	
	90	Under 65'	Under 105'	
	100	Under 70'	Under 110'	
	Old Growth	Under 100'	Under 150'	

[1]U.S.D.A. Technical Bulletin No. 630, October, 1938.
[2]U.S.D.A. Technical Bulletin No. 201, Page 12, Table 1, October, 1949.

(5) Forest Land Access and Topography Classification For Eastern Washington.

Access and Topography	Road Development Characteristics To Tract	Topography On Tract	Distance From Log Market	Total Grade In Class*
FAVORABLE	Grade 1 Tract within 1 mile of usable road. Easy road construction. No rock outcrops or swamp barriers.	Grade 1 Flat to gentle slopes generally under 40%. No rock outcrops or swamps. Good tractor logging ground.	Grade 1 Less than 30 miles.	3 and 4
AVERAGE	Grade 2 Tract within 3 miles of usable road. No difficult road problems. Average construction.	Grade 2 Variable slopes under 60%. Some rock outcrop or swampy ground. Average logging conditions.	Grade 2 35 to 45 miles.	5, 6 and 7
DIFFICULT	Grade 3 Tract over 3 miles from usable road. Also includes tracts closer to road but with difficult construction problems such as rock or water barriers and rough terrain.	Grade 3 Rough, broken ground. Steep slopes. Numerous rock outcrops and bluffs or other features which would make logging difficult.	Grade 3 Over 45 miles.	8 and 9
INOPERABLE	Extreme physical barriers preventing access. Legal barriers, (rights of way, etc.) Area within commercial forest zone, but too rocky, steep or sterile to produce merchantible timber.			

* – Total grade in class is arrived at by adding any combination of rating of road development, topography on tract, and distance from log market.

[Order 71-4, § 458-40-020, filed 10/8/71.]

WAC 458-40-025 Forest land values. On, or before March 1, 1972 and January 1, of each year thereafter, the Department of Revenue shall adopt a rule in accordance with the Administrative Procedure Act (chapter 34.04 RCW), determining the true and fair value of each grade of forest land. Such values shall be certified

to each county assessor who shall, in preparing the assessment roll for 1972 and each year thereafter, enter as the true and fair value of each parcel of forest land the appropriate grade value so certified. The true and fair values, per acre, for each grade of forest land for the 1972 assessment year are determined to be as follows:

1972

FOREST LAND VALUES

Land Quality	Accessibility & Topography	Western Washington[1]	Eastern Washington[2]
GOOD	Favorable	$95.00	$30.00
	Average	$76.00	$24.00
	Difficult	$50.00	$13.00
	Inoperable	$ 1.00	$ 1.00
AVERAGE	Favorable	$59.00	$15.00
	Average	$51.00	$13.00
	Difficult	$36.00	$10.00
	Inoperable	$ 1.00	$ 1.00
POOR	Favorable	$35.00	$12.00
	Average	$21.00	$ 9.00
	Difficult	$16.00	$ 8.00
	Inoperable	$ 1.00	$ 1.00

[1] For Western Washington: All private land lying west of the Summit of the Cascade Range of mountains.

[2] For Eastern Washington: All private land lying east of the Summit of the Cascade Range of mountains.

[Order 72-6, § 458-40-025, filed 6/28/72; Order PT 72-2, § 458-40-025, filed 2/18/72.]

WAC 458-40-026 Forest land values--1973. The true and fair values, per acre, for each grade of forest land for the 1973 assessment year are determined to be as follows:

1973

FOREST LAND VALUES

Land Quality	Accessibility & Topography	Western Washington[1]	Eastern Washington[2]
GOOD	Favorable	$91.00	$23.00
	Average	$71.00	$18.00
	Difficult	$46.00	$12.00
	Inoperable	$ 5.00	$ 1.00
AVERAGE	Favorable	$60.00	$15.00
	Average	$47.00	$12.00
	Difficult	$30.00	$ 8.00
	Inoperable	$ 3.00	$ 1.00
POOR	Favorable	$25.00	$ 7.00
	Average	$20.00	$ 5.00
	Difficult	$13.00	$ 3.00
	Inoperable	$ 1.00	$ 1.00

[1] For Western Washington: All private land lying west of the Summit of the Cascade Range of mountains.

[2] For Eastern Washington: All private land lying east of the Summit of the Cascade Range of mountains.

[Order PT 72-14, § 458-40-026, filed 11/29/72.]

WAC 458-40-027 Forest land values--1974. The true and fair values, per acre, for each grade of forest land for the 1974 assessment year are determined to be as follows:

1974

FOREST LAND VALUES

Land Quality	Accessibility & Topography	Western Washington[1]	Eastern Washington[2]
GOOD	Favorable	$114.00	$31.00
	Average	$ 88.00	$24.00
	Difficult	$ 58.00	$16.00
	Inoperable	$ 5.00	$ 1.00
AVERAGE	Favorable	$ 75.00	$19.00
	Average	$ 59.00	$16.00
	Difficult	$ 38.00	$10.00
	Inoperable	$ 3.00	$ 1.00
POOR	Favorable	$ 32.00	$ 9.00
	Average	$ 25.00	$ 7.00
	Difficult	$ 17.00	$ 4.00
	Inoperable	$ 1.00	$ 1.00

[1] For Western Washington: All private land lying west of the Summit of the Cascade Range of mountains.

[2] For Eastern Washington: All private land lying east of the Summit of the Cascade Range of mountains.

Adopted November 30, 1973

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[Order PT 73-9, § 458-40-027, filed 11/30/73.]

WAC 458-40-028 Forest land values--1975. The true and fair values, per acre, for each grade of forest land for the 1975 assessment year are determined to be as follows:

1975

FOREST LAND VALUES

Land Quality	Accessibility & Topography	Western Washington[1]	Eastern Washington[2]
GOOD	Favorable	$98.00	$31.00
	Average	$82.00	$27.00
	Difficult	$51.00	$22.00
	Inoperable	$ 5.00	$ 1.00
AVERAGE	Favorable	$70.00	$19.00
	Average	$59.00	$16.00
	Difficult	$37.00	$13.00
	Inoperable	$ 3.00	$ 1.00
POOR	Favorable	$39.00	$ 8.00
	Average	$33.00	$ 7.00
	Difficult	$21.00	$ 6.00
	Inoperable	$ 1.00	$ 1.00

[1] For Western Washington: All private land lying west of the Summit of the Cascade Range of mountains.

[2] For Eastern Washington: All private land lying east of the Summit of the Cascade Range of mountains.

[Order FT 74-1, § 458-40-028, filed 11/22/74.]

WAC 458-40-029 Forest land values--1976. The true and fair values, per acre, for each grade of forest land for the 1976 assessment year are determined to be as follows:

1976

FOREST LAND VALUES

Land Quality	Accessibility & Topography	Western Washington[1]	Eastern Washington[2]
GOOD	Favorable	$108.00	$33.00
	Average	$ 90.00	$29.00
	Difficult	$ 60.00	$22.00
	Inoperable	$ 5.00	$ 1.00
AVERAGE	Favorable	$ 77.00	$20.00
	Average	$ 65.00	$17.00
	Difficult	$ 41.00	$13.00
	Inoperable	$ 3.00	$ 1.00
POOR	Favorable	$ 43.00	$ 9.00
	Average	$ 36.00	$ 8.00
	Difficult	$ 23.00	$ 6.00
	Inoperable	$ 1.00	$ 1.00

[1] For Western Washington: All private land lying west of the Summit of the Cascade Range of mountains.

[2] For Eastern Washington: All private land lying east of the Summit of the Cascade Range of mountains.

[Order FT 75-6, § 458-40-029, filed 12/1/75.]

WAC 458-40-030 Forest land designation. These rules relate to procedures to be used when owners of forest land desire to have particular parcels designated as forest land under subsection (3) RCW 84.33.120 and 84.33.130. The law contemplates that the only forest land which is to be designated under these procedures is land which is primarily devoted to and used for growing and harvesting timber but whose value for other purposes may be greater than its value for use as forest land.

In determining whether the value of a parcel of forest land for other purposes is greater than its value for use as forest land, the assessor shall consider, among other things, such factors as; (a) the record of the extent, nature and primary changes, if any, in land use which have occurred in the immediate vicinity; (b) suitability for other uses of the soil and topography; (c) availability for other uses by reason of public services such as roads, sewers and domestic water supply; (d) the history of the use to which the owner has applied the land and his plans as to its use within the foreseeable future; (e) the benefits to the public described in RCW 84.33.010 which would result from continued use of the land for growing and harvesting timber. After taking such factors into account, if the land value for other uses is not greater than its value for use as forest land, the owner shall not be required to apply for designation, and the assessor shall classify the land as forest land pursuant to the provisions of RCW 84.33.020 and 84.33.120. [Order FT 75-3, § 458-40-030, filed 6/5/75; Order 71-4, § 458-40-030, filed 12/17/71.]

WAC 458-40-040 Definitions. (1) "Forest Land," is synomymous 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 the land only.

(2) "Legal Description," means a description using government lots and standard General Land Office subdivision procedures. If the boundary of the area applied for is irregular, the physical boundary is to be described by metes and bounds or by other means that will clearly identify the property; provided, that in all cases involving

irregular boundaries a map shall be prepared which clearly identifies the area to be designated, and show the number of acres being applied for forest land designation.

(3) "Timber," means forest trees, standing or down, on privately-owned land, and except as provided in RCW 84.33.170 includes Christmas trees. [Order FT 75-3, § 458-40-040, filed 6/5/75; Order 71-4, § 458-40-040, filed 12/17/71.]

WAC 458-40-050 Forest land application. An owner who desires that his land be designated as forest land shall make application to the County Assessor before January 1, of the year in which the designation is desired to become effective. The application shall cover only one section if the parcels in that section are not contiguous. If a land owner owns an area of land that is contiguous and covered by one management plan, one application may cover the entire area. The application shall be made upon forms prepared by the Department of Revenue and shall contain information required pursuant to RCW 84.33.130. The forms may be obtained from the County Assessor. [Order FT 75-3, § 458-40-050, filed 6/5/75; Order 71-4, § 458-40-050, filed 12/17/71.]

WAC 458-40-060 Forest management plan. If the land for which designation is being requested is non-stocked or partially non-stocked, the forest management plan must include a regeneration plan which meets the minimum requirements as provided in RCW 76.09.070 and rules and regulations promulgated thereunder. [Order FT 75-3, § 458-40-060, filed 6/5/75; Order 71-4, § 458-40-060, filed 12/17/71.]

WAC 458-40-070 Notification by assessor of denial of application, appeals. (1) If the assessor denies the application, in whole or in part, for designation of forest land, he shall mail written notice of such denial to the applicant.

(2) An owner whose application is denied, in whole or in part, may appeal such denial to the County Board of Equalization. [Order FT 75-3, § 458-40-070, filed 6/5/75; Order 71-4, § 458-40-070, filed 12/17/71.]

WAC 458-40-080 Notification by assessor of removal of designated forest land, appeals. (1) Upon removal of the designation of forest land, the assessor shall within thirty (30) days notify the taxpayer of such removal by mail setting forth the reasons for such removal.

(2) An owner who received notification of removal of designation of forest land may appeal such removal to the County Board of Equalization.

(3) Unless the removal is reversed on appeal a copy of the notice of removal with notation of the action, if any, upon appeal, together with the legal description or assessor's tax lot numbers for the land removed from designation shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded. [Order FT 75-3, § 458-40-100 (codified § 458-40-080), filed 6/5/75; Order 71-4, § 458-40-080, filed 12/17/71.]

WAC 458-40-090 Notation on assessment and tax rolls of designated forest land. When land has been designated as forest land pursuant to subsection (3) of RCW 84.33.120 or 84.33.130, a notation of such designation shall be made each year upon the assessment and tax rolls, and a copy of the notice of approval together with the legal description or assessor's tax lot numbers for such land shall, at the expense of the applicant, be filed by the assessor in the same manner as deeds are recorded. [Order FT 75-3, § 458-40-080 (codified § 458-40-090), filed 6/5/75; Order 71-4, § 458-40-090, filed 12/17/71.]

WAC 458-40-100 Removal from designation. (1) Forest land which has been designated under the procedures set forth in subsection (3) of RCW 84.33.120 and RCW 84.33.130 may be removed from designation by the assessor upon occurrence of any of the following events:

(a) Receipt of notice from the owner to remove such designation;

(b) Passage of sixty days following the sale or transfer of such land to a new owner without receipt of an application pursuant to RCW 84.33.130 from the new owner;

(c) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(d) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that (i) such land is no longer primarily devoted to and used for growing and harvesting timber, (ii) such owner has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder, or (iii) restocking has not occurred to the extent or within the time specified in application for designation of such land.

(2) When the owner of designated forest land requests that all or part of his land be removed from designation, he shall provide the assessor with a legal description of the particular land which he desires be removed from designation.

(3) When a sale occurs of designated forest land to a new owner who does not apply for designation within sixty (60) days of such sale, or to an exempt owner, the assessor's notice of removal of designation shall be mailed to the new owner and shall include a legal description of that part of the designated land which sold or was transferred to the new owner.

(4) When the assessor determines that all or part of the designated land is to be removed from designation, he shall include in his notice, given pursuant to paragraph 5 of this rule, a legal description of such land. Such notice shall not apply to or affect any remaining designated land of the same owner wherever located, which continues to be primarily devoted to and used for growing and harvesting timber.

(5) Within thirty (30) days after removal from designation the assessor shall mail notice of his determination to the owner specifying the reasons for such removal. The owner may appeal such removal to the County Board of Equalization. [Order FT 75-3, § 458-40-090 (codified § 458-40-100), filed 6/5/75; Order 71-4, § 458-40-100, filed 12/17/71.]

WAC 458-40-10001 Compensating tax liability and rate. Unless the removal is reversed on appeal, a compensating tax shall be imposed, except as provided in subsection (5) of RCW 84.33.140, which shall be due and payable to the county treasurer on or before April 30 of the following year. On or before May 31 following such assessment date, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due.

The amount of the compensating tax payment shall be equal to the difference between the amount of tax last levied on such land as forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate that was last levied against such land and multiplied by a number of years equal to the number of years for which such land was designated as forest land, but in no event greater than ten years. [Order FT 75-3, § 458-40-110 (codified § 458-40-10001), filed 6/5/75.]

WAC 458-40-110 Definitions. "Timber," means forest trees, standing or down, on privately-owned land, and except as provided in Section 17 of this 1971 amendatory act, includes Christmas trees.

"Bare Land," means the land alone. [Order 71-4, § 458-40-110, filed 12/17/71.]

WAC 458-40-120 Timber roll--Preparation and use. (1) For 1972 and for each year thereafter, the assessor of each timber county shall establish and maintain a timber roll separate and apart from the assessment roll. He shall list thereon the 1970 timber value of all timber in each taxing district in such county as of January 1, 1972. The January 1, 1972 timber roll shall list the value of timber in existence as of that date and shall include timber which the assessor may have added to the roll during 1971 and shall exclude timber which has been cut or depleted during 1971. Subsequent to January 1, 1972, the assessor will make no further adjustments with respect to the volume of timber entered on the timber roll.

(2) The timber roll shall parallel the assessment roll with respect to the information to be included thereon except the value of the timber which is entered on the timber roll shall be the 1970 timber value.

(3) "1970 Timber Value," means the value for timber calculated in the same manner and using the same values and valuation factors actually used by such assessor in determining the value of timber for the January 1, 1970 assessment roll, except that if a revised schedule of such values and valuation factors was applied to some but not all timber in a county for the January 1, 1970 assessment roll, such revised schedule shall be used by the assessor for any timber revalued for the 1971 or 1972 assessment rolls, and except that if the value of timber in any county on January 1, 1970 was not separately determined and shown on such assessment roll, 1970 timber value shall mean the value reconstructed from available records and information in accordance with WAC 458-40-130.

The term "value of timber," as used in the foregoing definition means unit value.

(4) For the five years commencing with 1972, the timber roll value shall be the 1970 timber value.

(5) For each succeeding five year period, beginning January 1, 1977, the timber roll value shall be the 1970 timber value increased or decreased in proportion to the percentage change, if any, which has occurred in the average stumpage value per unit of measure of all timber harvested in such county between the last year of the preceding five year period and the year 1973. Such percentage change shall be determined by the Department of Revenue on the basis of information contained in the excise tax returns filed pursuant to section 7, chapter 294, Laws of 1971 ex. sess. [Order 71-4, § 458-40-120, filed 12/17/71 and 1/13/72.]

WAC 458-40-121 Timber roll--Correction affecting timber factor. Annually, the county assessor is required to certify to the Department of Revenue the assessed value of the timber toll by taxing district.

A timber factor as provided in RCW 84.33.080 is computed by the Department using a portion of the timber roll value as certified by the assessor and the levy rates for the districts as filed by the assessor.

Upon a showing that a manifest error has occurred affecting the timber roll value or the rates which affect the timber factor, the Department of Revenue will determine what the error is and if an adjustment is justified. If it is determined that an adjustment is justified, the Department shall order the proper correction to be made and the "timber factor" shall be adjusted to allow for the correction on the last quarterly distribution of the timber tax of the current year.

Any requests for the correction of an error shall be made on or before October 1 of the year of distribution of the timber tax and adjustments shall not be made on errors discovered after October 1. [Order 73-5, § 458-40-121, filed 8/13/73.]

WAC 458-40-130 Reconstruction of 1970 timber value. If the value of timber for any tax parcel on January 1, 1970, was not separately determined on the assessment roll or other office record or work paper for that year, the 1970 timber value shall be reconstructed as follows:

(1) If the assessor, in assessing the value of any parcel as of January 1, 1970, used the Washington State Appraisal Manual for timber and timber land values, the 1970 timber value shall be the difference between the bare land value and the total value of the parcel minus the value of any improvements.

(2) If the assessor did not use the value schedules set forth in the Washington State Appraisal Manual for timber and timber lands, but did use the criteria and procedures set forth in the manual, the 1970 timber values shall be the difference between the bare land value as shown by his schedule and the total value of the parcel, minus the value of any improvements.

(3) In all other cases, the assessor shall determine the value of the timber by use of aerial photographs of his county, data concerning timber volume and quality which is reasonably available, his knowledge of the land and timber, and any other means reasonably available to him. [Order 71-4, § 458-40-130, filed 12/17/71.]

WAC 458-40-140 Timber--Assessed valuation. For purposes of extending the millage rate against all property within each taxing district, the assessor shall add to the assessment rolls for 1972 and 1973, an "assessed valuation" for timber. Such "assessed valuation" shall be calculated by multiplying 75% of the 1972 timber roll and 45% of the 1973 timber roll by the assessment ratio applied generally by such assessor in computing the assessed valuation of other property for such year. [Order 71-4, § 458-40-140, filed 12/17/71.]

WAC 458-40-150 Determining millage. In each year commencing with 1972 and ending with 1980, and solely for the purpose of determining the rate of millage for all regular and excess levies for each taxing district of a county in which there was timber on January 1, for such year, the assessor shall, for each such taxing district, add to the assessed valuation of all property therein other than timber, the product of:

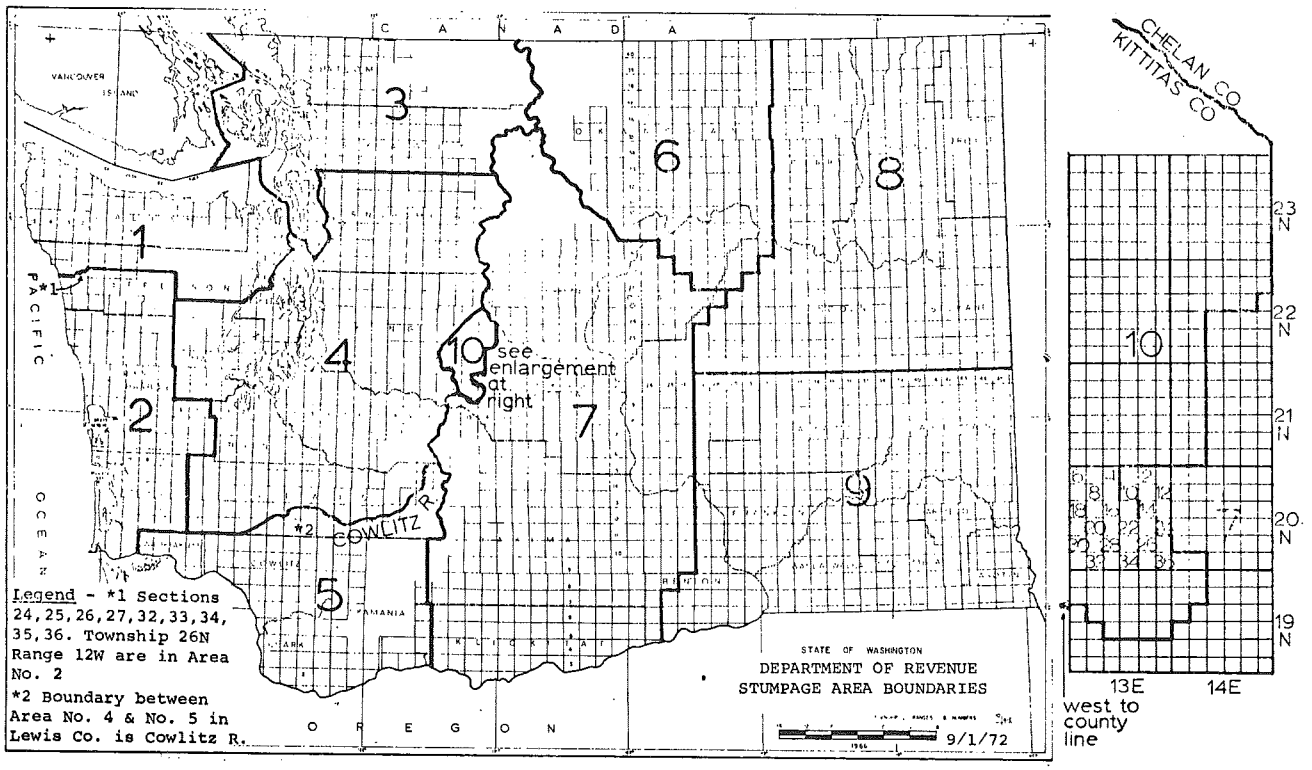
(1) The portion (shown below) of the value of all timber in such district as appears on the timber roll, and

(2) The assessment ratio applied generally by such assessor in computing the assessed value of property other than timber.

YEAR OF ASSESSMENT	PORTION OF TIMBER ROLL
1972 through 1977	100%
1978	75%
1979	50%
1980	25%
1981 and thereafter	none

[Order 71-4, § 458-40-150, filed 12/17/71.]

WAC 458-40-160 Stumpage value areas. In accordance with the statutory requirement that the Department of Revenue shall designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as units for the preparation and application of stumpage values, the stumpage value areas are hereby adopted in accordance with the following map:



STUMPAGE VALUE AREA MAP

[Order 72-13, § 458-40-160, Stumpage Value Area Map, filed 11/28/72.]

WAC 458-40-161 Stumpage value areas. In accordance with the statutory requirement that the Department of Revenue shall designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as units for the preparation and application of stumpage values, the stumpage value areas are hereby adopted in accordance with the following map:

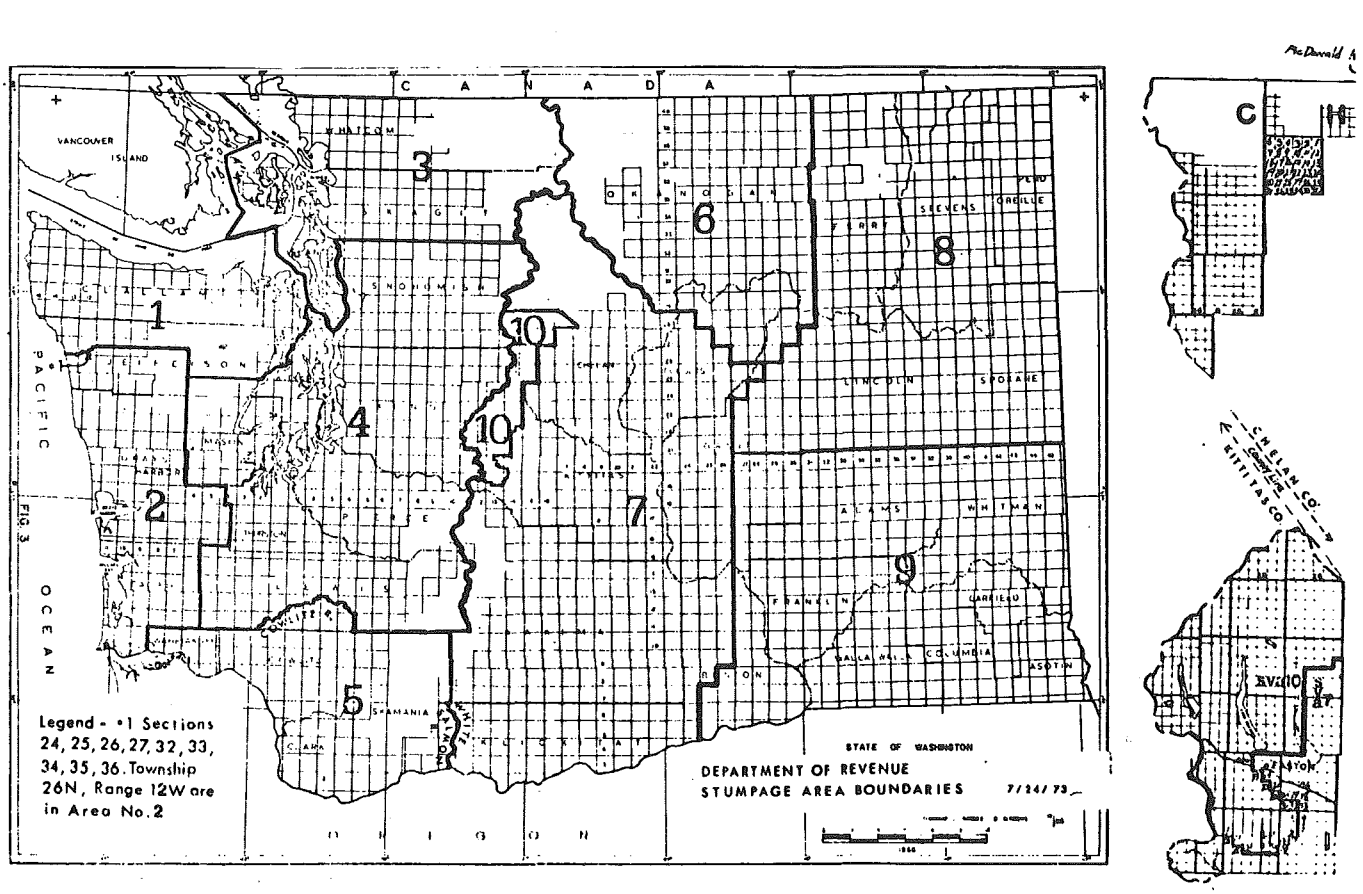
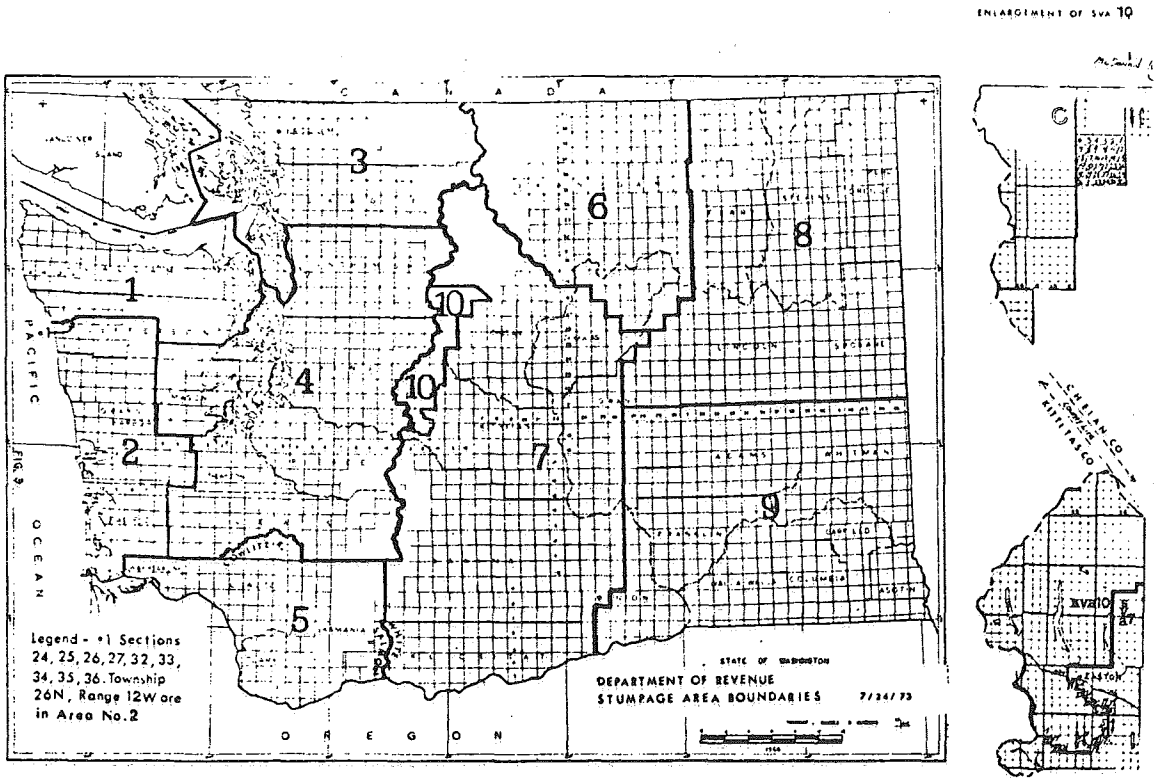


FIG. 3

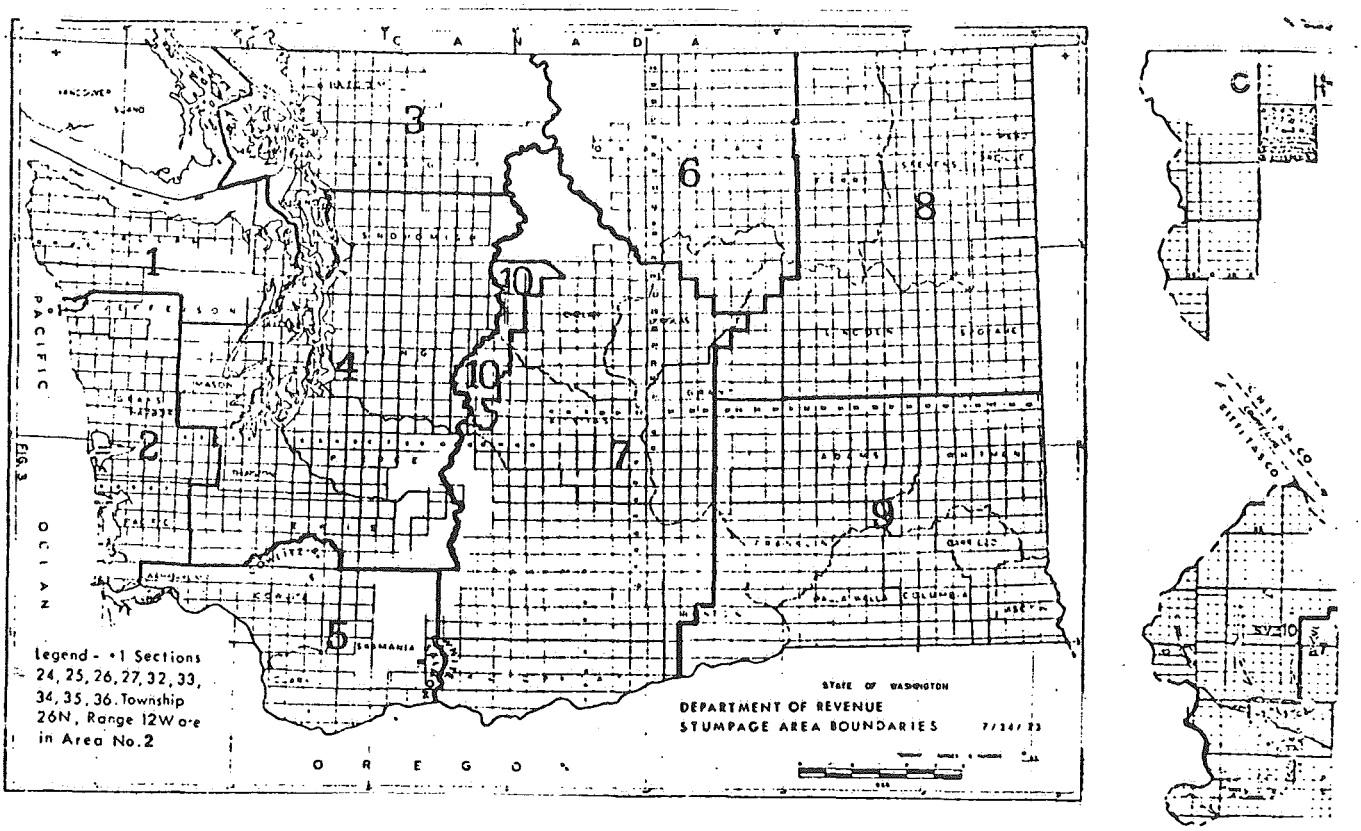
[Order PT 73-8, § 458-40-161, filed 11/1/73.]

WAC 458-40-162 Stumpage value areas. In accordance with the statutory requirement that the Department of Revenue shall designate areas containing timber having similar growing harvesting, and marketing conditions to be used as units for the preparation and application of stumpage values, the stumpage value areas are hereby adopted in accordance with the following map:



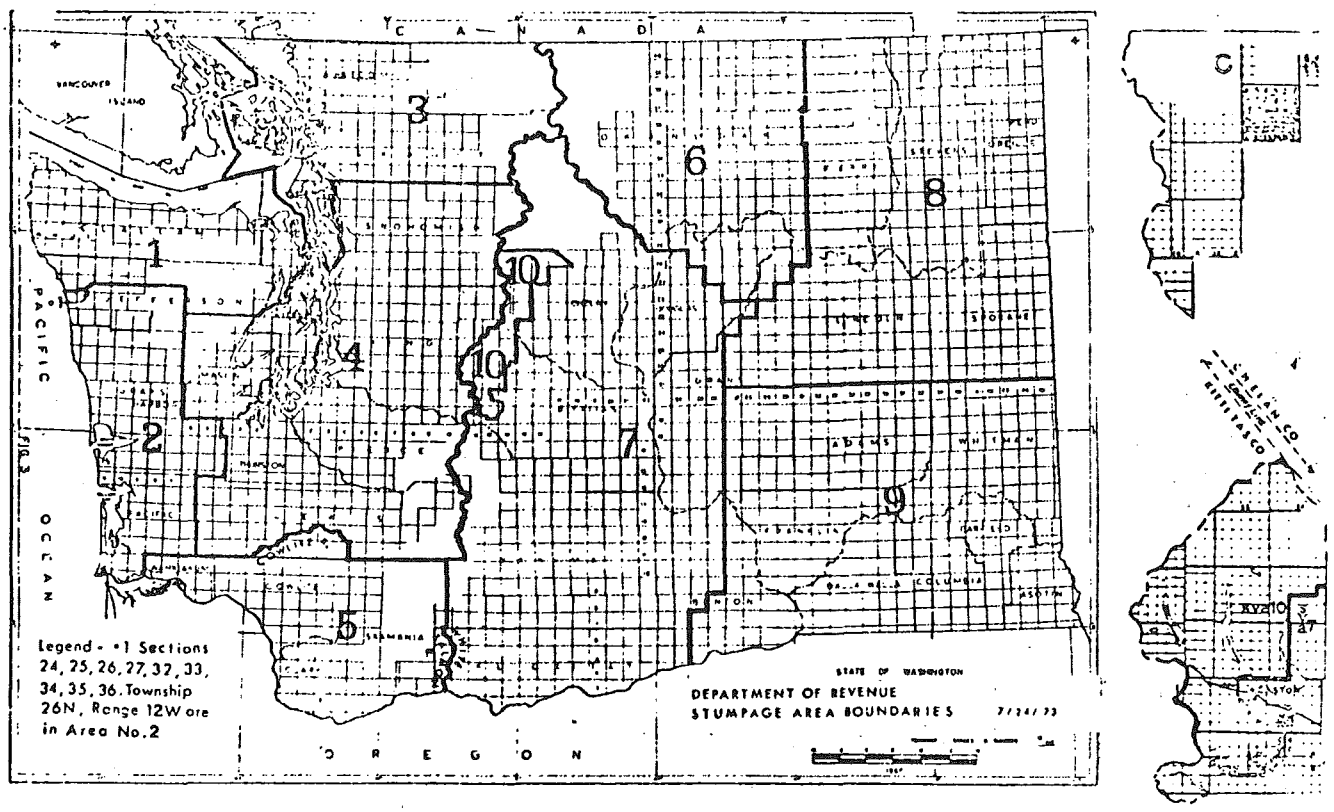
[Order FT 74-2, § 458-40-162, filed 11/27/74.]

WAC 458-40-163 Stumpage value areas. In accordance with the statutory requirement that the Department of Revenue shall designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as units for the preparation and application of stumpage values, the stumpage value areas are hereby adopted in accordance with the following map, which map shall be used to determine the proper stumpage value table for computing the tax for the timber harvested on or after January 1, 1976, and on or before June 30, 1976:



[Order FT 76-2, § 458-40-163, filed 7/1/76; Order FT 75-7, § 458-40-163, filed 12/1/75.]

WAC 458-40-164 Stumpage value areas. In accordance with the statutory requirement that the Department of Revenue shall designate areas containing timber having similar growing, harvesting, and marketing conditions to be used as units for the preparation and application of stumpage values, the stumpage value areas are hereby adopted in accordance with the following map, which map shall be used to determine the proper stumpage value table for computing the tax for the timber harvested on or after July 1, 1976 and on or before December 31, 1976:



[Order FT 76-2, § 458-40-164, filed 7/1/76.]

WAC 458-40-165 Hauling distance zones. Hauling distance zone maps are hereby adopted for each stumpage value area of WAC 458-40-160. Copies of the hauling distance zone maps may be obtained from the Department of Revenue, General Administration Building, Olympia, Washington upon request. [Order 72-13, § 458-40-165, filed 11/28/72.]

Reviser's note: Pursuant to RCW 34.04.050(5) and WAC 1-12-200 Hauling Distance Zone Maps are exempt from publication, but may be obtained from the Department of Revenue, General Administration Bldg., Olympia, Wa. 98504.

WAC 458-40-166 Hauling distance zones. Hauling distance zone maps are hereby adopted for each stumpage value area of WAC 458-40-161. Copies of the hauling distance zone maps may be obtained from the Department of Revenue, General Administration Building, Olympia, Washington upon request. [Order PT 73-8, § 458-40-166, filed 11/1/73.]

Reviser's note: See note following WAC 458-40-165.

WAC 458-40-167 Hauling distance zones. Hauling distance zone maps are hereby adopted for each stumpage value area of WAC 458-40-162. Copies of the hauling distance zone maps may be obtained from the Department of Revenue, General Administration Building, Olympia, Washington upon request. [Order FT 74-2, § 458-40-167, filed 11/27/74.]

Reviser's note: See note following WAC 458-40-165.

WAC 458-40-168 Hauling distance zones. Hauling distance zone maps are hereby adopted for each stumpage value area of WAC 458-40-163. Hauling distance zone maps adopted under this rule shall be used in computing the tax for timber harvested on or after January 1, 1976, and on or before June 30, 1976. Copies of the hauling distance zone maps may be obtained from the Department of Revenue, General Administration Building, Olympia, Washington upon request. [Order FT 76-2, § 458-40-168, filed 7/1/76; Order FT 75-7, § 458-40-168, filed 12/1/75.]

Reviser's note: See note following WAC 458-40-165.

WAC 458-40-169 Hauling distance zones. Hauling distance zone maps are hereby adopted for each stumpage value area of WAC 458-40-164. Hauling distance zone maps adopted under this rule shall be used in computing the tax for timber harvested on or after July 1, 1976, and on or before December 31, 1976. Copies of the hauling distance zone maps may be obtained from the Department of Revenue, General Administration Building, Olympia, Washington upon request. [Order FT 76-2, § 458-40-169, filed 7/1/76.]

Reviser's note: See note following WAC 458-40-165.

Reviser's note: WAC 458-40-170 through 458-40-184 (stumpage values, adjustments, and quality classes for 1972 through 1976) and 458-40-18601 through 458-40-18642 (definitions, hauling distance zone maps, and tables of timber quality code numbers, stumpage values, and harvester adjustments for 1977 through June 30, 1980) have been previously published in either the 1977 edition of the Washington Administrative Code or the 1978-1979 Supplement. The large volume of these materials and their limited period of applicability make further reprinting unduly cumbersome and expensive, and pursuant to RCW 34.04.050(3) they are therefore omitted from publication in this 1980 edition of the WAC.

WAC 458-40-18600 General. Pursuant to the duty imposed by RCW 84.33.071 to prepare tables of stumpage values for each species of timber and consistent with the duty to make allowances for age, size, quality, costs of removal, accessibility to point of conversion, market conditions, and all other relevant factors, the department has promulgated rules and prepared tables which prescribe stumpage values and make allowances for the relevant factors.

WAC 458-40-18600, 458-40-18649 through 458-40-18654 and 458-40-19000 through 458-40-19004 are promulgated for the calendar period 1/1/81 through 6/30/81 pursuant to the rule-making requirements, and procedures prescribed or authorized by chapter 34.04 RCW. [Statutory Authority: RCW 82.01.060 and 84-.33.071. 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 79-40), § 458-40-18600, filed 12/31/79; Order 76-5, § 458-40-18600, filed 12/31/76.]

WAC 458-40-18643 Definitions for 7/1/80 through 12/31/80. (1) **Acceptable Log Scaling Rule.** The acceptable log scaling rule shall be the Scribner Decimal C Log Scale Rule or other prevalent measuring practice, provided that such other prevalent measuring practice shall be an acceptable scaling procedure and provided that such procedure shall be submitted to the department for approval prior to the time of harvest.

(2) **Approved Log Scaling and Grading Rules.**

(a) West of the Cascade Summit—Approved Scaling and Grading Rule. With respect to the reporting of timber harvested from private lands in areas west of the Cascade summit, which areas are designated as stumpage value areas 1, 2, 3, 4, 5, and 11 in the stumpage value area map of WAC 458-40-18644, the methods and procedures published by the Columbia River Log Scaling and Grading Bureau, Grays Harbor Log Scaling and Grading Bureau, and the Puget Sound Log Scaling and Grading Bureau and published as the "Official Log Scaling and Grading Rules" by the Puget Sound Log Scaling and Grading Bureau, Tacoma, Washington are approved by the department for use in those areas.

(b) East of the Cascade Summit—Approved Scaling Rule. With respect to the reporting of timber harvested from private lands in areas east of the Cascade summit, which areas are designated as stumpage value areas 6, 7, 8, 9, and 10 in the stumpage value area map of WAC 458-40-18644, the methods and procedures published by the United States Forest Service under the title "National Forest Log Scaling Handbook" procedures are approved by the department for use in those areas. This log scaling handbook is published under the title FSH 2409-11 National Forest Log Scaling Handbook, Forest Service, United States Department of Agriculture.

(c) East of the Cascade Summit—Established Grading Rule. Because the National Forest Log Scaling Handbook does not contain grading rules, a separate computation shall be made to arrive at the proper grade for purposes of determining the timber quality code number for timber harvested east of the Cascade summit. The grade for quality classification purposes of the timber harvested from private land east of the Cascade summit shall be determined by the number of sawable sixteen foot logs per thousand feet net Scribner Decimal C Log Scale. The computation shall be made under the following three-step procedure:

(i) Step 1. The highest possible total number of sawable sixteen foot logs which could be recovered shall be determined by dividing the sum total of length of all sawable logs harvested by the number sixteen.

(ii) Step 2. The average net volume per sixteen foot recoverable log shall be determined by dividing the total volume harvested (net log scale) by the total number of sixteen foot logs as determined in Step 1.

(iii) Step 3. The total number of logs per thousand board feet (MBF) shall be determined by dividing one thousand by the average net volume as determined in Step 2.

(3) **Codominant Trees.** Trees whose crowns form the general level of the crown cover and receive full light from above, but comparatively little light from the sides.

(4) **Department.** Department, for the purposes of this chapter, shall mean the department of revenue of the state of Washington.

(5) **Dominant Trees.** Trees whose crowns are higher than the general level of the canopy and who receive full light from the sides as well as from above.

(6) **Forest Excise Tax Payment.** Every person who is engaged in business as a harvester of timber from privately owned land shall pay a forest excise tax which shall be equal to the taxable stumpage value of timber harvested for sale or for commercial or industrial use and multiplied by the appropriate rate as provided in RCW 84.33.071.

(7) **Harvester.** Harvester shall mean every person who from his own privately owned land or from privately

owned land of another under a right or license granted by lease or contract, either directly or by contracting with others, takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

(8) **Harvested Timber--When Determined.** Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined.

(9) **Harvest Type.** Harvest type shall be a term referring to the grouping of harvested timber by age and type of harvest and shall include and is limited to the following harvest types:

(a) Merchantable Sawtimber, All Ages—The removal of timber east of the Cascade summit shall be reported as "merchantable sawtimber, all ages", unless the harvest type comes within the definition in this chapter of "special forest products harvest".

(b) Old Growth Final Harvest. The removal of any timber from a harvest unit that is 100 years of age or older and west of the Cascade summit shall be reported as "old growth final harvest" unless the harvest type comes within the definition in this chapter of "special forest products harvest".

(c) Special Forest Products. The removal of Christmas trees (except as provided in RCW 84.33.170), shake blocks and boards, and posts and other western red cedar products shall be reported as "special forest products harvest".

(d) Thinning. The removal of timber from a harvest unit meeting all the following conditions:

(i) Harvest unit located west of the Cascade summit;

(ii) Timber that is less than 100 years of age;

(iii) The total merchantable volume which is removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest;

(iv) Not more than forty percent of the total volume removed is from the dominant and codominant trees;

(v) The trees removed in the harvest operation shall be distributed over the entire harvest unit.

(e) Young Growth Final Harvest. The removal of any timber from a harvest unit that is less than 100 years of age and does not meet the definition of thinning in paragraph (d) above and west of the Cascade summit shall be reported as "young growth final harvest" unless the harvest type comes within the definition in this chapter of "special forest products harvest" or within the definition of "thinning harvest".

(10) **Harvest Unit.** A harvest unit is a harvest area having the same forest excise tax permit number, stumpage value area, hauling distance zone, harvest type, harvest adjustments and harvester. A harvest unit may include more than one section.

(11) **MBF.** As used herein MBF shall mean one thousand board feet measured in Scribner Decimal C Log Scale Rule.

(12) **Sawlog.** Sawlog shall mean any log large enough to produce one-third of its gross volume in sound lumber or other products that can be sawed.

(13) **Small Harvest.** A small harvest is defined as the total net volume harvested from all units, a selected unit, or a combination of units (including conifer special cull or utility and hardwood utility) is 250 thousand board feet or less in a given reporting quarter.

(14) **Species.** Species designation is a biologically-based grouping of harvested timber and shall include but is not limited to the following designations of species and subclassifications thereof:

(a) West of the Cascade summit:

(i) "Douglas fir", "western hemlock", "true fir", "western red cedar", "noble fir", "Sitka spruce", "Alaska yellow cedar", "red alder", and "cottonwood" shall be reported as separate species where designated as such in the stumpage value tables of WAC 458-40-18647.

(ii) In areas west of the Cascade summit, species designations for the harvest type "special forest products" shall be "western red cedar" (shake blocks and boards), western red cedar flatsawn and shingle blocks "western red cedar and other" (posts), "Douglas fir", "true fir and others", (Christmas trees).

(b) East of the Cascade summit:

(i) "Ponderosa pine", "lodgepole pine", "white pine", "Douglas fir", "western hemlock", "true fir", "western red cedar", "western larch" and "Engelmann spruce" shall be reported as separate species where designated as such in the stumpage value tables of WAC 458-40-18647.

(ii) In areas east of the Cascade summit, species designations for the harvest type "special forest products" shall be "western red cedar" (flatsawn and shingles), "western larch" (flatsawn and shingle blocks), "lodgepole pine and other" (posts), "pine" (Christmas trees), "Douglas fir and other" (Christmas trees).

(c) All areas:

(i) "Other conifer", as used in the stumpage value tables, shall be all other conifers not separately designated in the applicable stumpage value tables.

(ii) "Hardwood", and "other hardwood", as used in the stumpage value tables, shall be all hardwoods not separately designated in the applicable stumpage value tables.

(iii) "Utility", "conifer utility", and "hardwood utility" are separate species as defined by the "Official Log Scaling and Grading Rules" published by the Puget Sound Log Scaling and Grading Bureau and shall be reported as separate species where designated as such in the stumpage value tables.

(15) **Stumpage Value Area.** A stumpage value area is an area with specified boundaries which contains timber having similar growing, harvesting, and marketing conditions. Presently, there are eleven such stumpage value areas designated in the state of Washington as shown under WAC 458-40-18644. Stumpage value areas 1, 2, 3, 4, 5, and 11 are located west of the Cascade summit and stumpage value areas 6, 7, 8, 9, and 10 are located east of the Cascade summit.

(16) **Stumpage Value of Timber.** The stumpage value of timber shall be the appropriate value for each species of timber harvested, or for each species of "special forest

product" reported, as set forth in the stumpage value tables under WAC 458–40–18647.

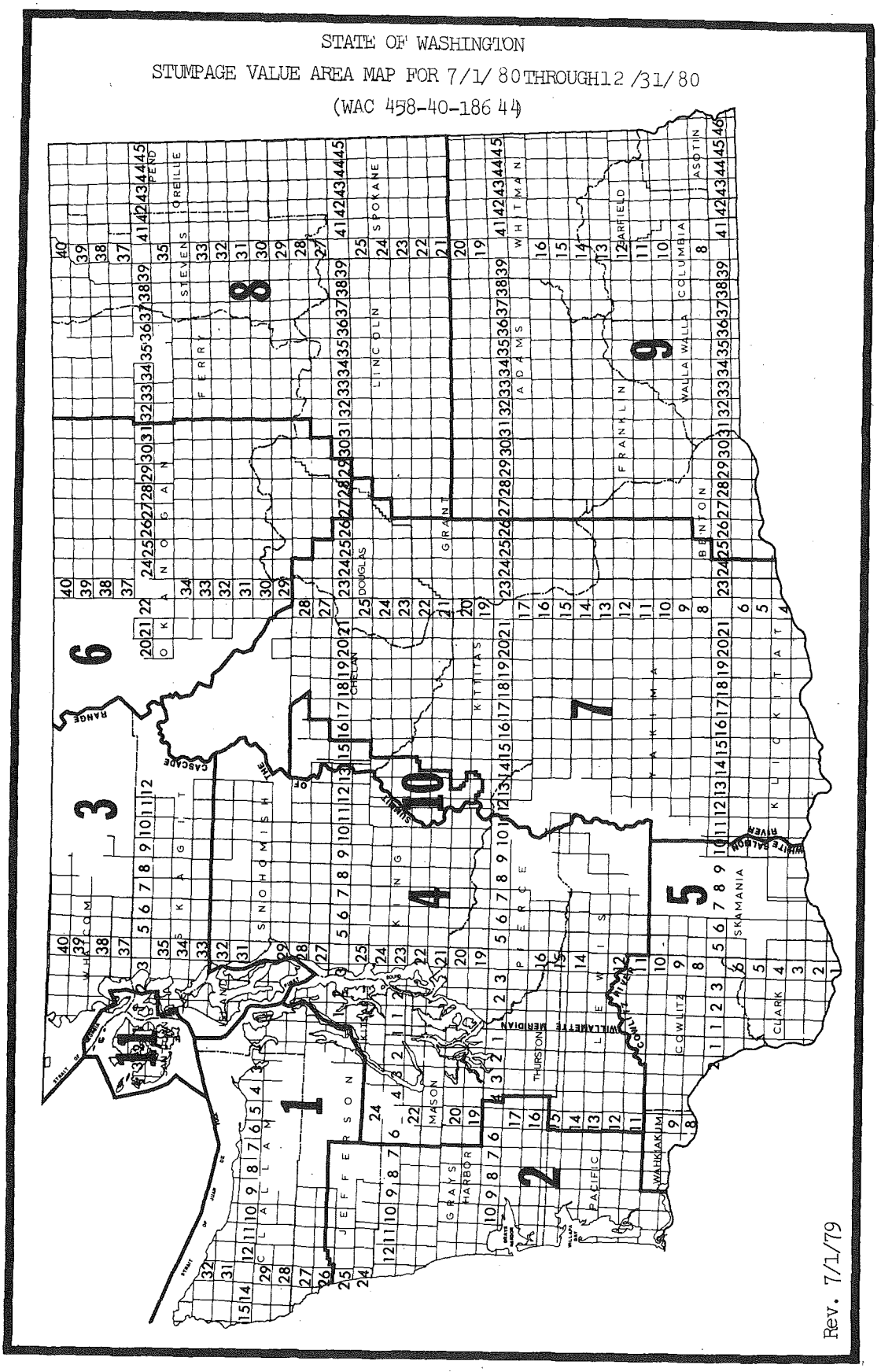
(17) **Timber.** Timber shall include forest trees, standing or down, on privately owned land, and except as provided in RCW 84.33.170 includes Christmas trees, shake blocks and boards, posts and other western red cedar products.

(18) **Timber Quality Code Number.** The timber quality code number is a number assigned to the harvest of a particular species within a harvest type under WAC 458–40–18646, and is based upon the constituent percentage of log grade specifications within the total volume of timber harvested for that particular species. [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.]

WAC 458–40–18644 Stumpage value areas—Map for 7/1/80 through 12/31/80. In order to allow for differences in market conditions and other relevant factors throughout the state as required by RCW 84.33.071(3) the department has created a map designating areas containing timber having similar growing, harvesting, and marketing conditions. The stumpage value area map shall be used for the determination of stumpage values.

The stumpage value area map shown herein shall be used to determine the proper stumpage value table to be used in calculating the taxable stumpage value under WAC 458–40–18647.

The following stumpage value area map is hereby adopted for use during the period of July 1, 1980 through December 31, 1980:



[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.]

WAC 458-40-18645 Hauling distance zones--Maps for 7/1/80 through 12/31/80. In order to allow for differences in hauling costs and other relevant factors as required by RCW 84.33.071, the department has designated zones within each stumpage value area which have similar accessibility to conversion points and other similar hauling cost factors.

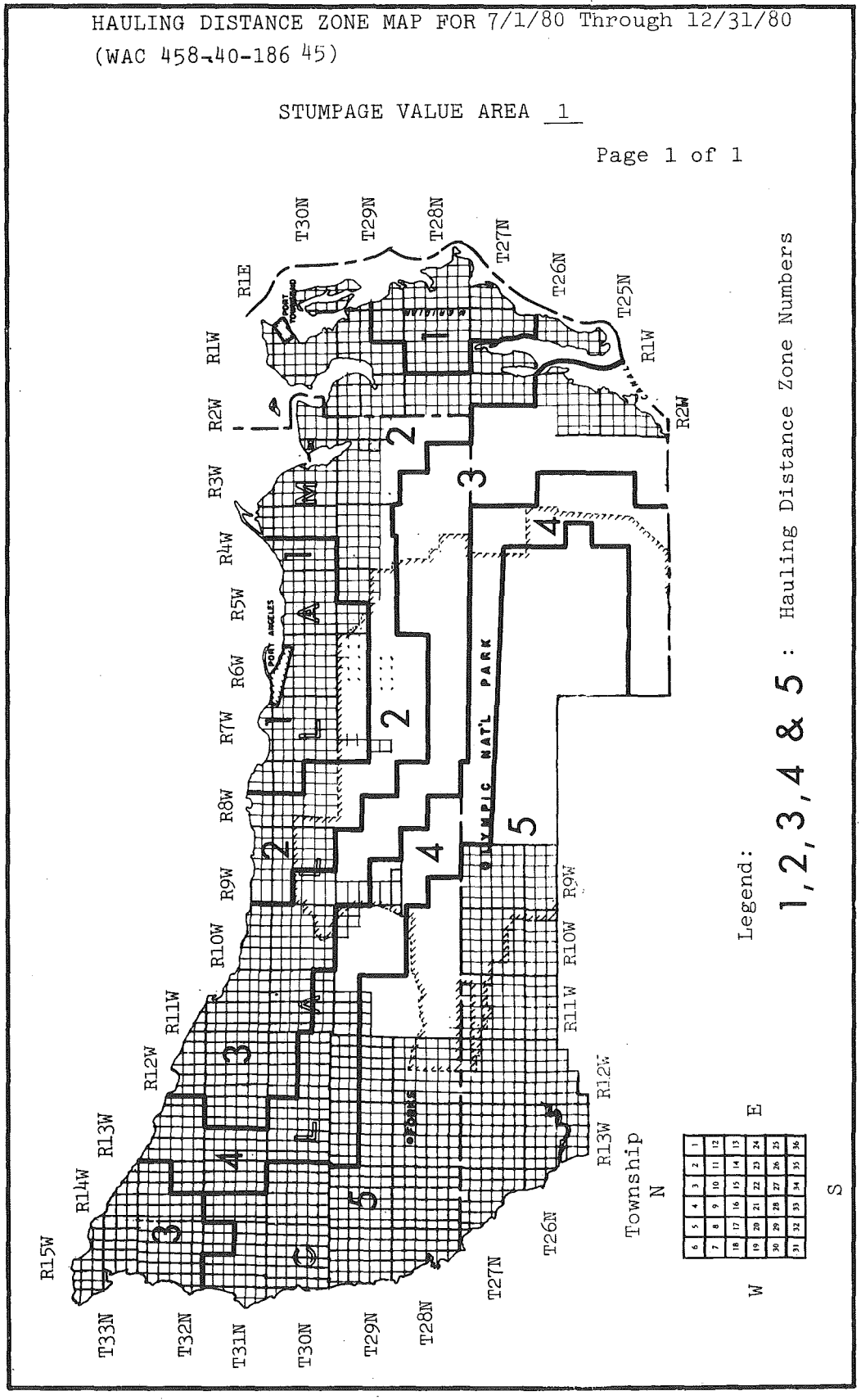
The hauling distance zone numbers on the following hauling distance zone maps establish the hauling distance zone numbers which are to be used in computing timber harvest value under the stumpage value tables of WAC 458-40-18647.

The following hauling distance zone maps designating zones established by the department as having similar hauling costs for transportation of forest products to the market, are hereby adopted for use during the period of July 1, 1980 through December 31, 1980:

HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-186 45)

STUMPAGE VALUE AREA 1

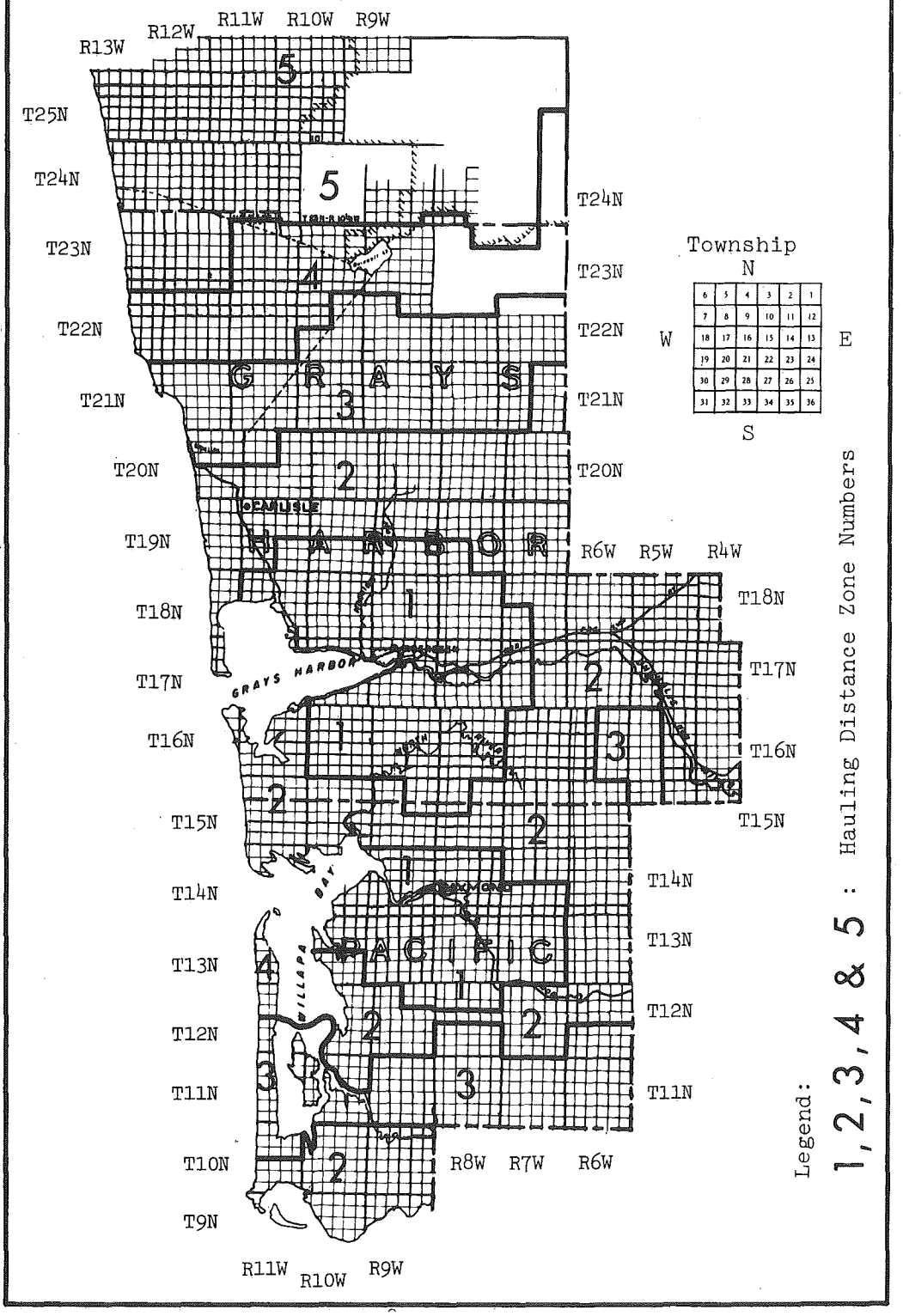
Page 1 of 1



HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC458-40-18645)

STUMPAGE VALUE AREA 2

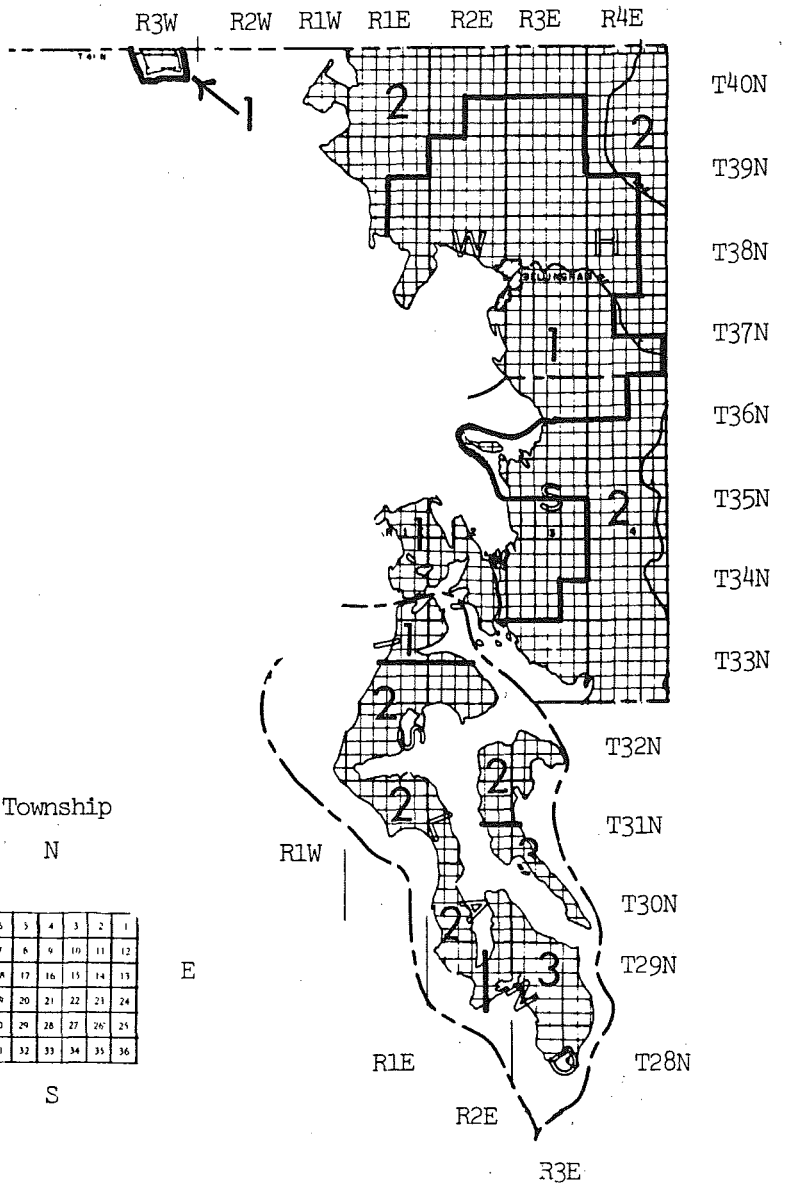
Page 1 of 1



HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC458-40-18645)

STUMPAGE VALUE AREA 3

Page 1 of 2



Legend:

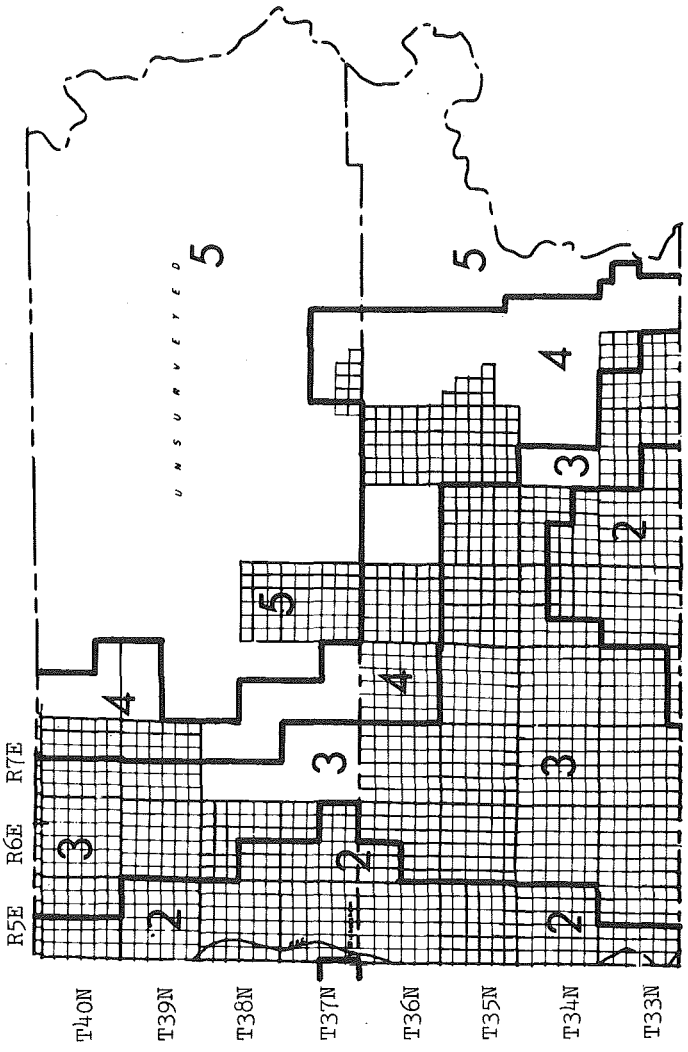
1, 2, 3, 4 and 5 : Hauling Distance Zone Numbers

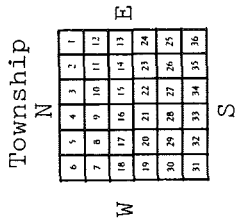
7/1/79

HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-186 45)

STUMPAGE VALUE AREA 3

Page 2 of 2





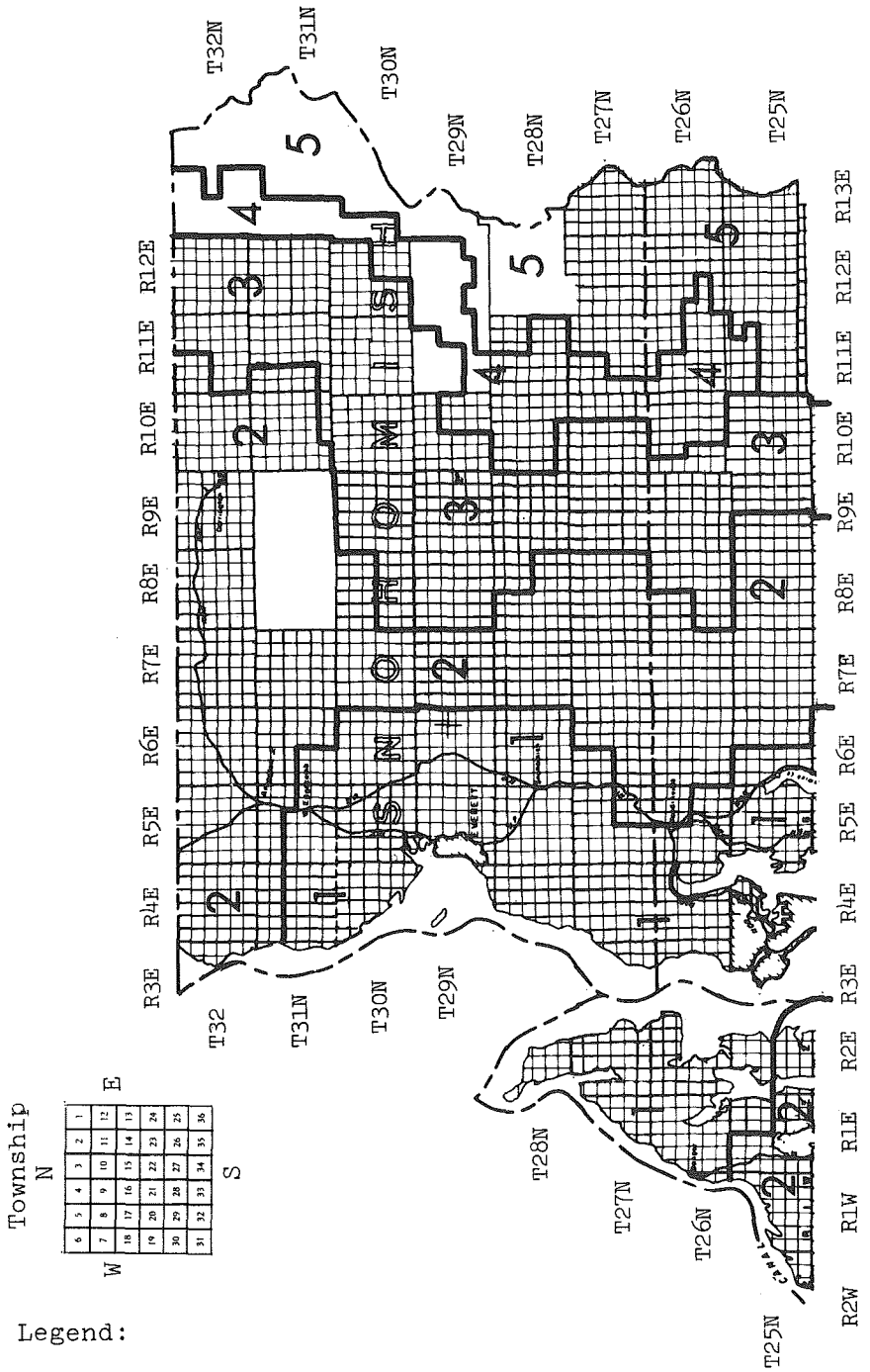
Legend:

2, 3, 4 and 5 : Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-18645)

STUMPAGE VALUE AREA 4

Page 1 of 3



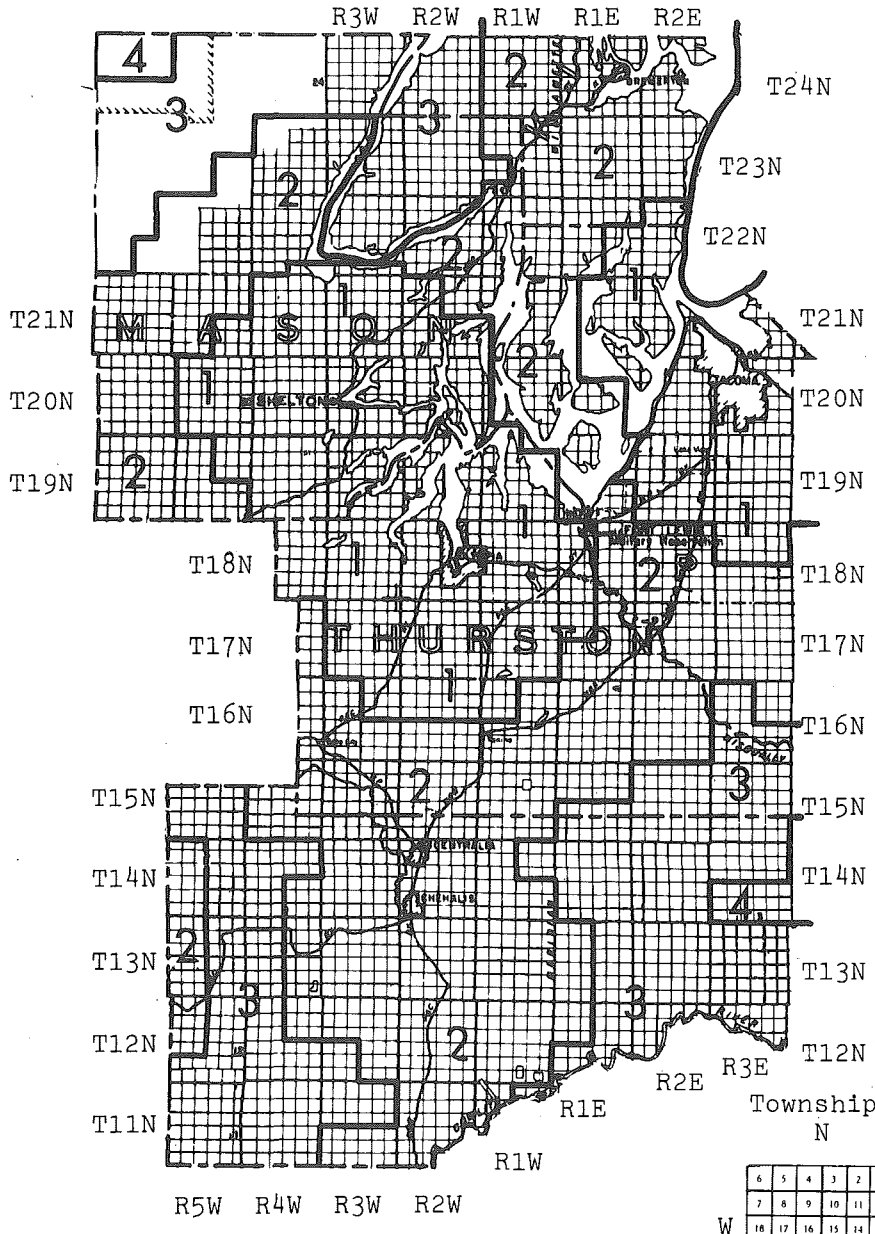
Legend:

1, 2, 3, 4 and 5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR7/1/80 Through 12/31/80
(WAC 458-40-18645)

STUMPAGE VALUE AREA 4

Page 2 of 3



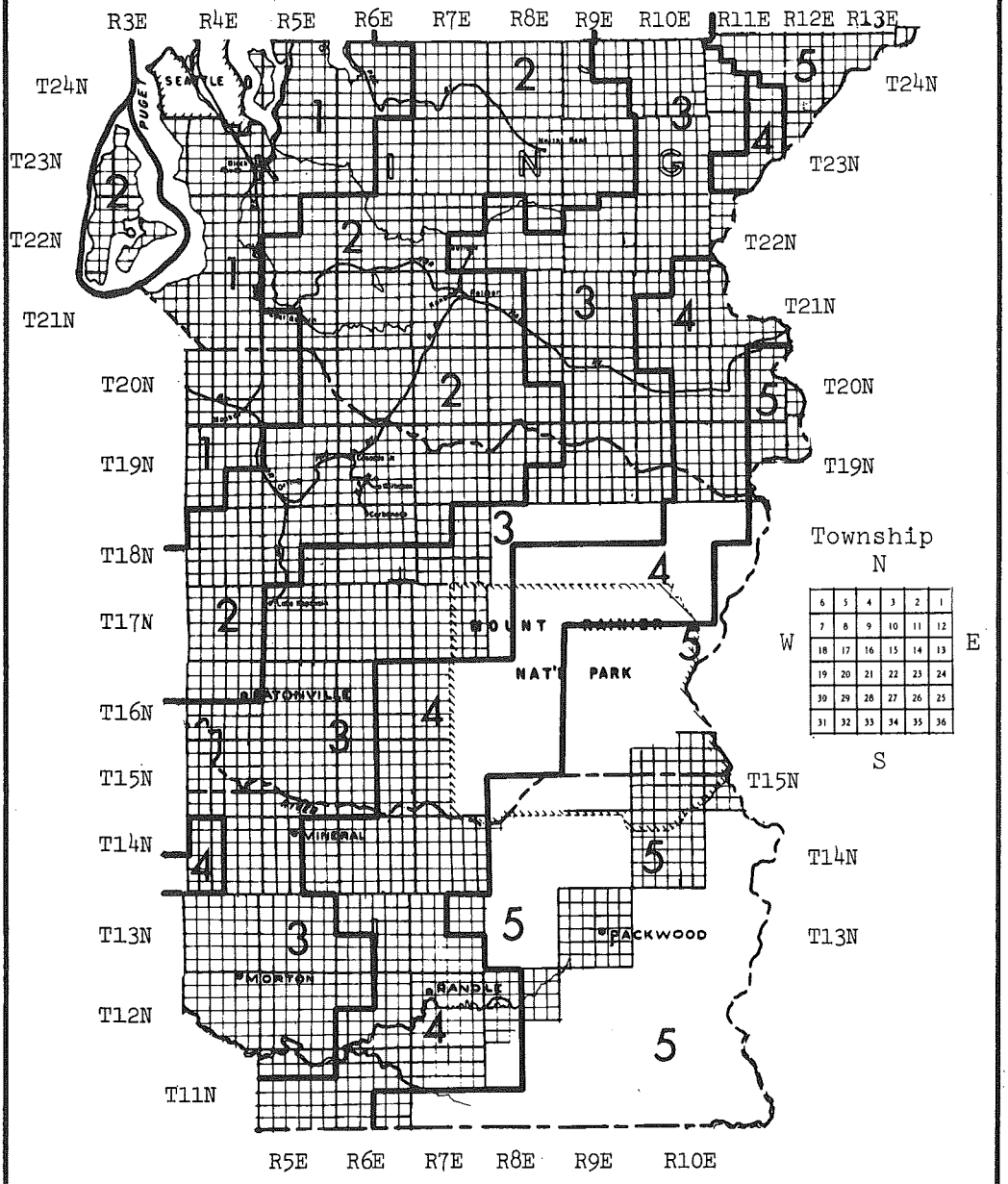
Legend:

1, 2, 3 and 4: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-18645)

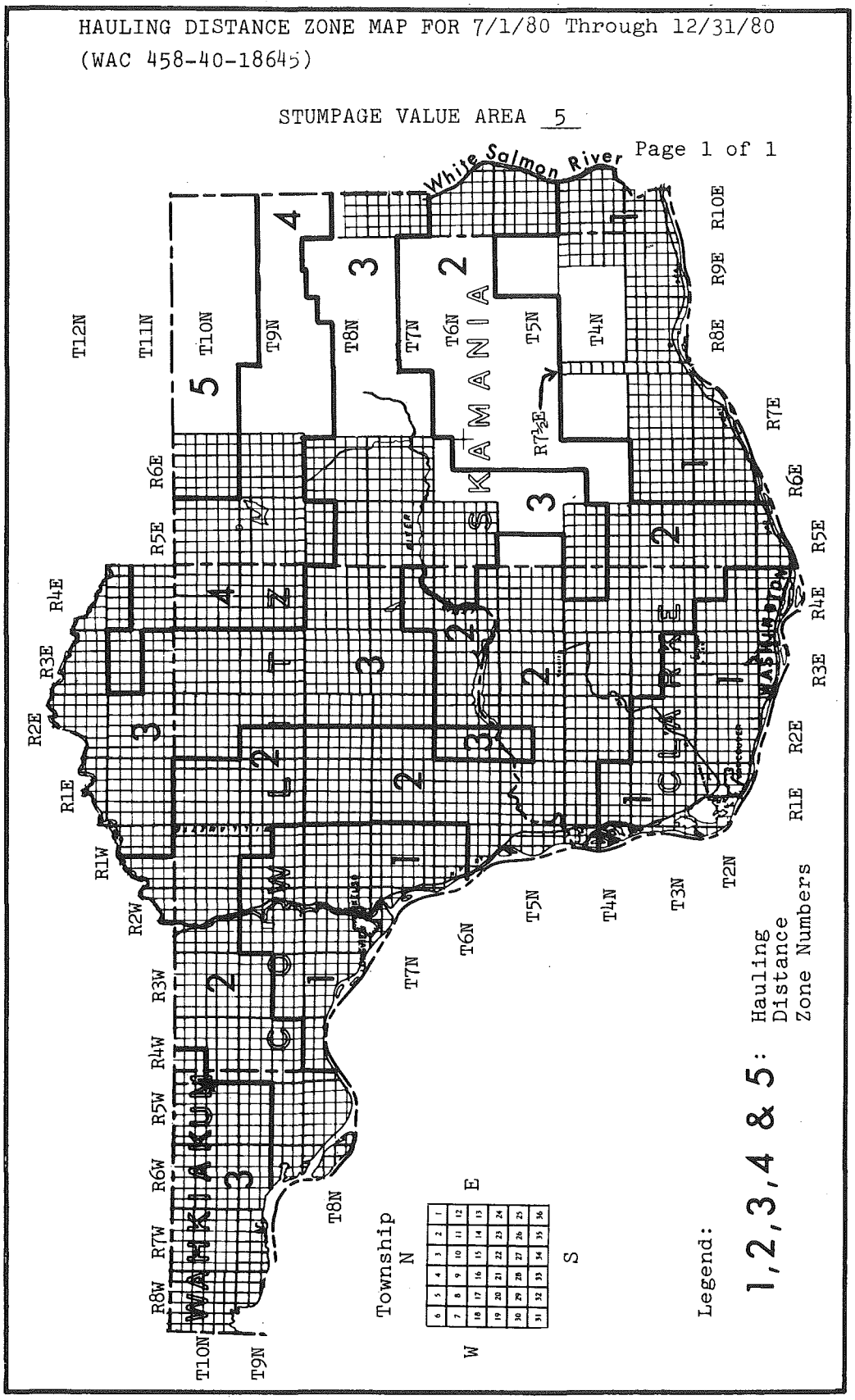
STUMPAGE VALUE AREA 4

Page 3 of 3



Legend:

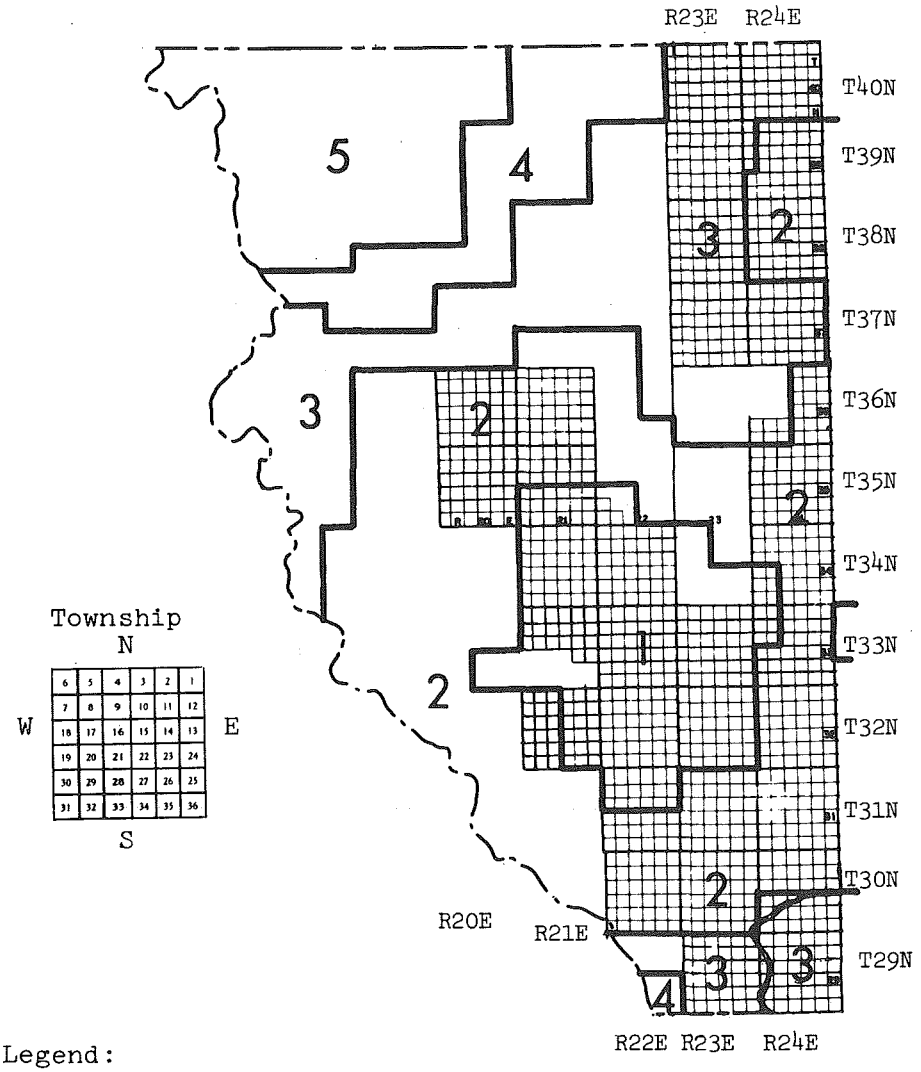
1, 2, 3, 4 and 5: Hauling Distance Zone Numbers


HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-18645)
STUMPAGE VALUE AREA 5
Page 1 of 1
White Salmon River
KLICKITAT
SKAMANIA
WASHINGTON
OREGON
COLUMBIA
WAHKIAKUM
T12N
T11N
T10N
T9N
T8N
T7N
T6N
T5N
T4N
T3N
T2N
R10E
R9E
R8E
R7½E
R7E
R6E
R5E
R4E
R3E
R2E
R1E
R1W
R2W
R3W
R4W
R5W
R6W
R7W
R8W
Legend:
1,2,3,4 & 5: Hauling Distance Zone Numbers
Township
N
S
E
W

HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-18645)

STUMPAGE VALUE AREA 6

Page 1 of 2



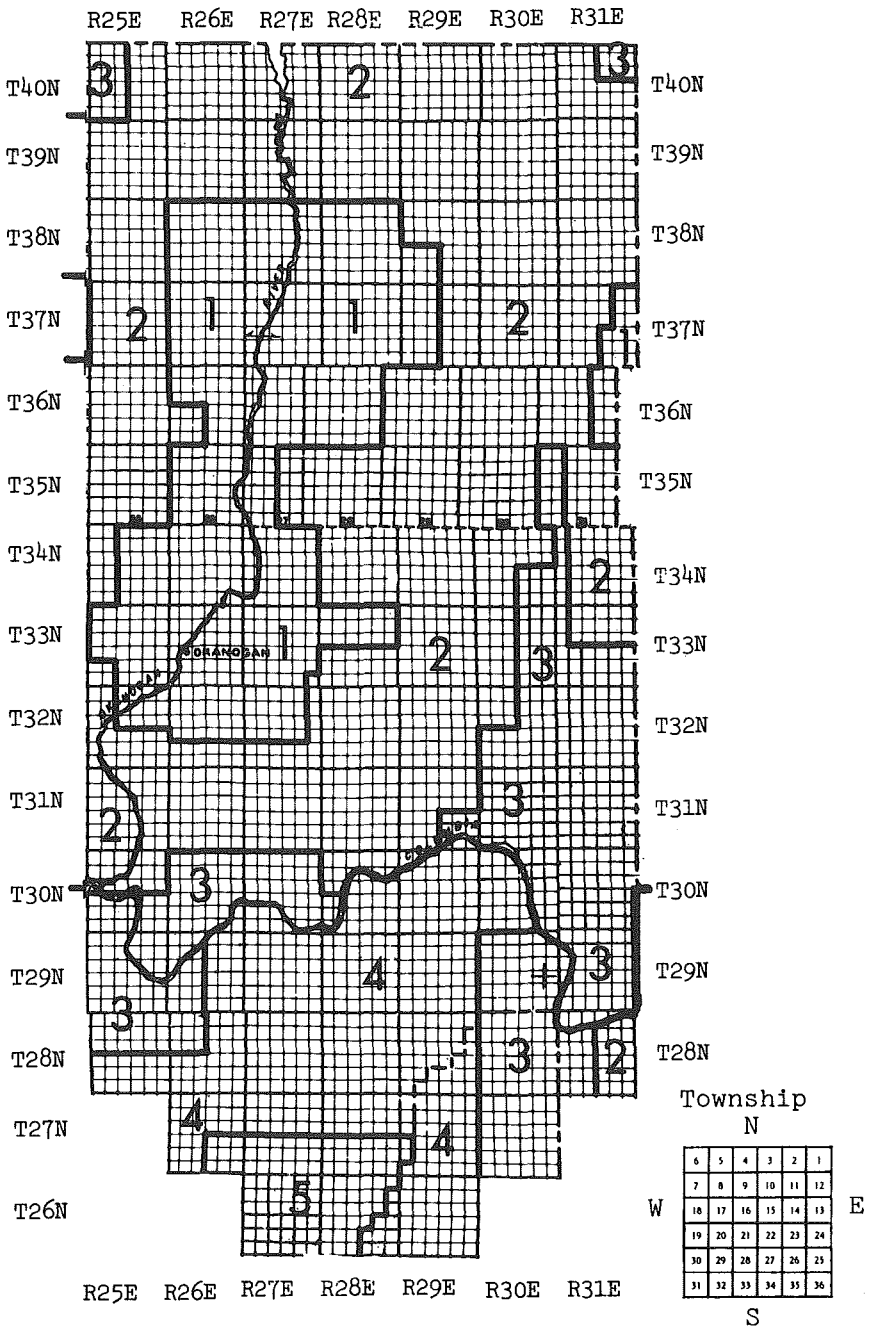
Legend:

1,2,3,4 and 5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-186 45)

STUMPAGE VALUE AREA 6

Page 2 of 2



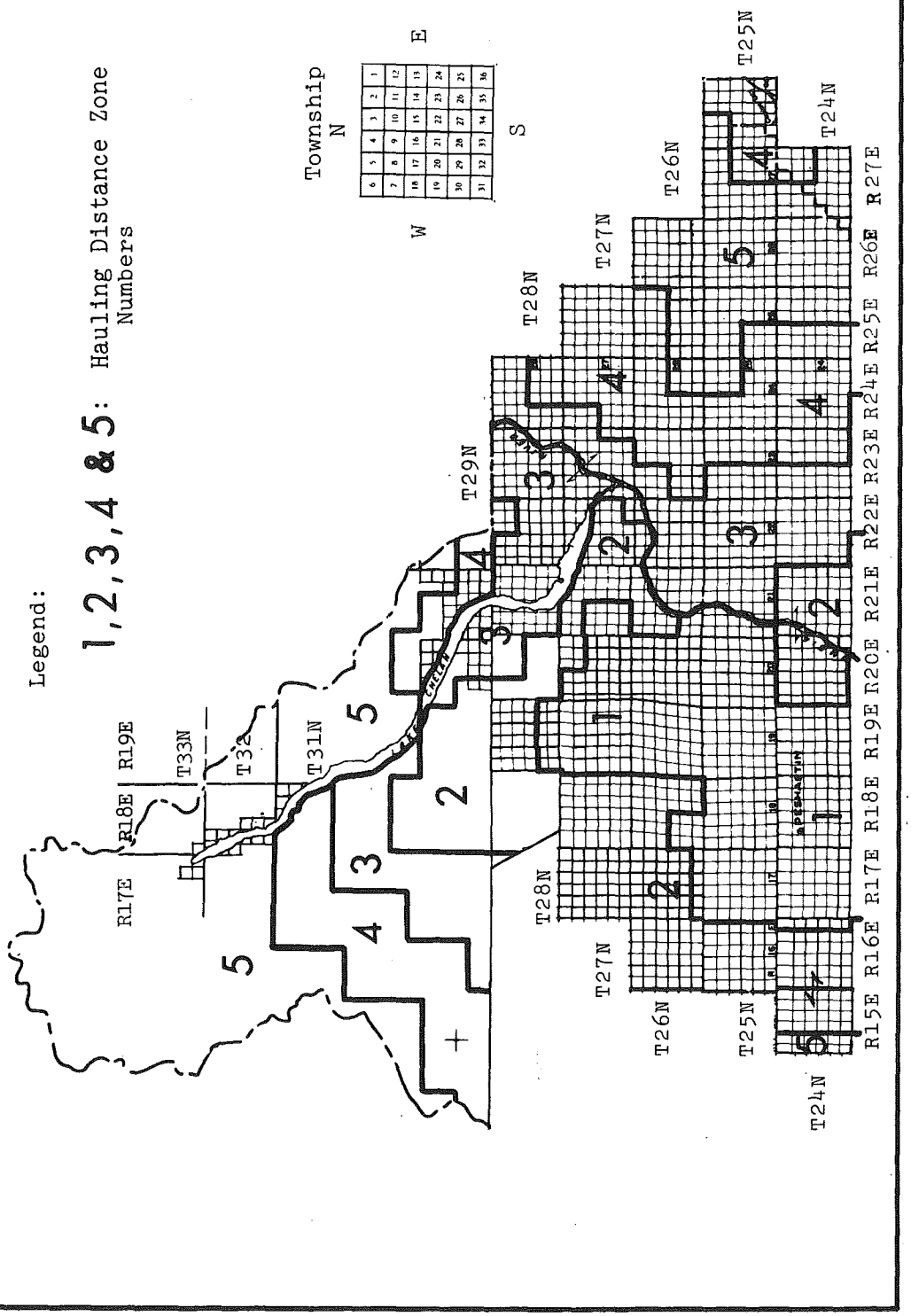
Legend:

1, 2, 3, 4 and 5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-186 45)

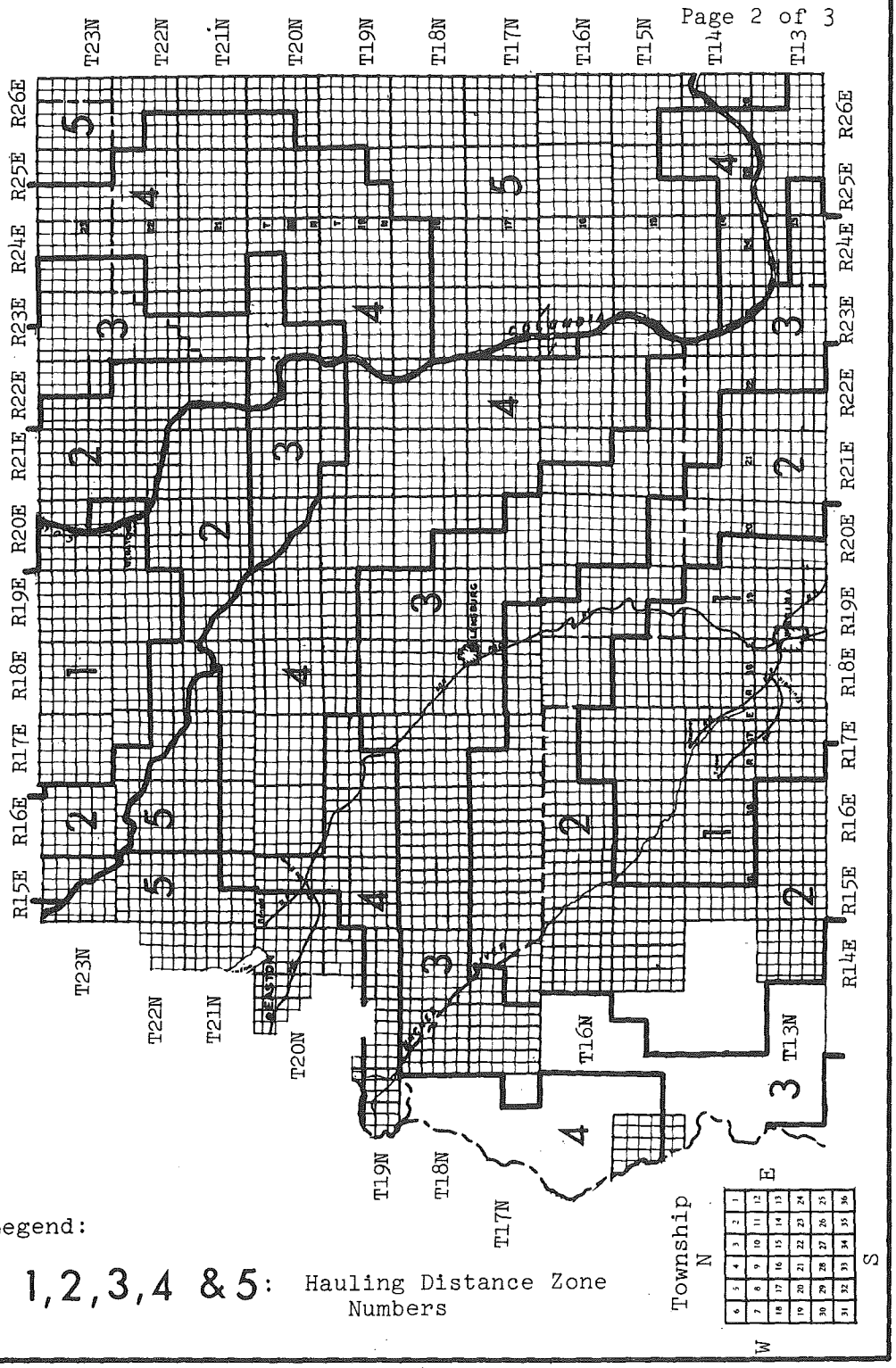
STUMPAGE VALUE AREA 7

Page 1 of 3



HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-186 45)

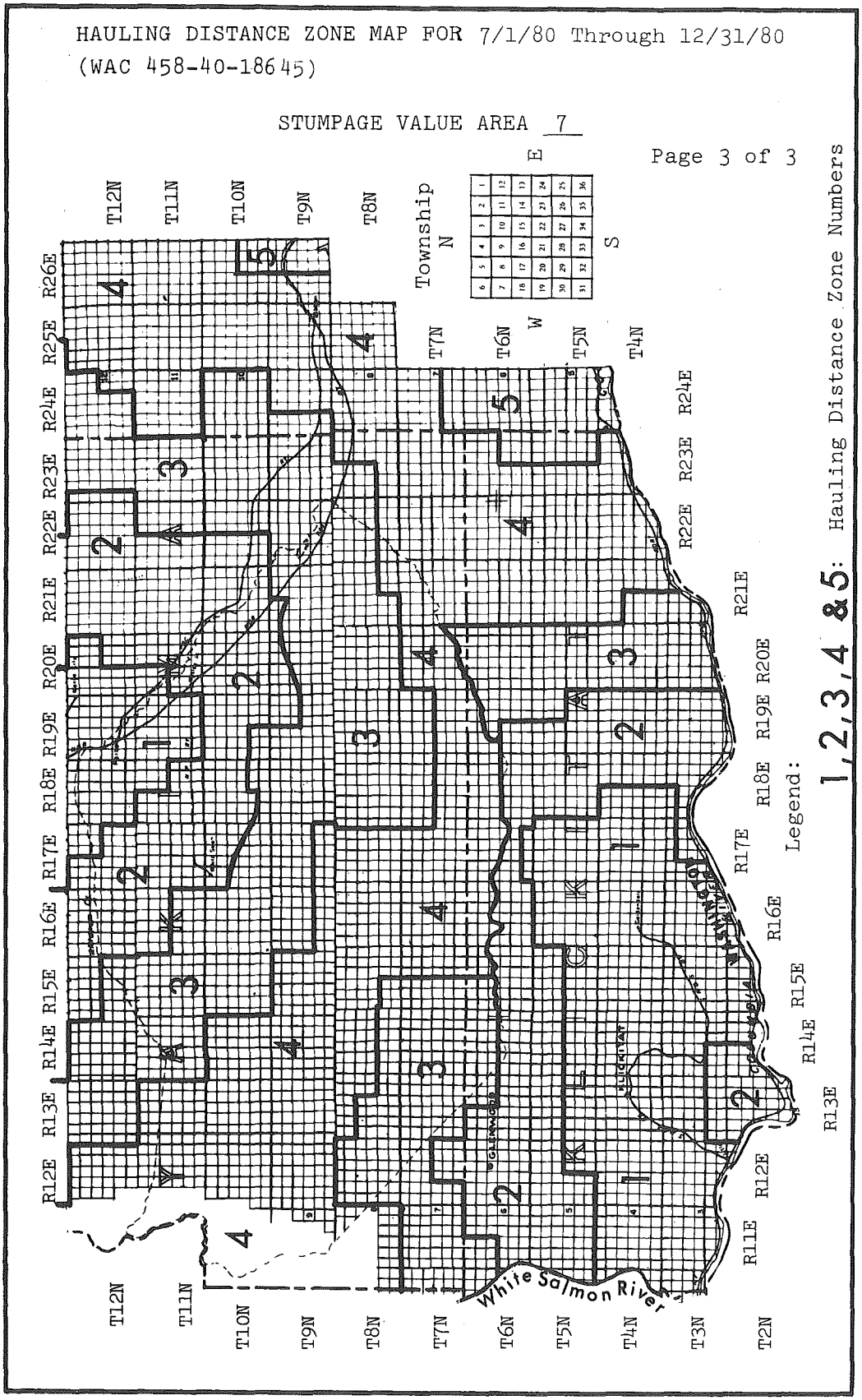
STUMPAGE VALUE AREA 7



HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-18645)

STUMPAGE VALUE AREA 7

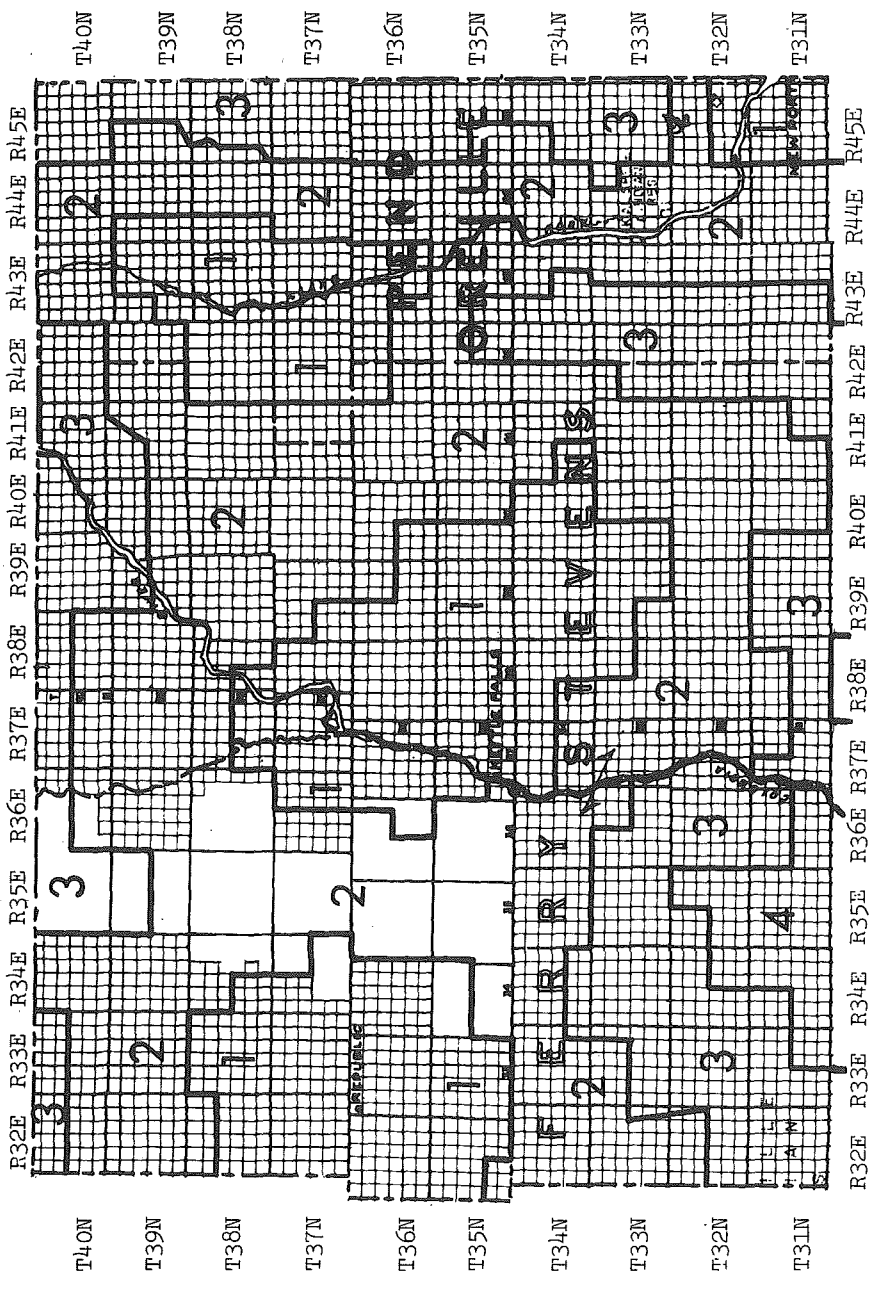
Page 3 of 3



HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-186 45)

STUMPAGE VALUE AREA 8

Page 1 of 2



Township
N
W
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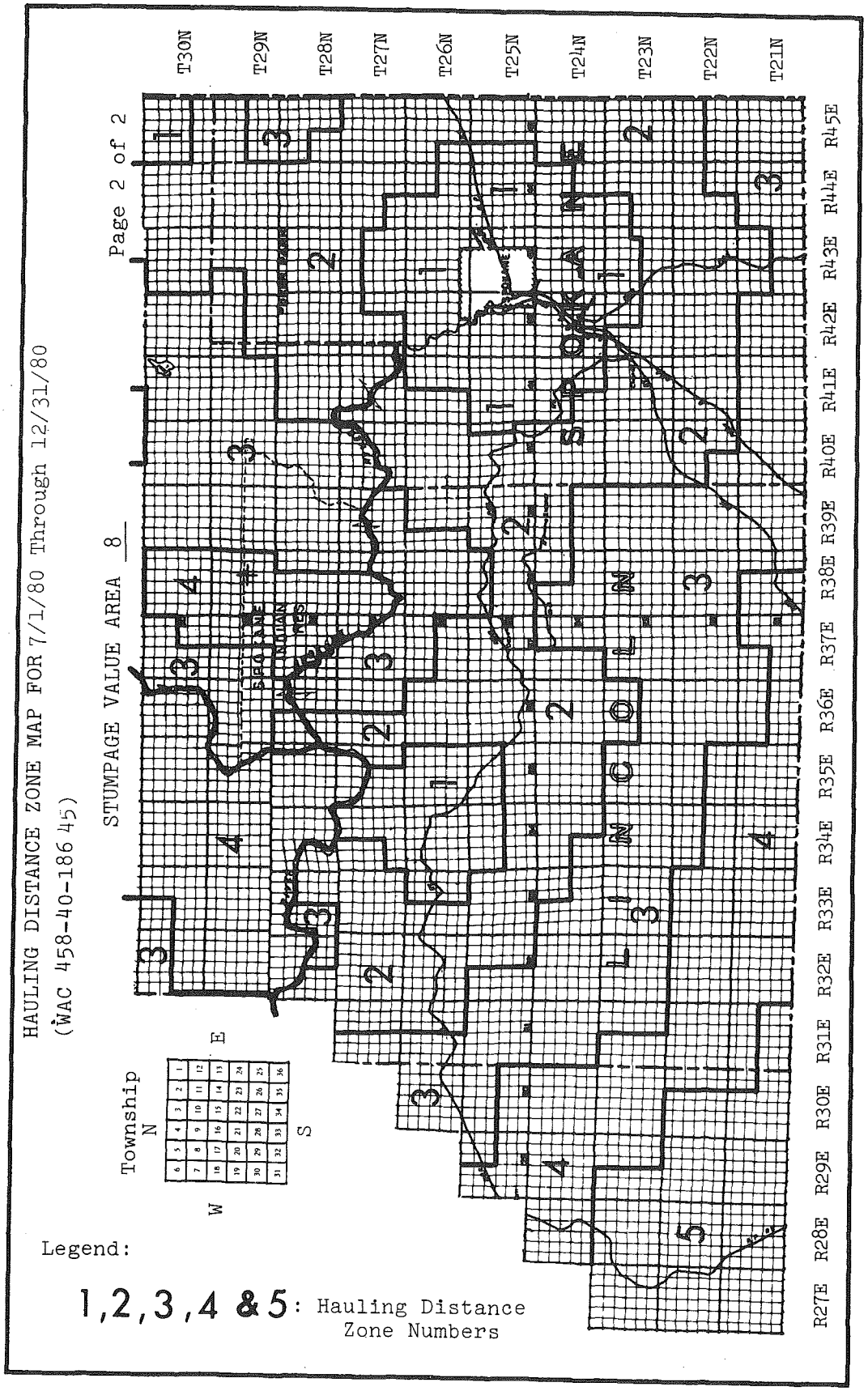
S

Legend:

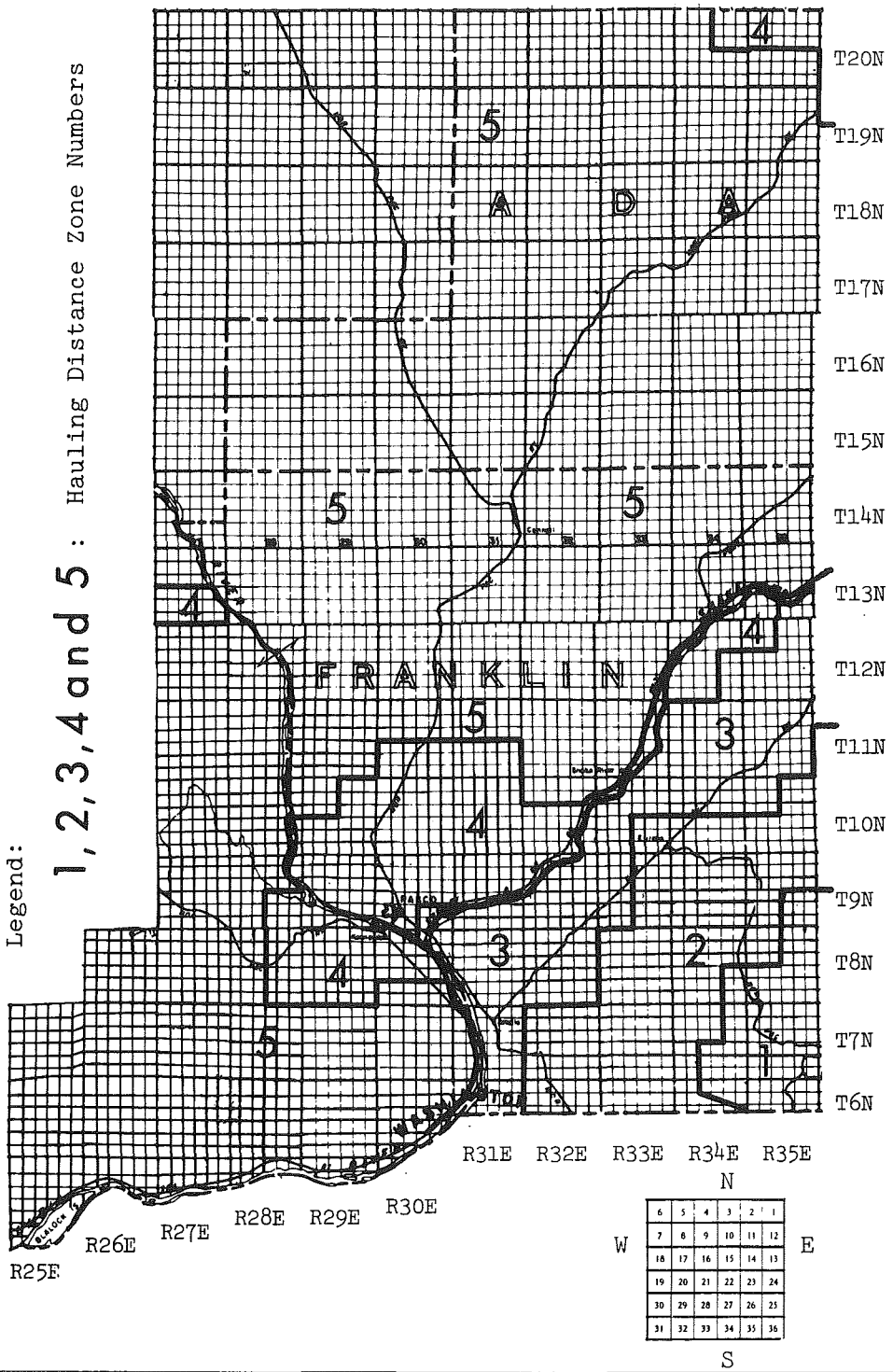
1,2,3,4 & 5: Hauling Distance Zone Numbers


HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-18645)
Page 2 of 2
STUMPAGE VALUE AREA 8
T30N
T29N
T28N
T27N
T26N
T25N
T24N
T23N
T22N
T21N
R27E R28E R29E R30E R31E R32E R33E R34E R35E R36E R37E R38E R39E R40E R41E R42E R43E R44E R45E
Township
N
S
E
W
Legend:
1,2,3,4 &5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-186 45)

STUMPAGE VALUE AREA 9

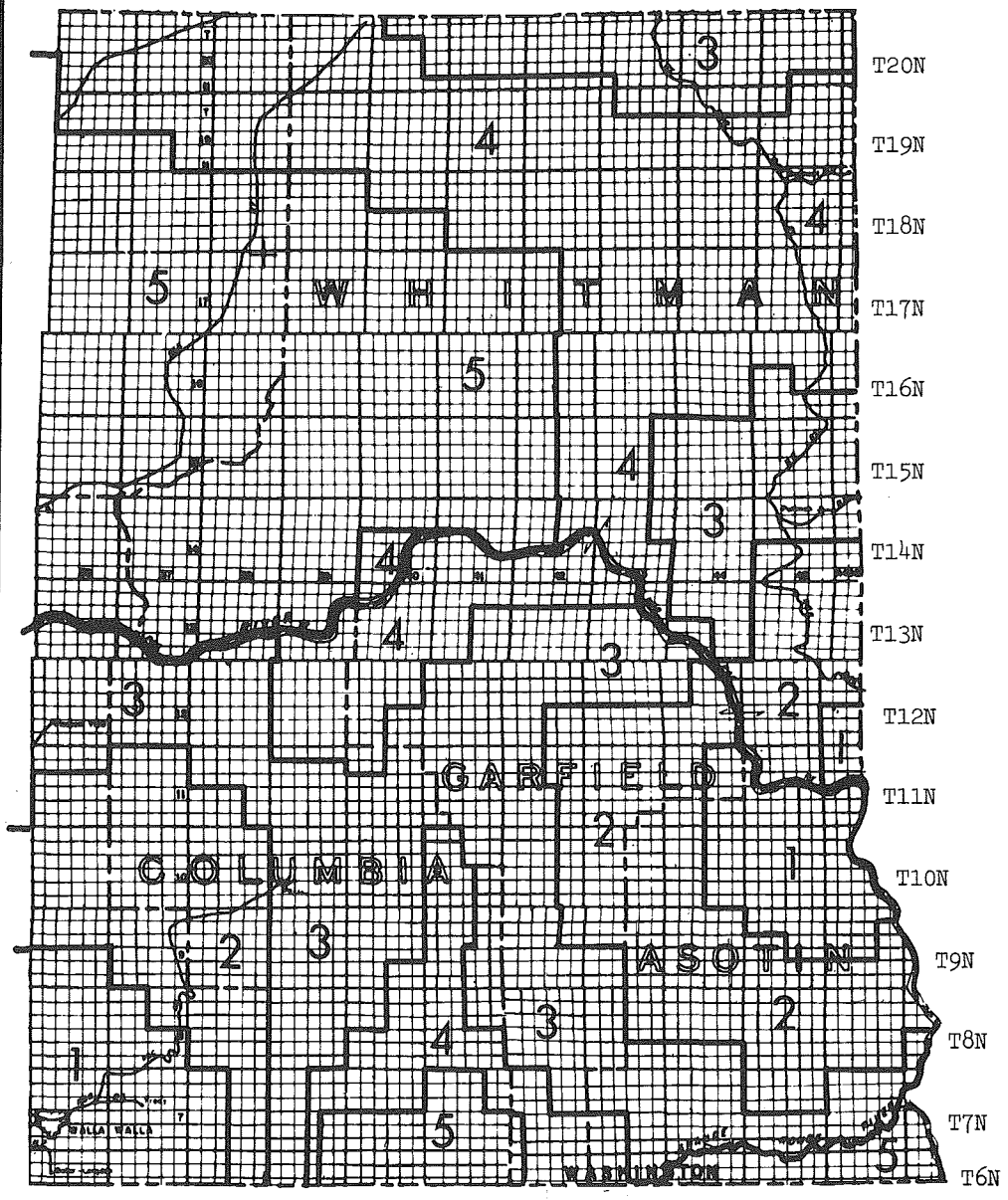
Page 1 of 2



HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-18645)

STUMPAGE VALUE AREA 9

Page 2 of 2



R36E R37E R38E R39E R40E R41E R42E R43E R44E R45E R46E R47E

Legend:

1, 2, 3, 4 and 5 : Hauling Distance Zone Numbers

N

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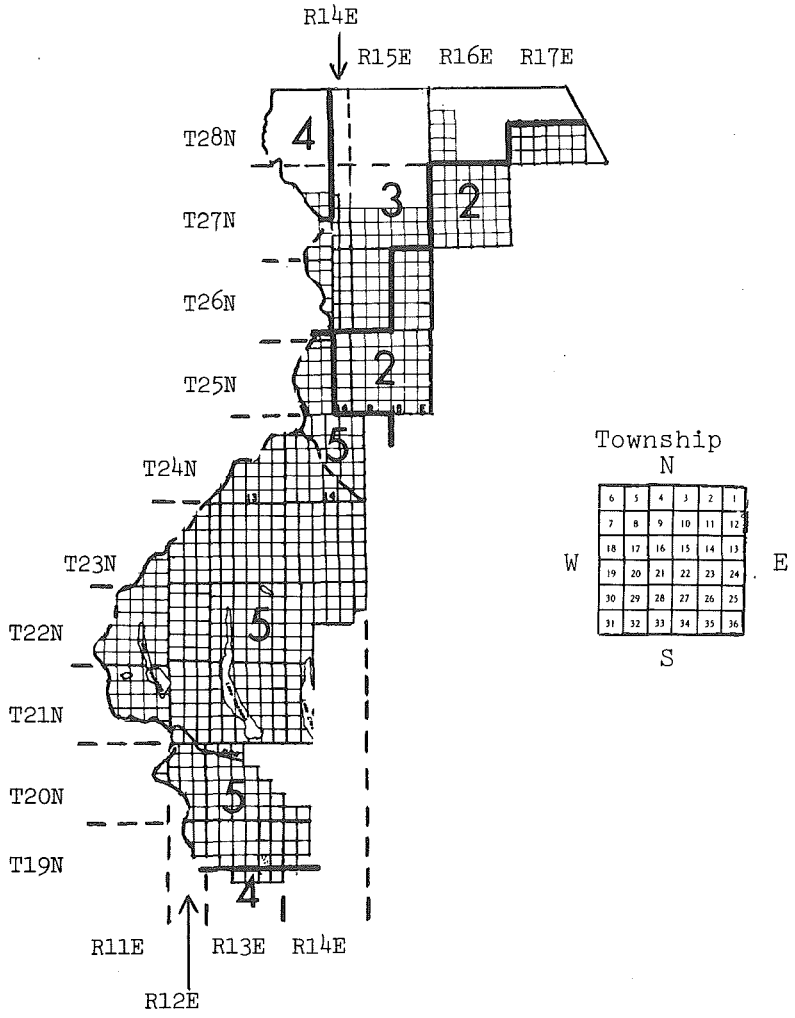
HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80
(WAC 458-40-186 45)

STUMPAGE VALUE AREA 10

Page 1 of 1



Legend:

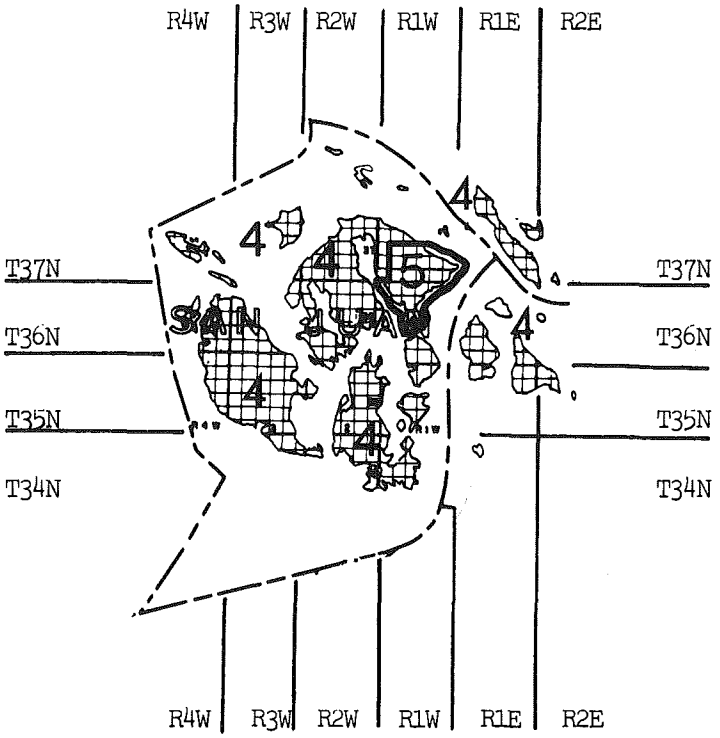
2,3,4 and 5: Hauling Distance Zone Numbers

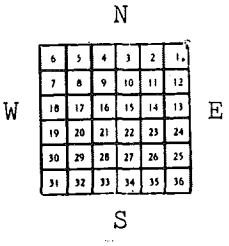
HAULING DISTANCE ZONE MAP FOR 7/1/80 Through 12/31/80

(WAC 458-40-18645)

STUMPAGE VALUE AREA 11

Page 1 of 1





Legend:

4 and 5: Hauling Distance Zone Numbers

7/1/79

[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.]

WAC 458-40-18646 Timber quality code numbers--Tables for 7/1/80 through 12/31/80. In order to allow for differences in age, size, quality of timber and other relevant factors as required by RCW 84.33.071(3), the department has assigned timber quality code numbers for harvests of the various designated harvest types and species.

Scaling and grading information derived from an acceptable log scaling and grading rule for the particular harvest type and species shall be used to determine the proper quality code number.

For each timber quality code number in the following tables, there is a corresponding timber quality code number for that particular harvest type and species in the stumpage value tables of WAC 458-40-18647 which is to be used in computing timber harvest value.

The following timber quality code tables are hereby adopted for use during the period of July 7, 1980 through December 31, 1980:

TABLE 1--Timber Quality Code Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 7/1/80 through 12/31/80)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Timber Quality Code Number	Species	Log Grade Specifications[1]
	Douglas Fir	Over 50% No. 3 Peeler & better log grade
	Western Red Cedar & Alaska Yellow Cedar	Over 20% Special Mill, No. 1 Sawmill, Peeler & better log grade
1	Noble Fir & Spruce	Over 35% No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, White Fir & Other Conifer	Over 25% Special Mill, No. 1 Sawmill & better log grade
	Hardwoods	All No. 4 Sawmill logs with a diameter of 8 inches inside bark and larger (at the scaling end) & better log grades
	Douglas Fir	Over 40% Special Mill, No. 1 Sawmill & better log grade
	Western Red Cedar & Alaska Yellow Cedar	10-20% inclusive Special Mill, No. 1 Sawmill, Peeler & better log grade
2	Noble Fir & Spruce	15-35% inclusive No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, White Fir & Other Conifer	5-25% inclusive Special Mill, No. 1 Sawmill & better log grade
	Douglas Fir	15-40% inclusive Special Mill, No. 1 Sawmill & better log grade
	Western Red Cedar & Alaska Yellow Cedar	Less than 10% Special Mill, No. 1 Sawmill, Peeler & better log grade
3	Noble Fir & Spruce	Less than 15% No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, White Fir & Other Conifer	Less than 5% Special Mill, No. 1 Sawmill & better log grade
4	Douglas Fir	Less than 15% Special Mill, No. 1 Sawmill & better log grade
	Conifer Utility	All conifer logs graded as utility log grade
5	Hardwood Utility	All No. 4 Sawmill log grade with a diameter of less than 8 inches inside bark (at the scaling end) and all hardwood logs graded as utility

[1] For detailed descriptions and definitions of log scaling and grading rules and procedures see the Official Log Scaling and Grading Rules revised January 1, 1980, published by Puget Sound Log Scaling and Grading Bureau. These are also used by the Columbia River and Grays Harbor Scaling and Grading Bureaus. To determine timber quality code number, see the example for Western Washington which follows Table 3.

TABLE 2--Timber Quality Code Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 7/1/80 through 12/31/80)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Timber Quality Code Number	Species	Log Grade Specifications[1]
	Douglas Fir	Over 70% No. 2. Sawmill & better log grade
	Western Red Cedar & Alaska Yellow Cedar	Over 20% No. 2 Sawmill & better log grade
1	Western Hemlock & Other Conifer	Over 70% No. 2 Sawmill & better log grade
	Hardwoods	All No. 4 Sawmill logs with a diameter of 8 inches inside bark and larger (at the scaling end) & better log grades

TABLE 2--cont.

Timber Quality Code Number	Species	Log Grade Specifications[1]
	Douglas Fir	40–70% inclusive No. 2 Sawmill & better log grade
2	Western Red Cedar & Alaska Yellow Cedar	5–20% inclusive No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	40–70% inclusive No. 2 Sawmill & better log grade
	Douglas Fir	5 to but not including 40% No. 2 Sawmill & better log grade
3	Western Red Cedar & Alaska Yellow Cedar	Less than 5% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	5 to but not including 40% No. 2 Sawmill & better log grade
4	Douglas Fir, Western Hemlock & Other Conifer, except Western Red Cedar & Alaska yellow cedar	Less than 5% No. 2 Sawmill & better log grade
	Conifer Utility	All conifer logs graded as utility log grade
5	Hardwood Utility	All No. 4 Sawmill log grade with a diameter of less than 8 inches inside bark (at the scaling end) and all hardwood logs graded as utility

[1]For detailed descriptions and definitions of log scaling and grading rules and procedures see the Official Log Scaling and Grading Rules revised January 1, 1980, published by the Puget Sound Log Scaling and Grading Bureau. These are also used by the Columbia River and Grays Harbor Scaling and Grading Bureaus. To determine timber quality code number, see the example for Western Washington which follows Table 3.

TABLE 3--Timber Quality Code Table
Stumpage Values Areas 1, 2, 3, 4, 5, and 11
(for 7/1/80 through 12/31/80)
THINNING
See definition WAC 458-40-18643(9)(d)

Timber Quality Code Number	Species	Log Grade Specifications[1]
	Douglas Fir	Over 70% No. 2 Sawmill & better log grade
1	Western Hemlock & Other Conifer	Over 70% No. 2 Sawmill & better log grade
	Western Red Cedar & Alaska Yellow Cedar	Over 20% No. 2 Sawmill & better log grade
	Hardwoods	All No. 4 Sawmill logs with a diameter of 8 inches inside bark and larger (at the scaling end) & better log grades
	Douglas Fir	40–70% inclusive No. 2 Sawmill & better log grade
	Western Red Cedar & Alaska Yellow Cedar	5–20% inclusive No. 2 Sawmill & better log grade
2	Western Hemlock & Other Conifer	40–70% inclusive No. 2 Sawmill & better log grade
	Douglas Fir	5 to but not including 40% No. 2 Sawmill & better log grade
	Western Red Cedar & Alaska Yellow Cedar	Less than 5% No. 2 Sawmill & better log grade
3	Western Hemlock & Other Conifer	5 to but not including 40% No. 2 Sawmill & better log grade
4	Douglas Fir, Western Hemlock & Other Conifer	Less than 5% No. 2 Sawmill & better log grade
	Conifer Utility	All conifer logs graded as utility log grade
5	Hardwood Utility	All No. 4 Sawmill log grade with a diameter of less than 8 inches inside bark (at the scaling end) and all hardwood logs graded as utility

[1]For detailed descriptions and definitions of log scaling rules and procedures see the Official Log Scaling and Grading Rules revised January 1, 1980, published by the Puget Sound Log Scaling and Grading Bureau. These are also used by the Columbia River and Grays Harbor Scaling and Grading Bureaus. To determine timber quality code number for Western Washington, see the following example.

WESTERN WASHINGTON EXAMPLE: The following example is for determining the timber quality number code for timber harvested in stumpage value areas 1, 2, 3, 4, 5, and 11 in Western Washington. The following method can be used to determine the quality code number for species in "old growth final harvest",

"young growth final harvest", and "thinning harvest" types.

The example shown below is for a harvest of 150 thousand board feet (150 MBF) of the species, Douglas Fir, and the harvest type, young growth final harvest, with the following volumes at the indicated grades:

Log Grade	Net Volume, Scribner Scale
Special Mill	20 MBF
No. 1 sawmill	20 MBF
No. 2 sawmill	45 MBF
No. 3 sawmill	35 MBF
No. 4 sawmill	30 MBF
TOTAL	150 MBF

To determine the proper quality code number, add the scale volumes for the grades as established by the approved grading rule. Divide this volume by the total volume harvested for the species. In this example, the Special Mill and the No. 1 and 2 sawmill logs account for 85 MBF of the 150 MBF Douglas Fir harvested. Divide as follows:

$$\frac{20 + 20 + 45}{150} \text{ or } \frac{85}{150} = .567 \times 100 = 56.7\%$$

In this example, the Special Mill, No. 1 and 2 sawmill logs make up 56.7% of the Douglas Fir harvested. Since this is between 40 and 70% No. 2 sawmill and better, the entire Douglas Fir harvested would be reported as:

Species	Timber Quality Code Number	Net Volume Harvested
Douglas Fir	2	150 MBF

TABLE 4--Timber Quality Code Table
Stumpage Value Areas 6, 7, 8, and 9
(for 7/1/80 through 12/31/80)
MERCHANTABLE SAWTIMBER, ALL AGES

Timber Quality Code Number	Species	Log Grade Specifications[1]
1	Ponderosa Pine	Less than 10 logs 16 feet long per thousand board feet Scribner scale
	All Conifers Other Than Ponderosa Pine	All log sizes
	Hardwoods	Sawlogs only
2	Ponderosa Pine	10 or more logs 16 feet long per thousand board feet Scribner scale
4	Utility	All logs graded as utility

[1]To determine timber quality code number in Stumpage Value Areas 6, 7, 8 and 9 for Eastern Washington, see the following example.

EASTERN WASHINGTON EXAMPLE: The following example is for determining the timber quality code for timber harvested in stumpage value areas 6, 7, 8 and 9 in Eastern Washington.

The example shown below is for a harvest of 150 thousand board feet (150 MBF) of the species, Ponderosa Pine, and harvest type merchantable sawtimber, all ages with a sum total log length of 19,200 feet.

Step 1. The highest possible number of sawable sixteen foot logs which could be recovered is determined by dividing the sum total length of all sawable logs harvested (i.e. 19,200) by 16. Answer: 1200 logs.

Step 2. The average net volume per sixteen foot recoverable log is determined by dividing the total volume harvested (150 MBF) by the number of sixteen foot logs (1200). Answer: 125.

Step 3. The total number of logs per thousand board feet is determined by dividing 1000 by the average net volume per sixteen foot recoverable log (125). Answer: 8 logs per 1 MBF.

Step 4. Because the timber quality code table lists 1 to 9 logs per 1 MBF for Ponderosa pine as timber quality code number 1, the harvest was at 8 logs per 1 MBF the entire Ponderosa pine harvest would be reported as:

Species	Timber Quality Code Number	Volume Harvested
Ponderosa Pine (PP)	1	150 MBF

TABLE 5--Timber Quality Code Table
Stumpage Value Area 10
(for 7/1/80 through 12/31/80)
MERCHANTABLE SAWTIMBER, ALL AGES

Timber Quality Code Number	Species	Log Grade Specifications[1]
1	Ponderosa Pine & Other Conifers	Less than 5 logs 16 feet long per MBF net log Scribner scale
	Hardwoods	All logs graded as sawlogs
2	Ponderosa Pine	5 to 9 logs inclusive 16 feet long per MBF net log Scribner scale
	Other Conifer	5 to 12 logs inclusive 16 feet long per MBF net log scale
3	Ponderosa Pine	More than 9 logs 16 feet long per MBF net log Scribner scale
	Other Conifer	More than 12 logs 16 feet long per MBF net log Scribner scale

TABLE 5--cont.

Timber Quality Code Number	Species	Log Grade Specifications[1]
4	Utility	All logs graded as utility

[1]To determine timber quality code number in Stumpage Value Area 10 in Eastern Washington, see the following example.

EASTERN WASHINGTON EXAMPLE: The following example is for determining the timber quality code for timber harvested in stumpage value area 10 in Eastern Washington.

The example shown below is for a harvest of 150 thousand board feet (150 MBF) of the species, Ponderosa Pine, and harvest type merchantable sawtimber, all ages with a sum total log length of 19,200 feet.

Step 1. The highest possible number of sawable sixteen foot logs which could be recovered is determined by dividing the sum total length of all sawable logs harvested (i.e. 19,200) by 16. Answer: 1200 logs.

Step 2. The average net volume per sixteen foot recoverable log is determined by dividing the total volume harvested (150 MBF) by the number of sixteen foot logs (1200). Answer: 125.

Step 3. The total number of logs per thousand board feet is determined by dividing 1000 by the average net volume per sixteen foot recoverable log (125). Answer: 8 logs per 1 MBF.

Step 4. Because the timber quality code table lists 5-9 logs per 1 MBF for Ponderosa pine as timber quality code number 2, the harvest was at 8 logs per 1 MBF the entire Ponderosa pine harvest would be reported as:

Species	Timber Quality Code Number	Volume Harvested
Ponderosa Pine (PP)	2	150 MBF

[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.]

WAC 458-40-18647 Stumpage values--Tables for 7/1/80 through 12/31/80. As required by RCW 84.33-.071 the department has prepared tables which assign stumpage value rates for the various harvest types, which rates vary depending upon the stumpage value area, species, timber quality code number and hauling distance zone involved. Where the timber harvested is used to produce harvest type "special forest products" the value tables of this section shall establish the values for such special forest products.

The following stumpage value and special forest product value tables are hereby adopted for use during the period of July 1, 1980 through December 31, 1980.

TABLE 1--Stumpage Value Table
Stumpage Value Area 1
(for 7/1/80 through 12/31/80)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$336	$332	$328	$324	$320
		2	336	332	328	324	320
		3	263	259	255	251	247
		4	205	201	197	193	189
Western Hemlock[1]	WH	1	381	377	373	369	365
		2	276	272	268	264	260
		3	177	173	169	165	161
True Fir[2]	TF	1	381	377	373	369	365
		2	276	272	268	264	260
		3	177	173	169	165	161
Western Red Cedar[3]	RC	1	468	464	460	456	452
		2	352	348	344	340	336
		3	234	230	226	222	218
Sitka Spruce	SS	1	403	399	395	391	387
		2	396	392	388	384	380
		3	307	303	299	295	291
Other Conifer	OC	1	336	332	328	324	320
		2	263	259	255	251	247
		3	177	173	169	165	161
Red Alder	RA	1	50	44	38	32	26
Cottonwood	BC	1	37	31	25	19	13
Other Hardwoods	OH	1	41	35	29	23	17
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	6	6	6	6	6

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 2--Stumpage Value Table
Stumpage Value Area 1
(for 7/1/80 through 12/31/80)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$346	$340	$334	$328	$322
		2	308	302	296	290	284
		3	210	204	198	192	186
		4	180	174	168	162	156

TABLE 2--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Western Hemlock[1]	WH	1	217	211	205	199	193
		2	210	204	198	192	186
		3	184	178	172	166	160
		4	128	122	116	110	104
True Fir[2]	TF	1	217	211	205	199	193
		2	210	204	198	192	186
		3	184	178	172	166	160
		4	128	122	116	110	104
Western Red Cedar[3]	RC	1	412	406	400	394	388
		2	303	297	291	285	279
		3	277	271	265	259	253
Other Conifer	OC	1	217	211	205	199	193
		2	210	204	198	192	186
		3	184	178	172	166	160
		4	128	122	116	110	104
Red Alder	RA	1	50	44	38	32	26
Cottonwood	BC	1	37	31	25	19	13
Other Hardwoods	OH	1	41	35	29	23	17
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	6	6	6	6	6

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 3--Stumpage Value Table
Stumpage Value Area 1
(for 7/1/80 through 12/31/80)
THINNING
See definition WAC 458-40-18643(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$321	$315	$309	$303	$297
		2	283	277	271	265	259
		3	185	179	173	167	161
		4	155	149	143	137	131
Western Hemlock[1]	WH	1	192	186	180	174	168
		2	185	179	173	167	161
		3	159	153	147	141	135
		4	103	97	91	85	79
True Fir[2]	TF	1	192	186	180	174	168
		2	185	179	173	167	161
		3	159	153	147	141	135
		4	103	97	91	85	79
Western Red Cedar[3]	RC	1	387	381	375	369	363
		2	278	272	266	260	254
		3	252	246	240	234	228
Other Conifer	OC	1	192	186	180	174	168
		2	185	179	173	167	161
		3	159	153	147	141	135
		4	103	97	91	85	79

TABLE 3--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Red Alder	RA	1	50	44	38	32	26
Cottonwood	BC	1	37	31	25	19	13
Other Hardwoods	OH	1	41	35	29	23	17
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	6	6	6	6	6

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 4--Stumpage Value Table
Stumpage Value Area 1
(for 7/1/80 through 12/31/80)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Red Cedar--Shake Blocks & Boards[1]	RCS	1	$188	$184	$180	$176	$172
Western Red Cedar Flatsawn & Shingle Blocks[1]	RCF	1	70	66	62	58	54
Western Red Cedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas Fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage Value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage Value per lineal foot.

TABLE 5--Stumpage Value Table
Stumpage Value Area 2
(for 7/1/80 through 12/31/80)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$426	$422	$418	$414	$410
		2	426	422	418	414	410
		3	348	344	340	336	332
		4	207	203	199	195	191

TABLE 5--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Western Hemlock[1]	WH	1	330	326	322	318	314
		2	286	282	278	274	270
		3	188	184	180	176	172
True Fir[2]	TF	1	330	326	322	318	314
		2	286	282	278	274	270
		3	188	184	180	176	172
Western Red Cedar[3]	RC	1	543	539	535	531	527
		2	313	309	305	301	297
		3	303	299	295	291	287
Sitka Spruce	SS	1	403	399	395	391	387
		2	396	392	388	384	380
		3	307	303	299	295	291
Other Conifer	OC	1	330	326	322	318	314
		2	286	282	278	274	270
		3	188	184	180	176	172
Red Alder	RA	1	37	31	25	19	13
Cottonwood	BC	1	41	35	29	23	17
Other Hardwoods	OH	1	37	31	25	19	13
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	8	8	8	8	8

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 6--Stumpage Value Table
Stumpage Value Area 2
(for 7/1/80 through 12/31/80)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$346	$340	$334	$328	$322
		2	325	319	313	307	301
		3	259	253	247	241	235
		4	223	217	211	205	199
Western Hemlock[1]	WH	1	219	213	207	201	195
		2	212	206	200	194	188
		3	188	182	176	170	164
		4	132	126	120	114	108
True Fir[2]	TF	1	219	213	207	201	195
		2	212	206	200	194	188
		3	188	182	176	170	164
		4	132	126	120	114	108
Western Red Cedar[3]	RC	1	291	285	279	273	267
		2	263	257	251	245	239
		3	242	236	230	224	218

TABLE 6--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Other Conifer	OC	1	219	213	207	201	195
		2	212	206	200	194	188
		3	188	182	176	170	164
		4	132	126	120	114	108
Red Alder	RA	1	37	31	25	19	13
Cottonwood	BC	1	41	35	29	23	17
Other Hardwoods	OH	1	37	31	25	19	13
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	8	8	8	8	8

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 7--Stumpage Value Table
Stumpage Value Area 2
(for 7/1/80 through 12/31/80)
THINNING
See definition WAC 458-40-18643(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$321	$315	$309	$303	$297
		2	300	294	288	282	276
		3	234	228	222	216	210
		4	198	192	186	180	174
Western Hemlock[1]	WH	1	194	188	182	176	170
		2	187	181	175	169	163
		3	163	157	151	145	139
		4	107	101	95	89	83
True Fir[2]	TF	1	194	188	182	176	170
		2	187	181	175	169	163
		3	163	157	151	145	139
		4	107	101	95	89	83
Western Red Cedar[3]	RC	1	266	260	254	248	242
		2	238	232	226	220	214
		3	217	211	205	199	193
Other Conifer	OC	1	194	188	182	176	170
		2	187	181	175	169	163
		3	163	157	151	145	139
		4	107	101	95	89	83
Red Alder	RA	1	37	31	25	19	13
Cottonwood	BC	1	41	35	29	23	17
Other Hardwoods	OH	1	37	31	25	19	13
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	8	8	8	8	8

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 8--Stumpage Value Table
Stumpage Value Area 2
(for 7/1/80 through 12/31/80)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Red Cedar--Shake Blocks & Boards[1]	RCS	1	$210	$206	$202	$198	$194
Western Red Cedar Flatsawn & Shingle Blocks[1]	RCF	1	87	83	79	75	71
Western Red Cedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas Fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage Value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage Value per lineal foot.

TABLE 9--Stumpage Value Table
Stumpage Value Area 3
(for 7/1/80 through 12/31/80)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$408	$404	$400	$396	$392
		2	408	404	400	396	392
		3	392	388	384	380	376
		4	354	350	346	342	338
Western Hemlock[1]	WH	1	328	324	320	316	312
		2	283	279	275	271	267
		3	211	207	203	199	195
True Fir[2]	TF	1	328	324	320	316	312
		2	283	279	275	271	267
		3	211	207	203	199	195
Western Red Cedar	RC	1	356	352	348	344	340
		2	284	280	276	272	268
		3	257	253	249	245	241
Sitka Spruce	SS	1	403	399	395	391	387
		2	396	392	388	384	380
		3	307	303	299	295	291
Alaska Yellow Cedar	YC	1	1224	1220	1216	1212	1208
		2	844	840	836	832	828
		3	464	460	456	452	448
Other Conifer	OC	1	356	352	348	344	340
		2	283	279	275	271	267
		3	211	207	203	199	195

TABLE 9--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Red Alder	RA	1	51	45	39	33	27
Cottonwood	BC	1	48	42	36	30	24
Other Hardwoods	OH	1	63	57	51	45	39
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.

TABLE 10--Stumpage Value Table
Stumpage Value Area 3
(for 7/1/80 through 12/31/80)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$435	$429	$423	$417	$411
		2	299	293	287	281	275
		3	202	196	190	184	178
		4	162	156	150	144	138
Western Hemlock[1]	WH	1	246	240	234	228	222
		2	240	234	228	222	216
		3	210	204	198	192	186
		4	108	102	96	90	84
True Fir[2]	TF	1	246	240	234	228	222
		2	240	234	228	222	216
		3	210	204	198	192	186
		4	108	102	96	90	84
Western Red Cedar[3]	RC	1	306	300	294	288	282
		2	253	247	241	235	229
		3	252	246	240	234	228
Other Conifer	OC	1	246	240	234	228	222
		2	240	234	228	222	216
		3	202	196	190	184	178
		4	108	102	96	90	84
Red Alder	RA	1	51	45	39	33	27
Cottonwood	BC	1	48	42	36	30	24
Other Hardwoods	OH	1	63	57	51	45	39
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 11--Stumpage Value Table
Stumpage Value Area 3
(for 7/1/80 through 12/31/80)
THINNING
See definition WAC 458-40-18643(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$410	$404	$398	$392	$386
		2	274	268	262	256	250
		3	177	171	165	159	153
		4	137	131	125	119	113
Western Hemlock[1]	WH	1	221	215	209	203	197
		2	215	209	203	197	191
		3	185	179	173	167	161
		4	83	77	71	65	59
True Fir[2]	TF	1	221	215	209	203	197
		2	215	209	203	197	191
		3	185	179	173	167	161
		4	83	77	71	65	59
Western Red Cedar[3]	RC	1	281	275	269	263	257
		2	228	222	216	210	204
		3	227	221	215	209	203
Other Conifer	OC	1	221	215	209	203	197
		2	215	209	203	197	191
		3	177	171	165	159	153
		4	83	77	71	65	59
Red Alder	RA	1	51	45	39	33	27
Cottonwood	BC	1	48	42	36	30	24
Other Hardwoods	OH	1	63	57	51	45	39
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 12--Stumpage Value Table
Stumpage Value Area 3
(for 7/1/80 through 12/31/80)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Red Cedar--Shake Blocks & Boards[1]	RCS	1	$214	$210	$206	$202	$198
Western Red Cedar Flatsawn & Shingle Blocks[1]	RCF	1	77	73	69	65	61
Western Red Cedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas Fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15

TABLE 12--cont.

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage Value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot.

TABLE 13--Stumpage Value Table
Stumpage Value Area 4
(for 7/1/80 through 12/31/80)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$456	$452	$448	$444	$440
		2	456	452	448	444	440
		3	420	416	412	408	404
		4	393	389	385	381	377
Western Hemlock[1]	WH	1	486	482	478	474	470
		2	332	328	324	320	316
		3	330	326	322	318	314
True Fir[2]	TF	1	486	482	478	474	470
		2	332	328	324	320	316
		3	330	326	322	318	314
Western Red Cedar	RC	1	459	455	451	447	443
		2	315	311	307	303	299
		3	233	229	225	221	217
Sitka Spruce	SS	1	403	399	395	391	387
		2	396	392	388	384	380
		3	307	303	299	295	291
Noble Fir	NF	1	940	936	932	928	924
		2	658	654	650	646	642
		3	330	326	322	318	314
Alaska Yellow Cedar	YC	1	1224	1220	1216	1212	1208
		2	844	840	836	832	828
		3	464	460	456	452	448
Other Conifer	OC	1	403	399	395	391	387
		2	315	311	307	303	299
		3	233	229	225	221	217
Red Alder	RA	1	45	39	33	27	21
Cottonwood	BC	1	26	20	14	8	2
Other Hardwoods	OH	1	40	34	28	22	16
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	6	6	6	6	6

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Grand Fir, and Alpine Fir.

TABLE 14--Stumpage Value Table
Stumpage Value Area 4
(for 7/1/80 through 12/31/80)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$393	$387	$381	$375	$369
		2	349	343	337	331	325
		3	246	240	234	228	222
		4	213	207	201	195	189
Western Hemlock[1]	WH	1	256	250	244	238	232
		2	227	221	215	209	203
		3	166	160	154	148	142
		4	147	141	135	129	123
True Fir[2]	TF	1	256	250	244	238	232
		2	227	221	215	209	203
		3	166	160	154	148	142
		4	147	141	135	129	123
Western Red Cedar[3]	RC	1	394	388	382	376	370
		2	268	262	256	250	244
		3	239	233	227	221	215
Other Conifer	OC	1	256	250	244	238	232
		2	227	221	215	209	203
		3	166	160	154	148	142
		4	147	141	135	129	123
Red Alder	RA	1	45	39	33	27	21
Cottonwood	BC	1	26	20	14	8	2
Other Hardwoods	OH	1	40	34	28	22	16
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	6	6	6	6	6

[1]Includes Western amd Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 15--Stumpage Value Table
Stumpage Value Area 4
(for 7/1/80 through 12/31/80)
THINNING
See definition WAC 458-40-18643(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$368	$362	$356	$350	$344
		2	324	318	312	306	300
		3	221	215	209	203	197
		4	188	182	176	170	164

TABLE 15--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Western Hemlock[1]	WH	1	231	225	219	213	207
		2	202	196	190	184	178
		3	141	135	129	123	117
		4	122	116	110	104	98
True Fir[2]	TF	1	231	225	219	213	207
		2	202	196	190	184	178
		3	141	135	129	123	117
		4	122	116	110	104	98
Western Red Cedar[3]	RC	1	369	363	357	351	345
		2	243	237	231	225	219
		3	214	208	202	196	190
Other Conifer	OC	1	231	225	219	213	207
		2	202	196	190	184	178
		3	141	135	129	123	117
		4	122	116	110	104	98
Red Alder	RA	1	45	39	33	27	21
Cottonwood	BC	1	26	20	14	8	2
Other Hardwoods	OH	1	40	34	28	22	16
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	6	6	6	6	6

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 16--Stumpage Value Table
Stumpage Value Area 4
(for 7/1/80 through 12/31/80)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Red Cedar--Shake Blocks & Boards[1]	RCS	1	$216	$212	$208	$204	$200
Western Red Cedar Flatsawn & Shingle Blocks[1]	RCF	1	77	73	69	65	61
Western Red Cedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas Fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage value per MBF net Scribner Scale.
[2]Stumpage value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot.

TABLE 17--Stumpage Value Table
Stumpage Value Area 5
(for 7/1/80 through 12/31/80)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$487	$483	$479	$475	$471
		2	487	483	479	475	471
		3	424	420	416	412	408
		4	380	376	372	368	364
Western Hemlock[1]	WH	1	480	476	472	468	464
		2	337	333	329	325	321
		3	332	328	324	320	316
True Fir[2]	TF	1	480	476	472	468	464
		2	337	333	329	325	321
		3	332	328	324	320	316
Western Red Cedar[3]	RC	1	440	436	432	428	424
		2	303	299	295	291	287
		3	297	293	289	285	281
Sitka Spruce	SS	1	403	399	395	391	387
		2	396	392	388	384	380
		3	307	303	299	295	291
Noble Fir	NF	1	940	936	932	928	924
		2	658	654	650	646	642
		3	330	326	322	318	314
Other Conifer	OC	1	403	399	395	391	387
		2	303	299	295	291	287
		3	297	293	289	285	281
Red Alder	RA	1	40	34	28	22	16
Cottonwood	BC	1	30	24	18	12	6
Other Hardwoods	OH	1	34	28	22	16	10
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 18--Stumpage Value Table
Stumpage Value Area 5
(for 7/1/80 through 12/31/80)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$411	$405	$399	$393	$387
		2	322	316	310	304	298
		3	224	218	212	206	200
		4	162	156	150	144	138
Western Hemlock[1]	WH	1	276	270	264	258	252
		2	272	266	260	254	248
		3	116	110	104	98	92
		4	106	100	94	88	82

TABLE 18--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
True Fir[2]	TF	1	276	270	264	258	252
		2	272	266	260	254	248
		3	116	110	104	98	92
		4	106	100	94	88	82
Western Red Cedar[3]	RC	1	239	233	227	221	215
		2	234	228	222	216	210
		3	179	173	167	161	155
Other Conifer	OC	1	239	233	227	221	215
		2	234	228	222	216	210
		3	116	110	104	98	92
		4	106	100	94	88	82
Red Alder	RA	1	40	34	28	22	16
Cottonwood	BC	1	30	24	18	12	6
Other Hardwoods	OH	1	34	28	22	16	10
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 19--Stumpage Value Table
Stumpage Value Area 5
(for 7/1/80 through 12/31/80)
THINNING
See definition WAC 458-40-18643(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$386	$380	$374	$368	$362
		2	297	291	285	279	273
		3	199	193	187	181	175
		4	137	131	125	119	113
Western Hemlock[1]	WH	1	251	245	239	233	227
		2	247	241	235	229	223
		3	91	85	79	73	67
		4	81	75	69	63	57
True Fir[2]	TF	1	251	245	239	233	227
		2	247	241	235	229	223
		3	91	85	79	73	67
		4	81	75	69	63	57
Western Red Cedar[3]	RC	1	214	208	202	196	190
		2	209	203	197	191	185
		3	154	148	142	136	130
Other Conifer	OC	1	214	208	202	196	190
		2	209	203	197	191	185
		3	91	85	79	73	67
		4	81	75	69	63	57
Red Alder	RA	1	40	34	28	22	16
Cottonwood	BC	1	30	24	18	12	6
Other Hardwoods	OH	1	34	28	22	16	10

TABLE 19--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 20--Stumpage Value Table
Stumpage Value Area 5
(for 7/1/80 through 12/31/80)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Red Cedar--Shake Blocks & Boards[1]	RCS	1	$253	$249	$245	$241	$237
Western Red Cedar Flatsawn & Shingle Blocks[1]	RCF	1	79	75	71	67	63
Western Red Cedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas Fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot.

TABLE 21--Stumpage Value Table
Stumpage Value Area 6, 7, 8, and 9
(for 7/1/80 through 12/31/80)
MERCHANTABLE SAWTIMBER, ALL AGES

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Ponderosa Pine	PP	1	$233	$229	$225	$221	$217
		2	132	128	124	120	116
Douglas Fir	DF	1	136	132	128	124	120
Western Larch	WL	1	136	132	128	124	120
Western Hemlock[1]	WH	1	122	118	114	110	106
True fir[2]	TF	1	122	118	114	110	106
Engelmann Spruce	ES	1	112	108	104	100	96

TABLE 21--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
White Pine	WP	1	174	170	166	162	158
Western Red Cedar	RC	1	127	123	119	115	111
Lodgepole Pine	LP	1	117	113	109	105	101
Hardwoods	OH	1	14	10	6	2	1
Utility	CU	4	2	2	2	2	2

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver fir, Noble Fir, Grand Fir, and Alpine Fir.

TABLE 22--Stumpage Value Table
Stumpage Value Area 6, 7, 8, and 9
(for 7/1/80 through 12/31/80)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Red Cedar Flatsawn & Shingle Blocks[1]	RCF	1	$79	$75	$71	$67	$63
Western Larch Flatsawn Blocks[1]	WLF	1	69	65	61	57	53
Lodgepole Pine & Other Posts[2]	LPP	1	0.20	0.20	0.20	0.20	0.20
Pine Christmas Trees[3]	PX	1	0.13	0.13	0.13	0.13	0.13
Douglas Fir & Other Christmas Trees[4]	DFX	1	0.15	0.15	0.15	0.15	0.15

[1]Stumpage value per MBF net Scribner Scale.
[2]Stumpage value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot. Includes Ponderosa Pine, White Pine, and Lodgepole Pine.
[4]Stumpage value per lineal foot.

TABLE 23--Stumpage Value Table
Stumpage Value Area 10
(for 7/1/80 through 12/31/80)
MERCHANTABLE SAWTIMBER, ALL AGES

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Ponderosa Pine	PP	1	$269	$265	$261	$257	$253
		2	257	253	249	245	241
		3	244	240	236	232	228
Douglas Fir	DF	1	230	226	222	218	214
		2	180	176	172	168	164
		3	131	127	123	119	115

TABLE 23--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Western Larch	WL	1	230	226	222	218	214
		2	180	176	172	168	164
		3	131	127	123	119	115
Western Hemlock[1]	WH	1	183	179	175	171	167
		2	159	155	151	147	143
		3	136	132	128	124	120
True Fir[2]	TF	1	183	179	175	171	167
		2	159	155	151	147	143
		3	136	132	128	124	120
Other Conifer	OC	1	183	179	175	171	167
		2	159	155	151	147	143
		3	131	127	123	119	115
Hardwoods	OH	1	14	10	6	2	1
Utility	CU	1	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.

TABLE 24--Stumpage Value Table
Stumpage Value Area 10
(for 7/1/80 through 12/31/80)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit Hauling Distance Zone Number 1	2	3	4	5
Western Red Cedar Flatsawn & Shingle Blocks[1]	RCF	1	$104	$100	$96	$92	$88
Western Larch Flatsawn Blocks[1]	WLF	1	69	65	61	57	53
Lodgepole Pine & Other Posts[2]	LPP	1	0.20	0.20	0.20	0.20	0.20
Pine Christmas Trees[3]	PX	1	0.13	0.13	0.13	0.13	0.13
Douglas Fir & Other Christmas Trees[4]	DFX	1	0.15	0.15	0.15	0.15	0.15

[1]Stumpage value per MBF Scribner scale.
[2]Stumpage value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot. Includes Ponderosa Pine, White Pine, and Lodgepole Pine.
[4]Stumpage value per lineal foot.

TABLE 25--Stumpage Value Table
Stumpage Value Area 11
(for 7/1/80 through 12/31/80)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$308	$304	$300	$296	$292
		2	308	304	300	296	292
		3	292	288	284	280	276
		4	254	250	246	242	238
Western Hemlock[1]	WH	1	228	224	220	216	212
		2	183	179	175	171	167
		3	111	107	103	99	95
True Fir[2]	TF	1	228	224	220	216	212
		2	183	179	175	171	167
		3	111	107	103	99	95
Western Red Cedar[3]	RC	1	256	252	248	244	240
		2	183	179	175	171	167
		3	157	153	149	145	141
Other Conifer	OC	1	256	252	248	244	240
		2	183	179	175	171	167
		3	111	107	103	99	95
Red Alder	RA	1	41	35	29	23	17
Cottonwood	BC	1	38	32	26	20	14
Other Hardwoods	OH	1	53	47	41	35	29
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 26--Stumpage Value Table
Stumpage Value Area 11
(for 7/1/80 through 12/31/80)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$270	$264	$258	$252	$246
		2	182	176	170	164	158
		3	138	132	126	120	114
		4	78	72	66	60	54
Western Hemlock[1]	WH	1	108	102	96	90	84
		2	106	100	94	88	82
		3	93	87	81	75	69
		4	50	44	38	32	26
True Fir[2]	TF	1	108	102	96	90	84
		2	106	100	94	88	82
		3	93	87	81	75	69
		4	50	44	38	32	26

TABLE 26--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Western Red Cedar[3]	RC	1	206	200	194	188	182
		2	153	147	141	135	129
		3	152	146	140	134	128
Other Conifer	OC	1	108	102	96	90	84
		2	106	100	94	88	82
		3	93	87	81	75	69
		4	50	44	38	32	26
Red Alder	RA	1	41	35	29	23	17
Cottonwood	BC	1	38	32	26	20	14
Other Hardwoods	OH	1	53	47	41	35	29
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 27--Stumpage Value Table
Stumpage Value Area 11
(for 7/1/80 through 12/31/80)
THINNING
See definition WAC 458-40-18643(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$245	$239	$233	$227	$221
		2	157	151	145	139	133
		3	113	107	101	95	89
		4	53	47	41	35	29
Western Hemlock[1]	WH	1	83	77	71	65	59
		2	81	75	69	63	57
		3	68	62	56	50	44
		4	25	19	13	7	1
True Fir[2]	TF	1	83	77	71	65	59
		2	81	75	69	63	57
		3	68	62	56	50	44
		4	25	19	13	7	1
Western Red Cedar[3]	RC	1	181	175	169	163	157
		2	128	122	116	110	104
		3	127	121	115	109	103
Other Conifer	OC	1	83	77	71	65	59
		2	81	75	69	63	57
		3	68	62	56	50	44
		4	25	19	13	7	1
Red Alder	RA	1	41	35	29	23	17
Cottonwood	BC	1	38	32	26	20	14
Other Hardwoods	OH	1	53	47	41	35	29
Hardwood Utility	HU	5	5	5	5	5	5

TABLE 27--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Conifer Utility	CU	5	5	5	5	5	5

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Alpine Fir.
[3]Includes Alaska Yellow Cedar.

TABLE 28--Stumpage Value Table
Stumpage Value Area 11
(for 7/1/80 through 12/31/80)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Red Cedar--Shake Blocks & Boards[1]	RCS	1	$114	$110	$106	$102	$ 98
Western Red Cedar Flatsawn & Shingle Blocks[1]	RCF	1	50	46	42	38	34
Western Red Cedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas Fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage Value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage Value per lineal foot.

[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.]

WAC 458-40-18648 Harvester adjustments--Tables for 7/1/80 through 12/31/80. In order to make reasonable and adequate allowances for costs of removal and size of logging operation in computation of stumpage value rates as required by RCW 84.33.071(3), the department has prepared tables which allow for adjustments to the stumpage value rates derived from the stumpage value tables of WAC 458-40-18647.

Harvest adjustments relating to harvest volume per acre, logging conditions and average volume per log shall be allowed against the stumpage value rates for the designated harvest types and in the designated stumpage value areas as set forth in the following tables with the following limitations:

(1) No harvest adjustment shall be allowed against "special forest products".

(2) No harvest adjustment shall be allowed against "utility", "conifer utility", and "hardwood utility".

(3) Rates for the harvest type "old growth final harvest", shall be adjusted to a value no lower than $10 per thousand board feet.

(4) Rates for the harvest type "young growth final harvest", conifers, shall be adjusted to a value no lower than $5 per thousand board feet.

(5) Stumpage value rates for conifers within the harvest type "merchantable sawtimber, all ages", shall be adjusted to a value no lower than $5 per thousand board feet.

(6) Stumpage value rates for "hardwood" and for "thinning harvest" shall be adjusted to a value no lower than $1 per thousand board feet.

A small harvest adjustment table for use in all stumpage value areas is set forth below providing for adjustment of stumpage value rates if the total volume of timber harvested in a given quarter is within the volume classes provided therein.

Stumpage values of timber situated in areas impacted by Mt. St. Helens eruptions, slides, and floods have been reduced. In many affected areas logging costs will be increased because of consequences from the volcanic eruptions. In some areas timber has been damaged. In other areas the distances and routes over which logs must be hauled have been significantly altered and logging costs have been affected.

Timber harvesters planning to remove timber from the areas affected by the Mt. St. Helens eruptions may apply to the Department of Revenue for adjustment in stumpage value rates. Such applications should contain a map with the legal description of the area from which the timber will be removed, a description of the damage sustained by the timber, and a listing of additional costs incurred because of ash fall, slides, floods or other Mt. St. Helens caused impacts. Such applications should be sent to the Department of Revenue, Forest Tax Division, General Administration Building, Olympia, Washington 98504, before the harvest commences.

In the event the extent of such timber damage or additional costs are not known at the time the application is filed, the harvester may supplement the application when the necessary information is obtained, but in no event later than 90 days following completion of the harvest unit.

Upon application from any person who plans to harvest timber affected by the Mt. St. Helens eruptions the department will make a determination as to the amount of adjustment to be allowed. The harvester will be notified by the department of the amount of the adjustment. This amount can then be taken as a credit against tax liabilities or if the harvester is no longer harvesting, a refund will be authorized.

The following harvest adjustment tables are hereby adopted for use during the period of July 1, 1980 through December 31, 1980:

TABLE 1--Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 7/1/80 through 12/31/80)
OLD GROWTH FINAL HARVEST
(100 years of age, or older)

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	0
Class 2	Harvest of 15 thousand board feet to 40 thousand board feet per acre.	- $4.00
Class 3	Harvest of less than 15 thousand board feet per acre.	- $7.00
II. Logging Conditions		
Class 1	Favorable logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	+ $5.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	- $12.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	- $60.00

TABLE 2--Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 7/1/80 through 12/31/80)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 30 thousand board feet per acre.	0
Class 2	Harvest of 10 thousand board feet to 30 thousand board feet per acre.	- $2.00
Class 3	Harvest of less than 10 thousand board feet per acre.	- $6.00
II. Logging Conditions		
Class 1	Favorable logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	+ $4.00

TABLE 2--cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	– $14.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	– $60.00

TABLE 3--Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 7/1/80 through 12/31/80)
THINNING
See definition WAC 458-40-18643(9)(d)

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 10 thousand board feet per acre.	0
Class 2	Harvest of 5 thousand board feet to 10 thousand board feet per acre.	– $3.00
Class 3	Harvest of less than 5 thousand board feet per acre.	– $5.00
II. Logging Conditions		
Class 1	Favorable wheel tractor logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 20%.	+ $5.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 20% and 40%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 40%. Normally a tower yarding operation.	– $14.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	– $60.00
III. Average Log Size		
Class 1	50 board feet or more.	0
Class 2	Less than 50 board feet.	– $10.00

TABLE 4--Harvest Adjustment Table
Stumpage Value Areas 6, 7, 8, 9 and 10
(for 7/1/80 through 12/31/80)
MERCHANTABLE SAWTIMBER, ALL AGES

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
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	Favorable logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 20%.	+ $6.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 20% to 40%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 40%.	– $13.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	– $60.00

TABLE 5--Small Harvest Adjustment Table
All Stumpage Value Areas
(for 7/1/80 through 12/31/80)

A small harvest adjustment is allowed where the total net volume harvested from all units, a selected unit, or a combination of units (including conifer special cull or utility and hardwood utility) in a given quarter is within the volume classes shown below. A harvester may report and claim this adjustment on no more than 250 MBF of harvest each reporting quarter.

Small Harvest Class	Net Volume Harvested Per Quarter	Dollar Adjustment Per Thousand Board Feet
Class 1	0 – 125 MBF	–$20.00
Class 2	126 – 250 MBF	–$15.00

Where the total volume harvested from all units (including conifer special cull or utility and hardwood utility) in a given quarter is 250 MBF or less, the following adjustment classes will be used:

Class 3	0 – 125 MBF	–$30.00
Class 4	126 – 250 MBF	–$25.00

[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.]

WAC 458-40-18649 Definitions for 1/1/81 through 6/30/81. (1) **Acceptable Log Scaling Rule.** The acceptable log scaling rule shall be the Scribner Decimal C Log Scale Rule or other prevalent measuring practice, provided that such other prevalent measuring practice shall be an acceptable scaling procedure and provided that such procedure shall be submitted to the department for approval prior to the time of harvest.

(2) **Approved Log Scaling and Grading Rules.**

(a) West of the Cascade Summit—Approved Scaling and Grading Rule. With respect to the reporting of timber harvested from private lands in areas west of the Cascade summit, which areas are designated as stumpage value areas 1, 2, 3, 4, 5, and 11 in the stumpage value area map of WAC 458-40-18650, the methods and procedures published by the Columbia River Log Scaling and Grading Bureau, Grays Harbor Log Scaling and Grading Bureau, and the Puget Sound Log Scaling and Grading Bureau and published as the "Official Log Scaling and Grading Rules" by the Puget Sound Log Scaling and Grading Bureau, Tacoma, Washington are approved by the department for use in those areas.

(b) East of the Cascade Summit—Approved Scaling Rule. With respect to the reporting of timber harvested from private lands in areas east of the Cascade summit, which areas are designated as stumpage value areas 6, 7, 8, 9, and 10 in the stumpage value area map of WAC 458-40-18650, the methods and procedures published by the United States Forest Service under the title "National Forest Log Scaling Handbook" procedures are approved by the department for use in those areas. This log scaling handbook is published under the title FSH 2409-11 National Forest Log Scaling Handbook, Forest Service, United States Department of Agriculture.

(c) East of the Cascade Summit—Established Grading Rule. Because the National Forest Log Scaling Handbook does not contain grading rules, a separate computation shall be made to arrive at the proper grade for purposes of determining the timber quality code number for timber harvested east of the Cascade summit. The grade for quality classification purposes of the timber harvested from private land east of the Cascade summit shall be determined by the number of sawable sixteen foot logs per thousand feet net Scribner Decimal C Log Scale. The computation shall be made under the following three-step procedure:

(i) Step 1. The highest possible total number of sawable sixteen foot logs which could be recovered shall be determined by dividing the sum total of length of all sawable logs harvested by the number sixteen.

(ii) Step 2. The average net volume per sixteen foot recoverable log shall be determined by dividing the total volume harvested (net log scale) by the total number of sixteen foot logs as determined in Step 1.

(iii) Step 3. The total number of logs per thousand board feet (MBF) shall be determined by dividing one thousand by the average net volume as determined in Step 2.

(3) **Codominant Trees.** Trees whose crowns form the general level of the crown cover and receive full light from above, but comparatively little light from the sides.

(4) **Department.** Department, for the purposes of this chapter, shall mean the department of revenue of the state of Washington.

(5) **Dominant Trees.** Trees whose crowns are higher than the general level of the canopy and who receive full light from the sides as well as from above.

(6) **Forest Excise Tax Payment.** Every person who is engaged in business as a harvester of timber from privately owned land shall pay a forest excise tax which shall be equal to the taxable stumpage value of timber harvested for sale or for commercial or industrial use and multiplied by the appropriate rate as provided in RCW 84.33.071.

(7) **Harvester.** Harvester shall mean every person who from his own privately owned land or from privately owned land of another under a right or license granted by lease or contract, either directly or by contracting with others, takes timber for sale or for commercial or industrial use. It does not include persons performing under contract the necessary labor or mechanical services for a harvester.

(8) **Harvested Timber--When Determined.** Timber shall be considered harvested at the time when in the ordinary course of business the quantity thereof by species is first definitely determined.

(9) **Harvest Type.** Harvest type shall be a term referring to the grouping of harvested timber by age and type of harvest and shall include and is limited to the following harvest types:

(a) Merchantable Sawtimber, All Ages—The removal of timber east of the Cascade summit shall be reported as "merchantable sawtimber, all ages", unless the harvest type comes within the definition in this chapter of "special forest products harvest".

(b) Old Growth Final Harvest. The removal of any timber from a harvest unit that is 100 years of age or older and west of the Cascade summit shall be reported as "old growth final harvest" unless the harvest type comes within the definition in this chapter of "special forest products harvest".

(c) Special Forest Products. The removal of Christmas trees (except as provided in RCW 84.33.170), shake blocks and boards, and posts and other western redcedar products shall be reported as "special forest products harvest".

(d) Thinning. The removal of timber from a harvest unit meeting all the following conditions:

(i) Harvest unit located west of the Cascade summit;

(ii) Timber that is less than 100 years of age;

(iii) The total merchantable volume which is removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest;

(iv) Not more than forty percent of the total volume removed is from the dominant and codominant trees;

(v) The trees removed in the harvest operation shall be distributed over the entire harvest unit.

(e) Young Growth Final Harvest. The removal of any timber from a harvest unit that is less than 100 years of age and does not meet the definition of thinning in paragraph (d) above and west of the Cascade summit shall be reported as "young growth final harvest" unless

the harvest type comes within the definition in this chapter of "special forest products harvest" or within the definition of "thinning harvest".

(10) **Harvest Unit.** A harvest unit is a harvest area having the same forest excise tax permit number, stumpage value area, hauling distance zone, harvest type, harvest adjustments and harvester. A harvest unit may include more than one section.

(11) **MBF.** As used herein MBF shall mean one thousand board feet measured in Scribner Decimal C Log Scale Rule.

(12) **Sawlog.** Sawlog shall mean any log large enough to produce one-third of its gross volume in sound lumber or other products that can be sawed.

(13) **Small Harvest.** A small harvest adjustment is allowed where the total net volume harvested per taxpayer (excluding conifer and hardwood utility does not exceed 1,000 MBF per calendar year and does not exceed 500 MBF per quarter.

(14) **Species.** Species designation is a biologically-based grouping of harvested timber and shall include but is not limited to the following designations of species and subclassifications thereof:

(a) West of the Cascade summit:

(i) "Douglas-fir", "western hemlock", "true fir", "western redcedar", "noble fir", "Sitka spruce", "Alaska-cedar", "red alder", and "cottonwood" shall be reported as separate species where designated as such in the stumpage value tables of WAC 458-40-18653.

(ii) In areas west of the Cascade summit, species designations for the harvest type "special forest products" shall be "western redcedar" (shake blocks and boards), western redcedar flatsawn and shingle blocks "western redcedar and other" (posts), "Douglas-fir", "true fir and others", (Christmas trees).

(b) East of the Cascade summit:

(i) "Ponderosa pine", "lodgepole pine", "western white pine", "Douglas-fir", "western hemlock", "true fir", "western redcedar", "western larch" and "Engelmann spruce" shall be reported as separate species where designated as such in the stumpage value tables of WAC 458-40-18653.

(ii) In areas east of the Cascade summit, species designations for the harvest type "special forest products" shall be "western redcedar" (flatsawn and shingles), "western larch" (flatsawn and shingle blocks), "lodgepole pine and other" (posts), "pine" (Christmas trees), "Douglas-fir and other" (Christmas trees).

(c) All areas:

(i) "Other conifer", as used in the stumpage value tables, shall be all other conifers not separately designated in the applicable stumpage value tables.

(ii) "Hardwood", and "other hardwood", as used in the stumpage value tables, shall be all hardwoods not separately designated in the applicable stumpage value tables.

(iii) "Utility", "conifer utility", and "hardwood utility" are separate species as defined by the "Official Log Scaling and Grading Rules" published by the Puget Sound Log Scaling and Grading Bureau and shall be reported as separate species where designated as such in the stumpage value tables.

(15) **Stumpage Value Area.** A stumpage value area is an area with specified boundaries which contains timber having similar growing, harvesting, and marketing conditions. Presently, there are eleven such stumpage value areas designated in the state of Washington as shown under WAC 458-40-18650. Stumpage value areas 1, 2, 3, 4, 5, and 11 are located west of the Cascade summit and stumpage value areas 6, 7, 8, 9, and 10 are located east of the Cascade summit.

(16) **Stumpage Value of Timber.** The stumpage value of timber shall be the appropriate value for each species of timber harvested, or for each species of "special forest product" reported, as set forth in the stumpage value tables under WAC 458-40-18653.

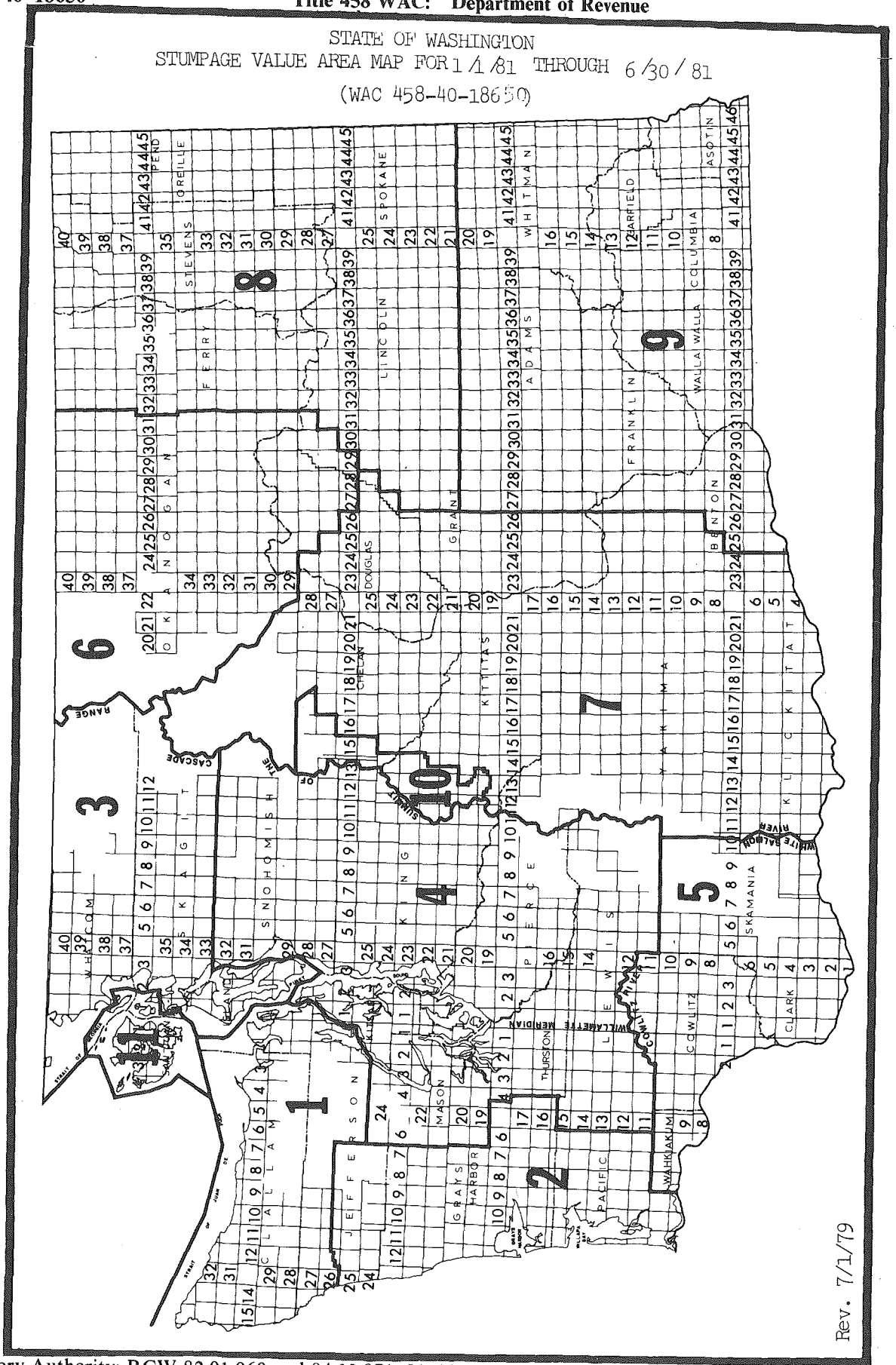
(17) **Timber.** Timber shall include forest trees, standing or down, on privately owned land, and except as provided in RCW 84.33.170 includes Christmas trees, shake blocks and boards, posts and other western redcedar products.

(18) **Timber Quality Code Number.** The timber quality code number is a number assigned to the harvest of a particular species within a harvest type under WAC 458-40-18652, and is based upon the constituent percentage of log grade specifications within the total volume of timber harvested for that particular species. [Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18649, filed 12/30/80.]

WAC 458-40-18650 Stumpage value areas--Map for 1/1/81 through 6/30/81. In order to allow for differences in market conditions and other relevant factors throughout the state as required by RCW 84.33.071(3) the department has created a map designating areas containing timber having similar growing, harvesting, and marketing conditions. The stumpage value area map shall be used for the determination of stumpage values.

The stumpage value area map shown herein shall be used to determine the proper stumpage value table to be used in calculating the taxable stumpage value under WAC 458-40-18653.

The following stumpage value area map is hereby adopted for use during the period of January 1, 1981 through June 30, 1981:



[Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18650, filed 12/30/80.]

WAC 458-40-18651 Hauling distance zones--Maps for 1/1/81 through 6/30/81. In order to allow for differences in hauling costs and other relevant factors as required by RCW 84.33.071, the department has designated zones within each stumpage value area which have similar accessibility to conversion points and other similar hauling cost factors.

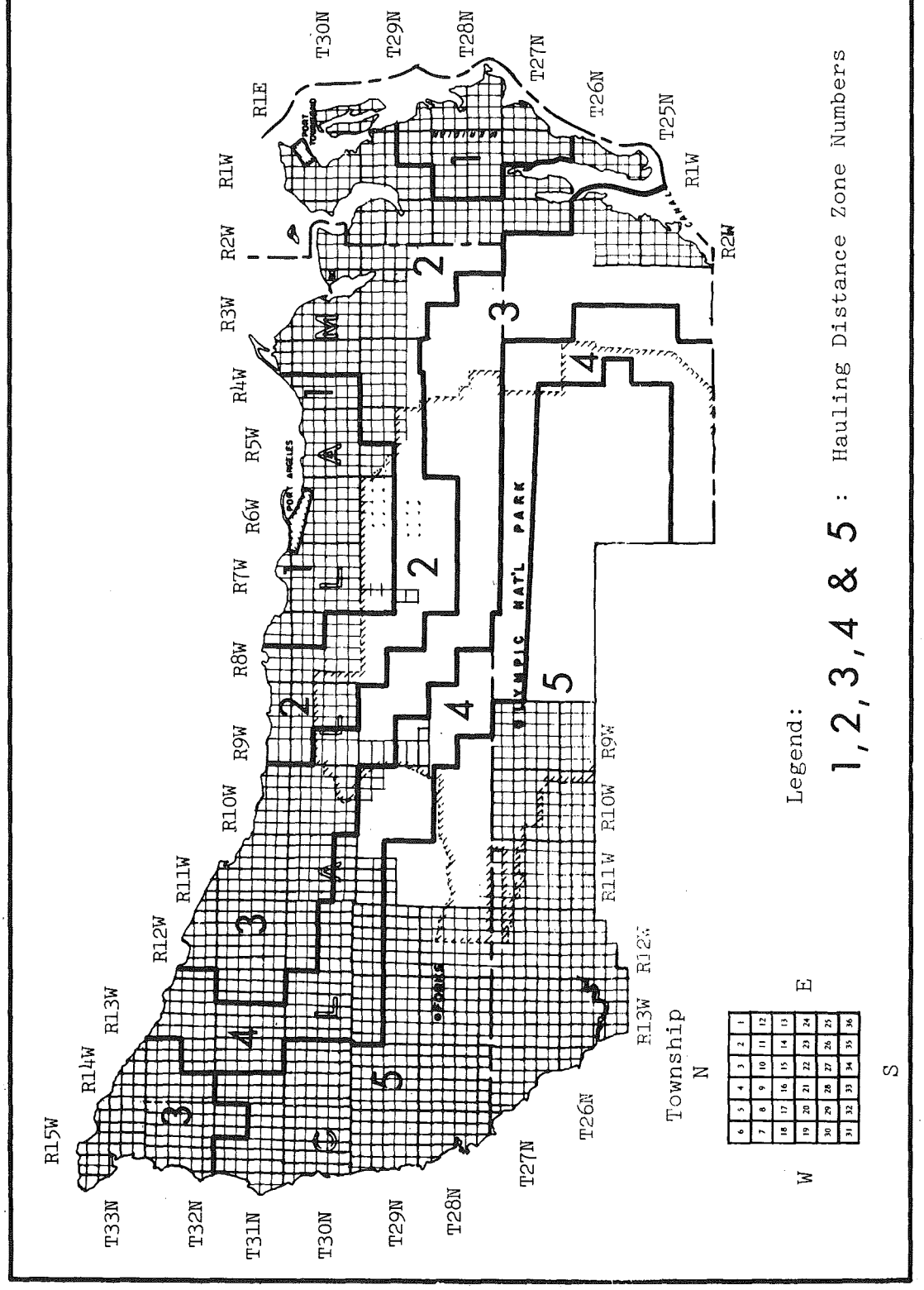
The hauling distance zone numbers on the following hauling distance zone maps establish the hauling distance zone numbers which are to be used in computing timber harvest value under the stumpage value tables of WAC 458-40-18653.

The following hauling distance zone maps designating zones established by the department as having similar hauling costs for transportation of forest products to the market, are hereby adopted for use during the period of January 1, 1981 through June 30, 1981:

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18651)

STUMPAGE VALUE AREA 1

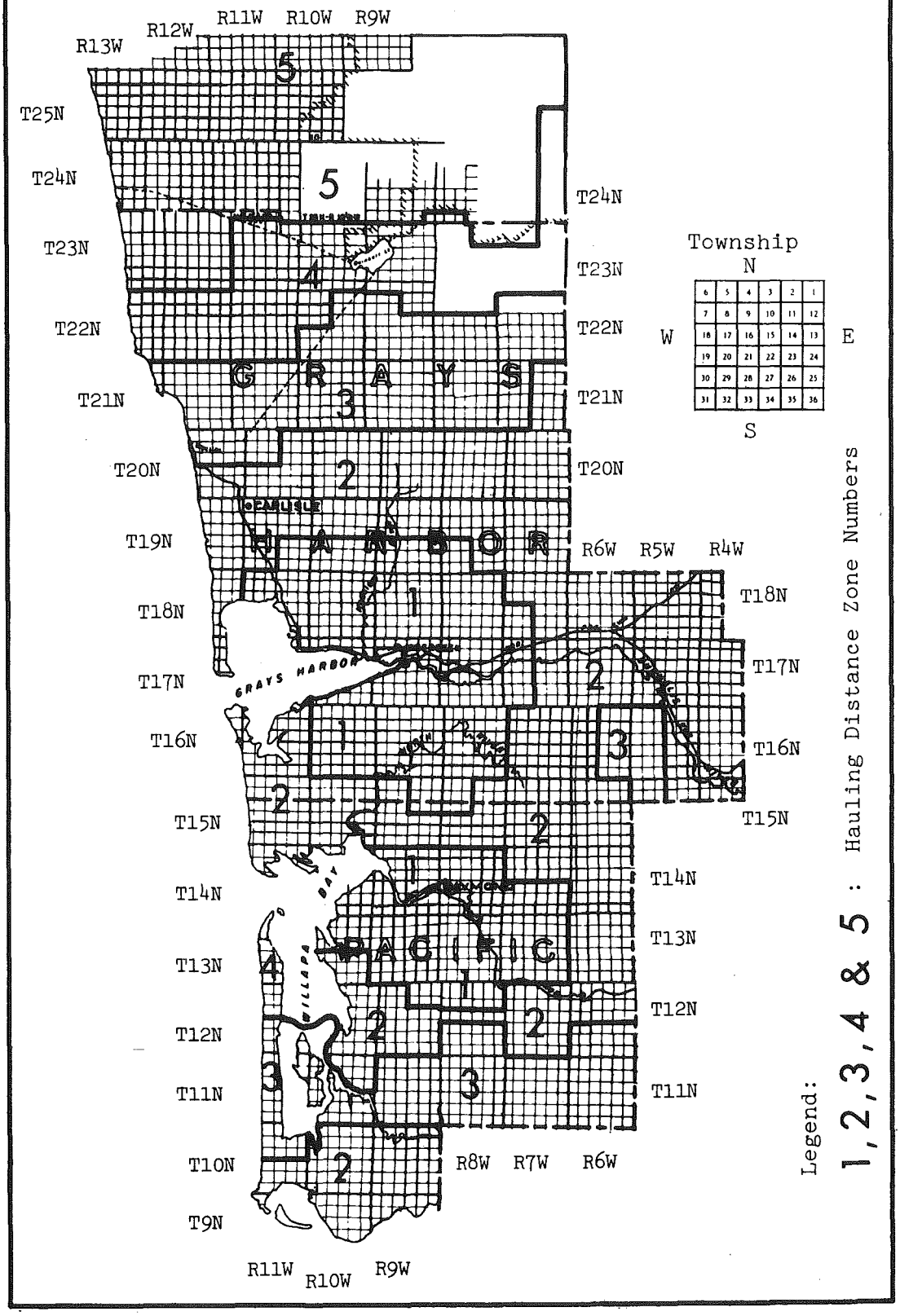
Page 1 of 1



HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC458-40-18651)

STUMPAGE VALUE AREA 2

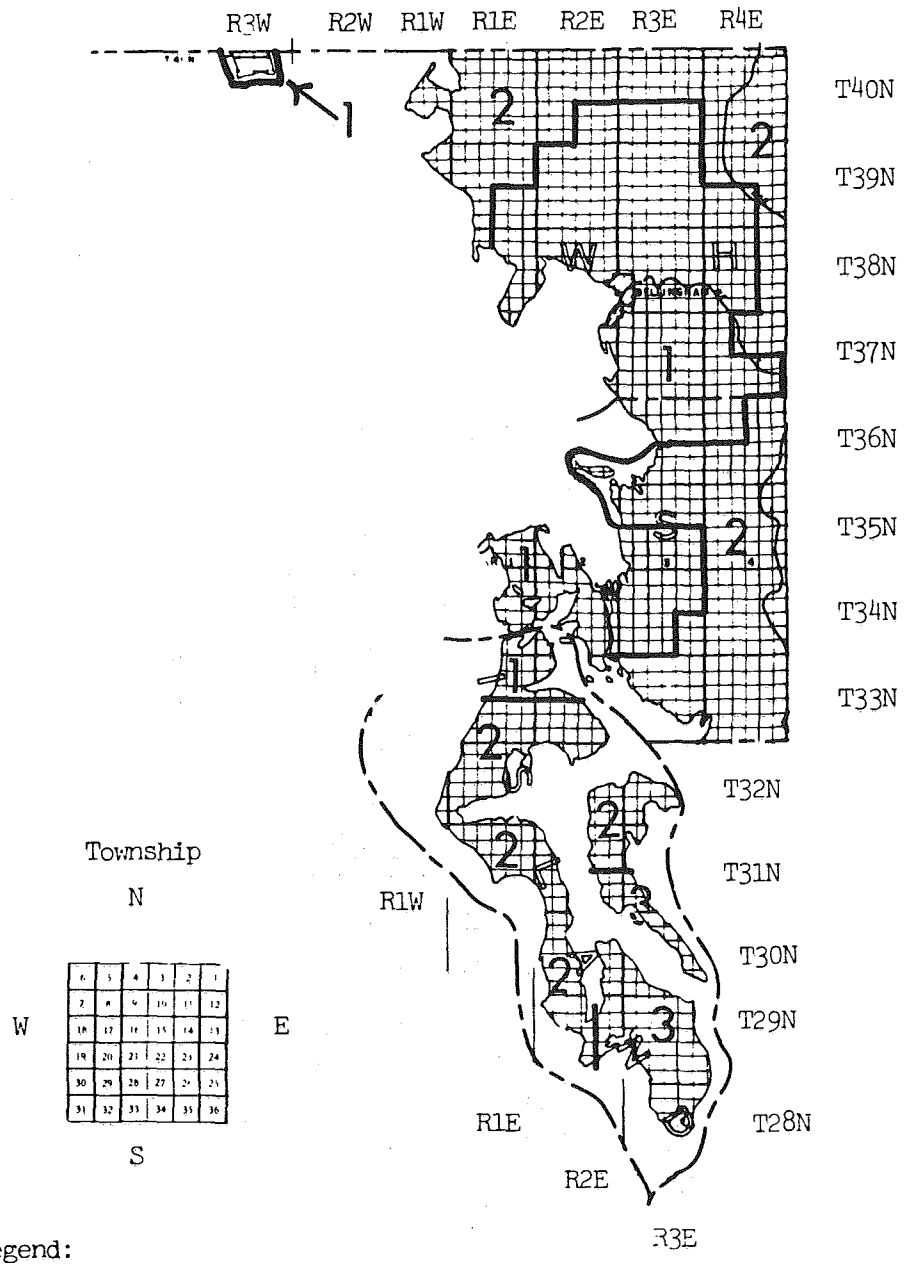
Page 1 of 1



HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC458-40-18651)

STUMPAGE VALUE AREA 3

Page 1 of 2



Legend:

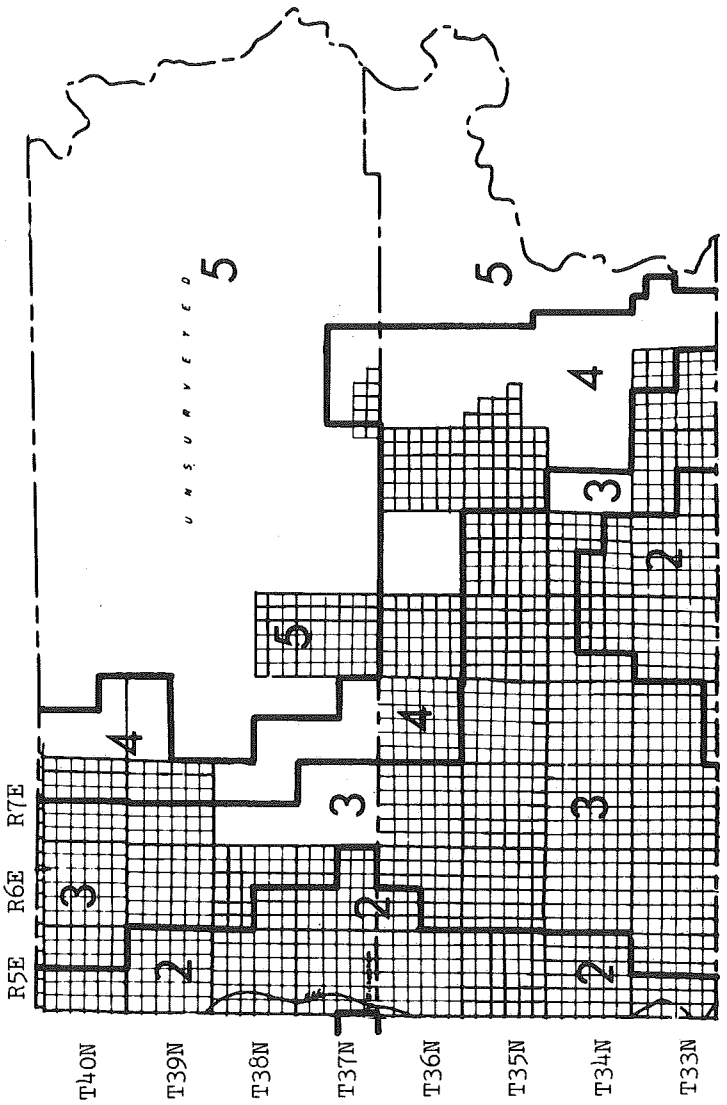
1, 2, 3, 4 and 5 : Hauling Distance Zone Numbers

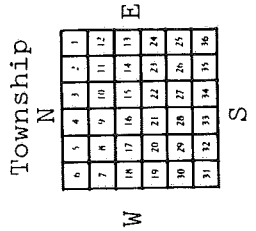
7/1/79

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-186 51)

STUMPAGE VALUE AREA 3

Page 2 of 2





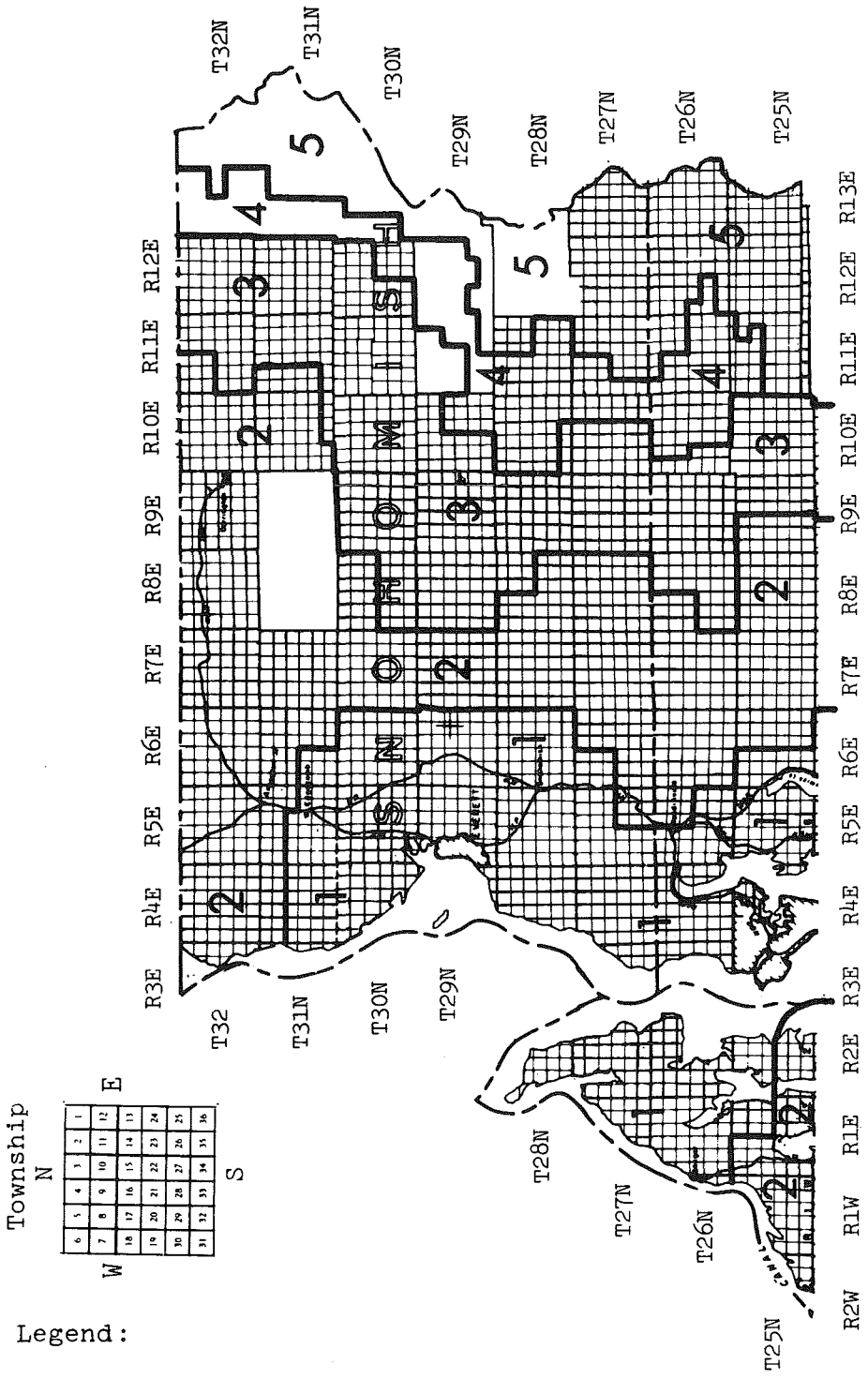
Legend:

2, 3, 4 and 5 : Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-186 51)

STUMPAGE VALUE AREA 4

Page 1 of 3



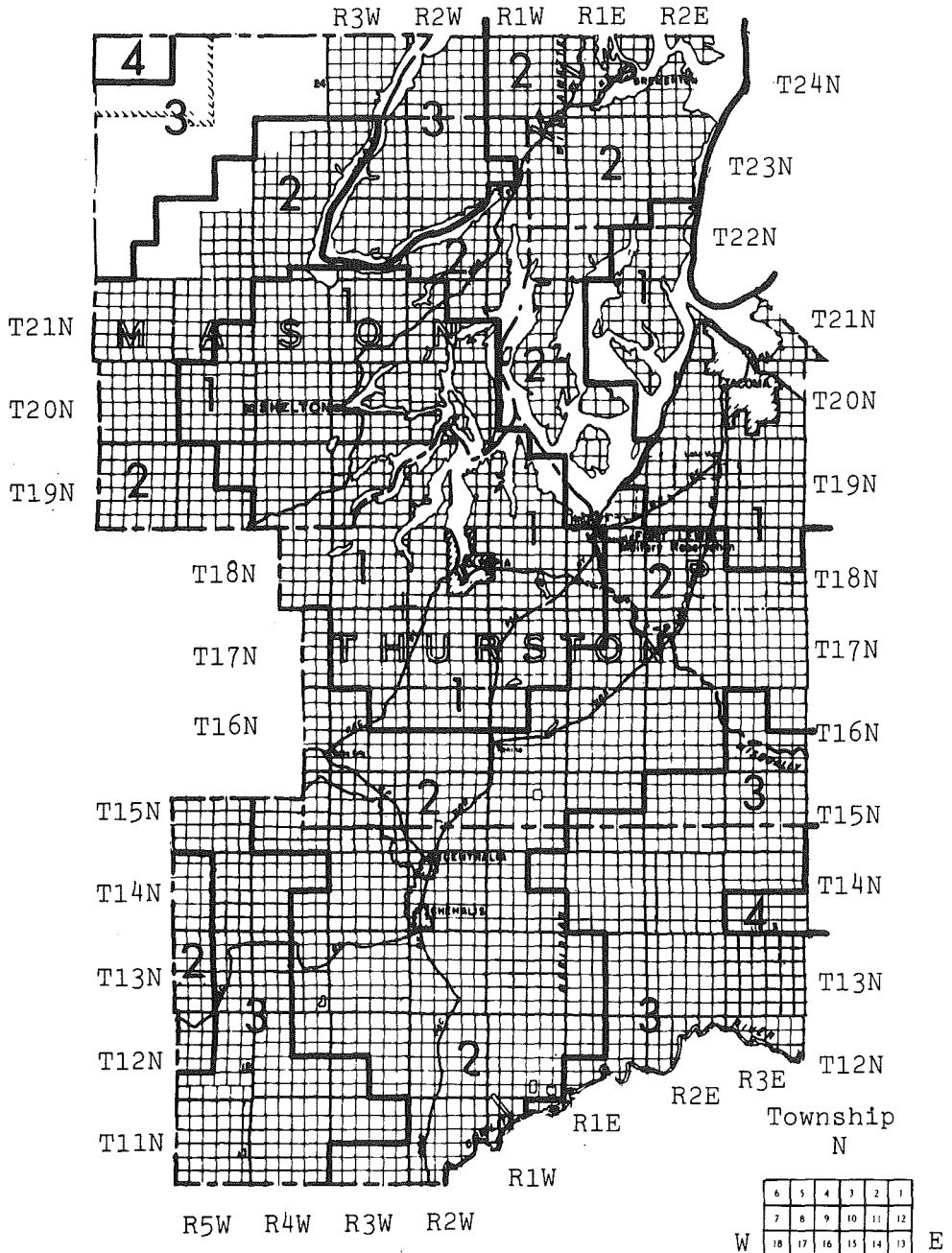
Legend:

1, 2, 3, 4 and 5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-186 51)

STUMPAGE VALUE AREA 4

Page 2 of 3



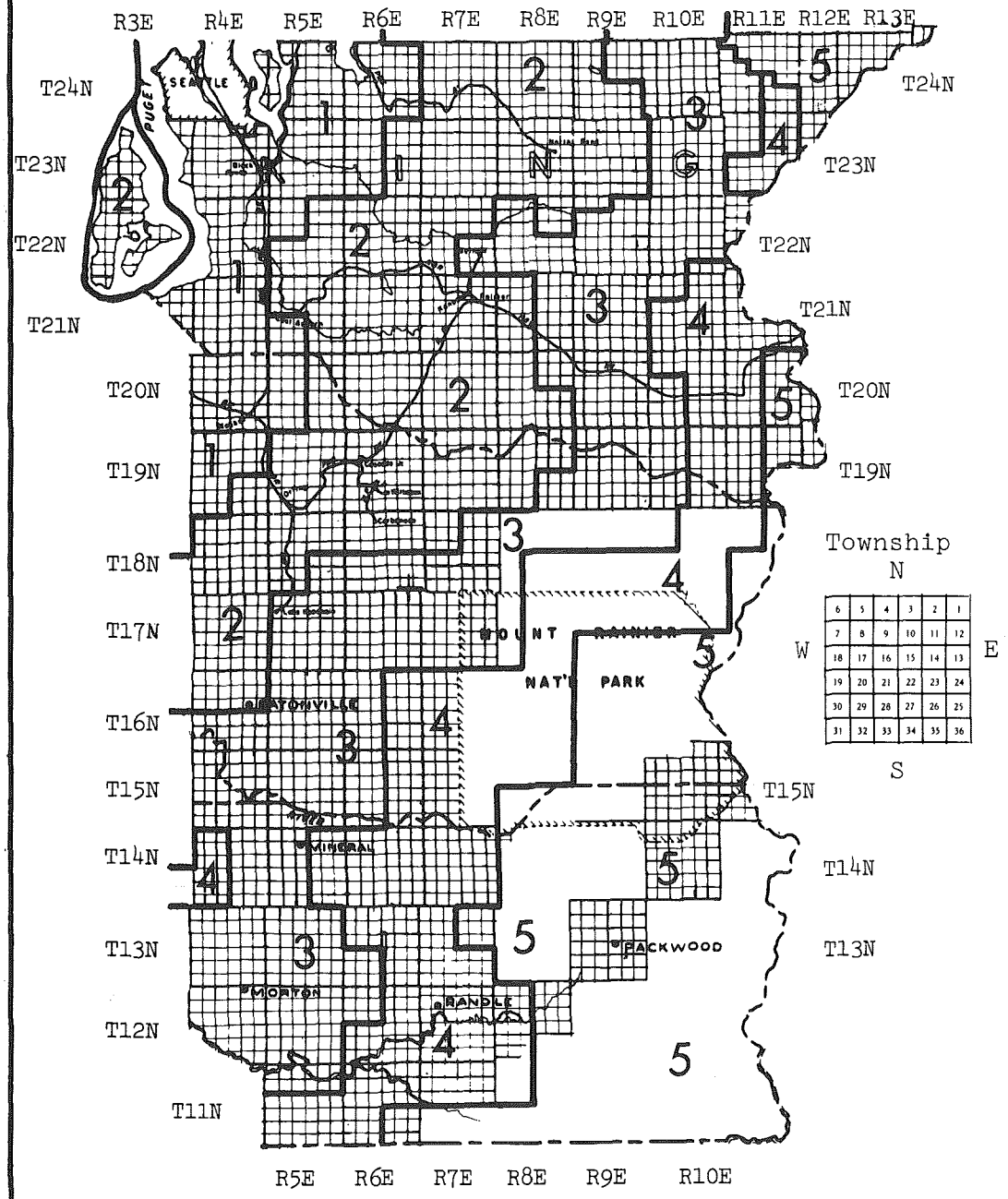
Legend:

1, 2, 3 and 4: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18651)

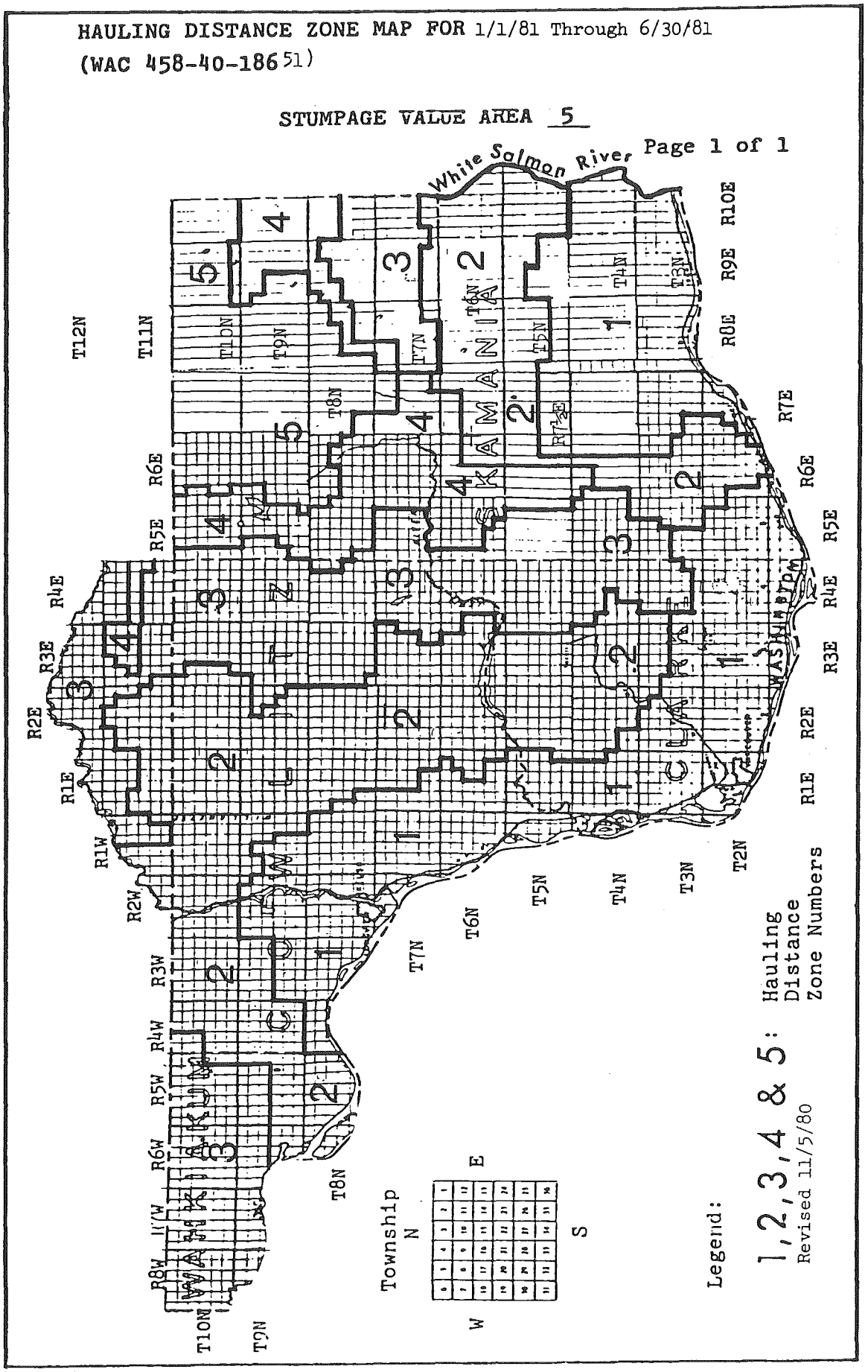
STUMPAGE VALUE AREA 4

Page 3 of 3



Legend:

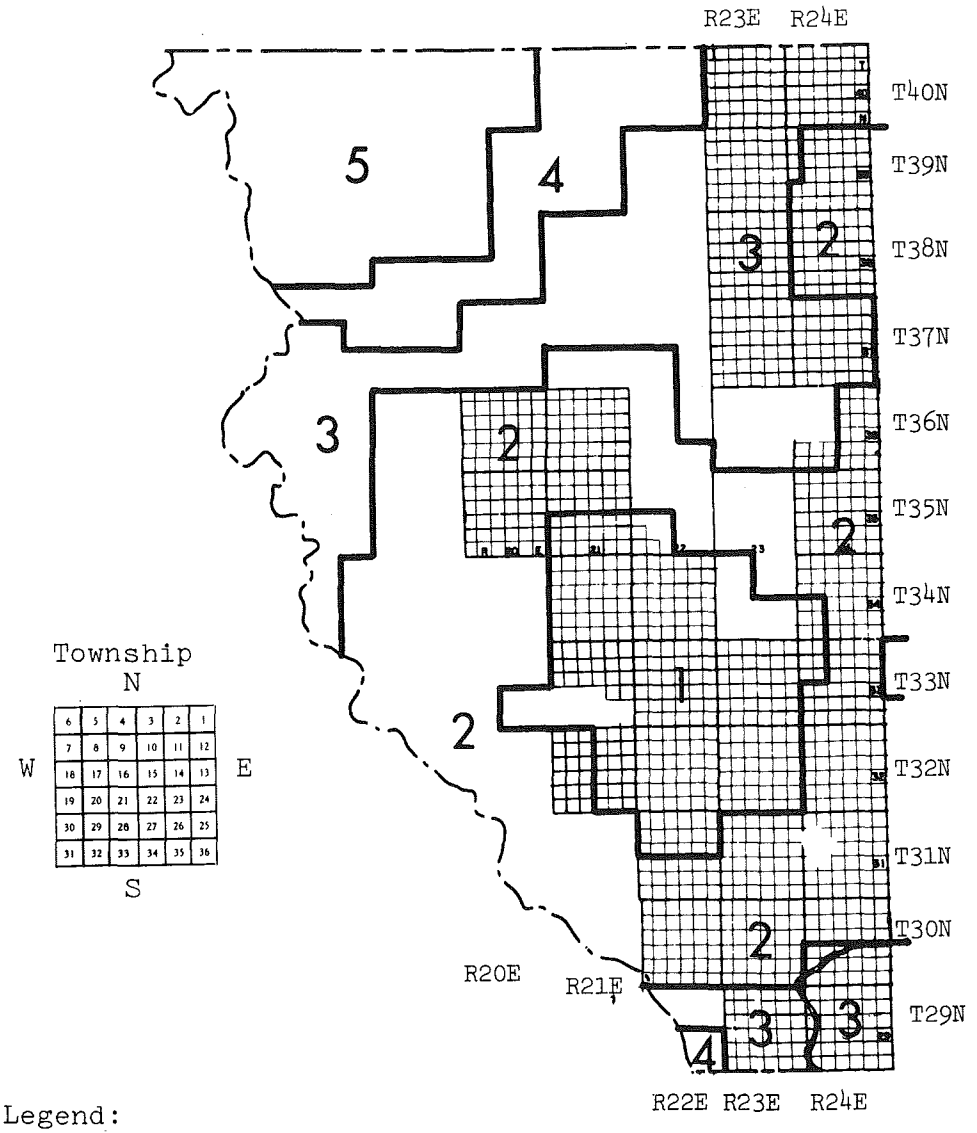
1, 2, 3, 4 and 5: Hauling Distance Zone Numbers


HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18651)
STUMPAGE VALUE AREA 5
Page 1 of 1
White Salmon River
KLICKITAT
CLARK
SKAMANIA
WASHINGTON
T12N
T11N
T10N
T9N
T8N
T7N
T6N
T5N
T4N
T3N
T2N
R11W
R10E
R9E
R8E
R7E
R6E
R5E
R4E
R3E
R2E
R1E
R1W
R2W
R3W
R4W
R5W
R6W
R7W
R8W
Legend:
1,2,3,4 & 5: Hauling Distance Zone Numbers
Revised 11/5/80
Township
N
S
E
W

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-186 51)

STUMPAGE VALUE AREA 6

Page 1 of 2



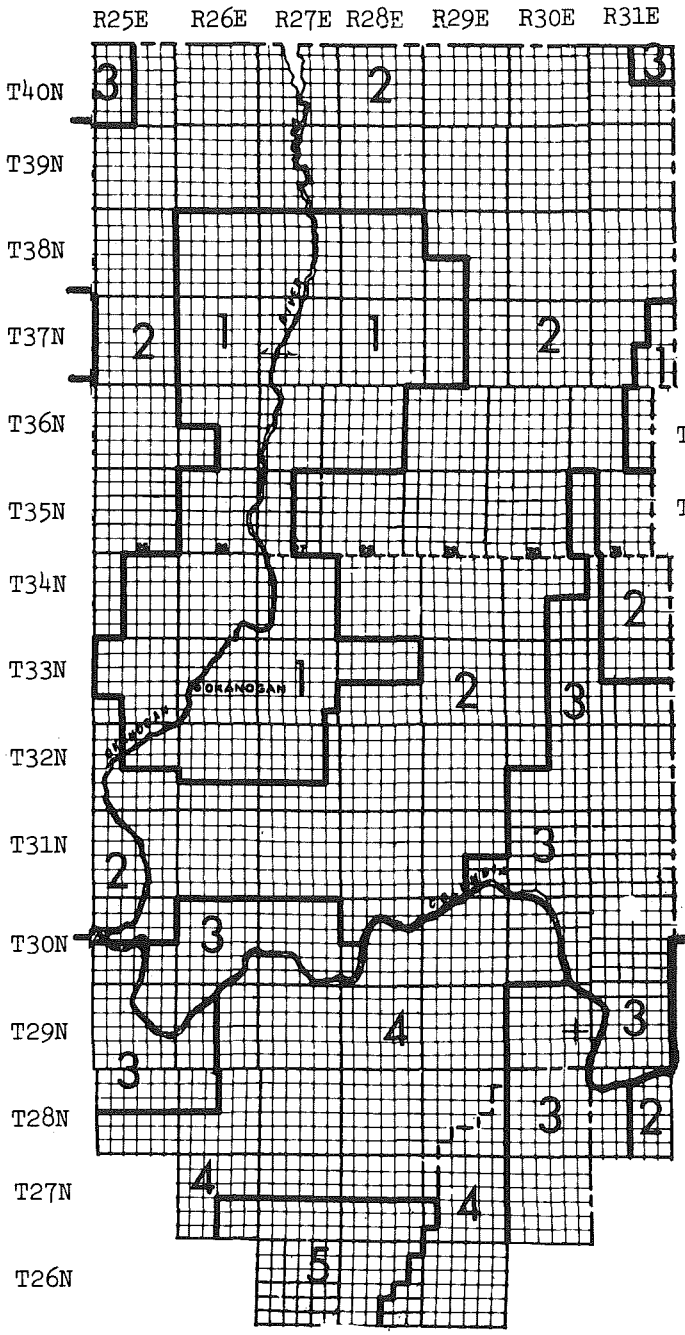
Legend:

1, 2, 3, 4 and 5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18651)

STUMPAGE VALUE AREA 6

Page 2 of 2



Legend:

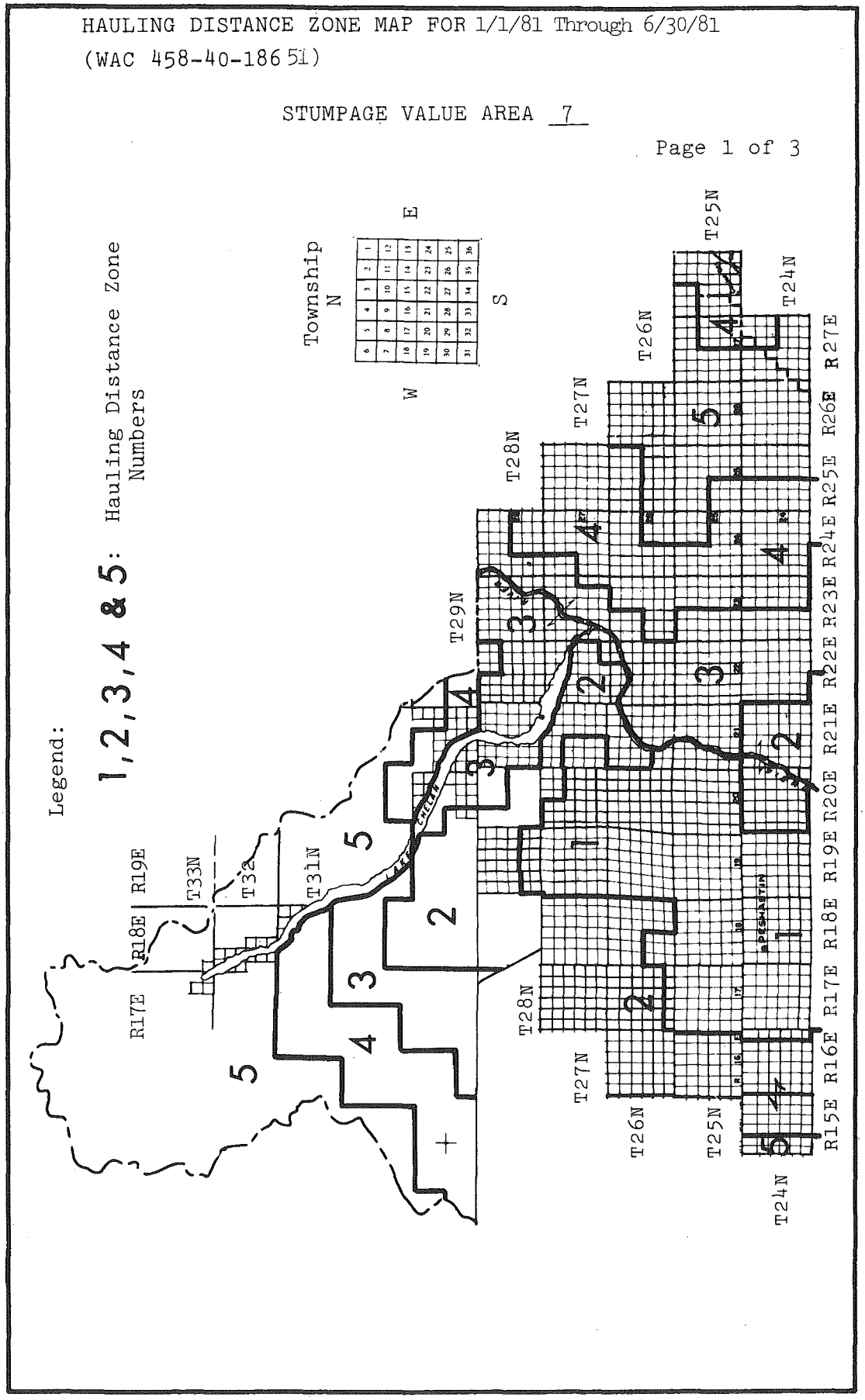
1, 2, 3, 4 and 5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81

(WAC 458-40-18651)

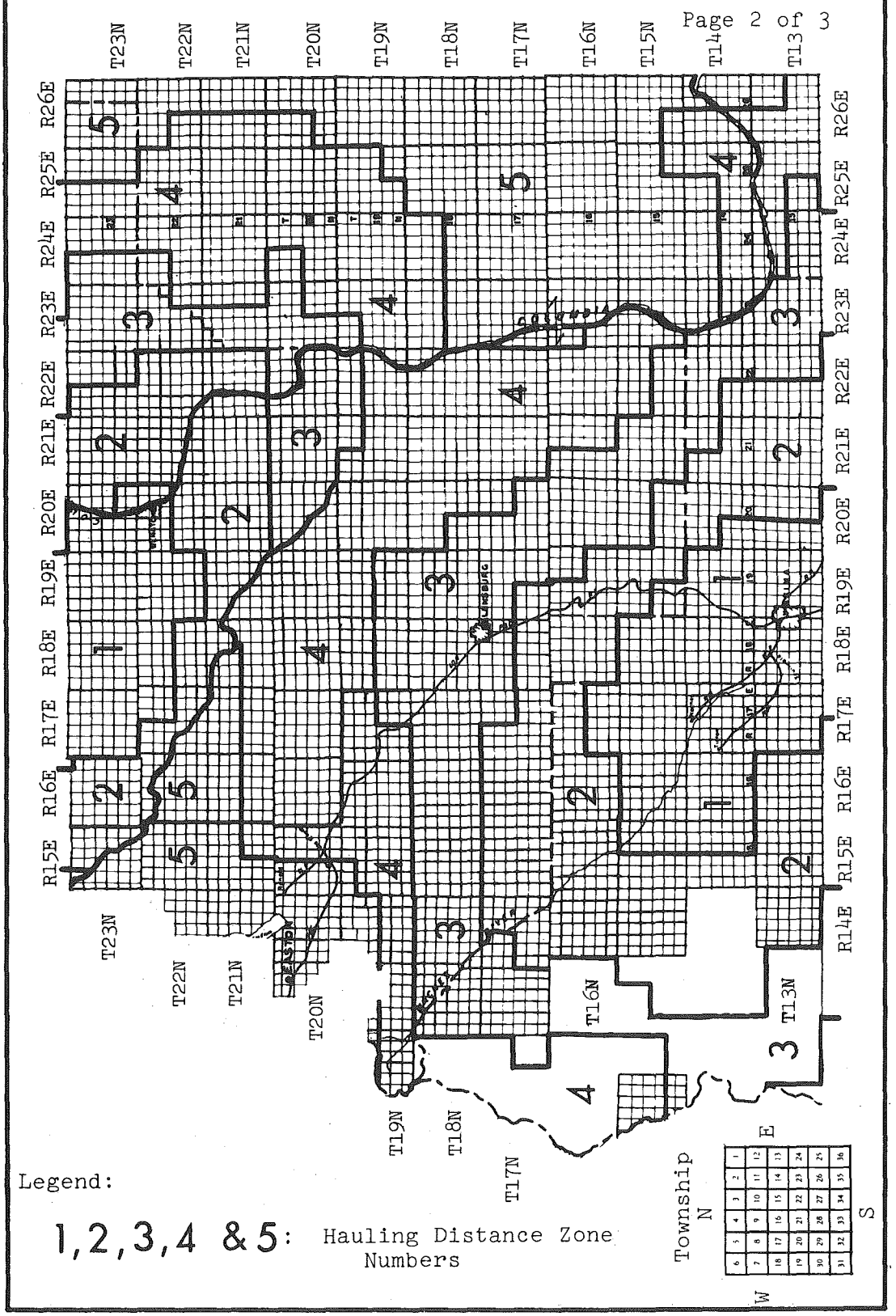
STUMPAGE VALUE AREA 7

Page 1 of 3



HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18651)

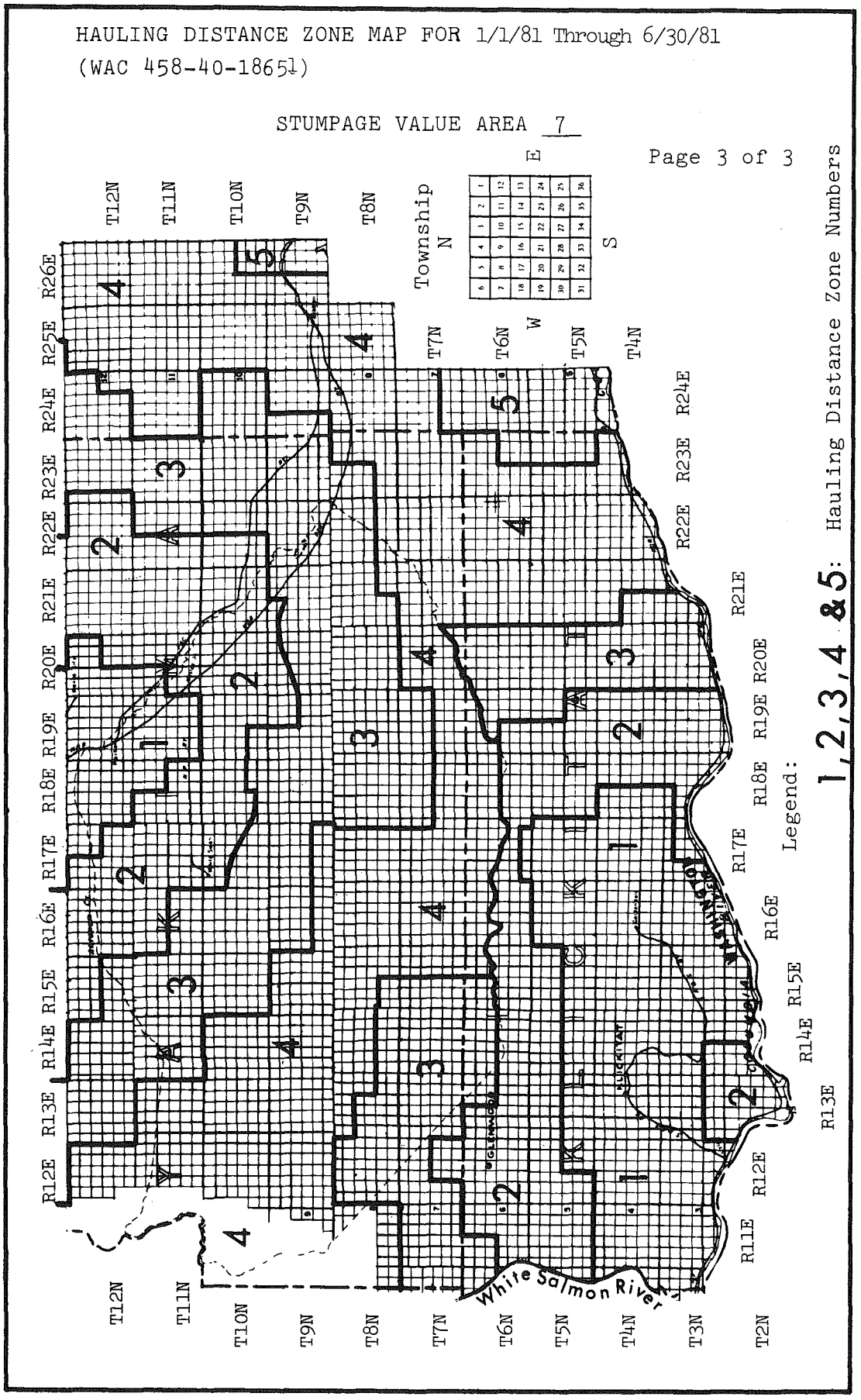
STUMPAGE VALUE AREA 7



HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18651)

STUMPAGE VALUE AREA 7

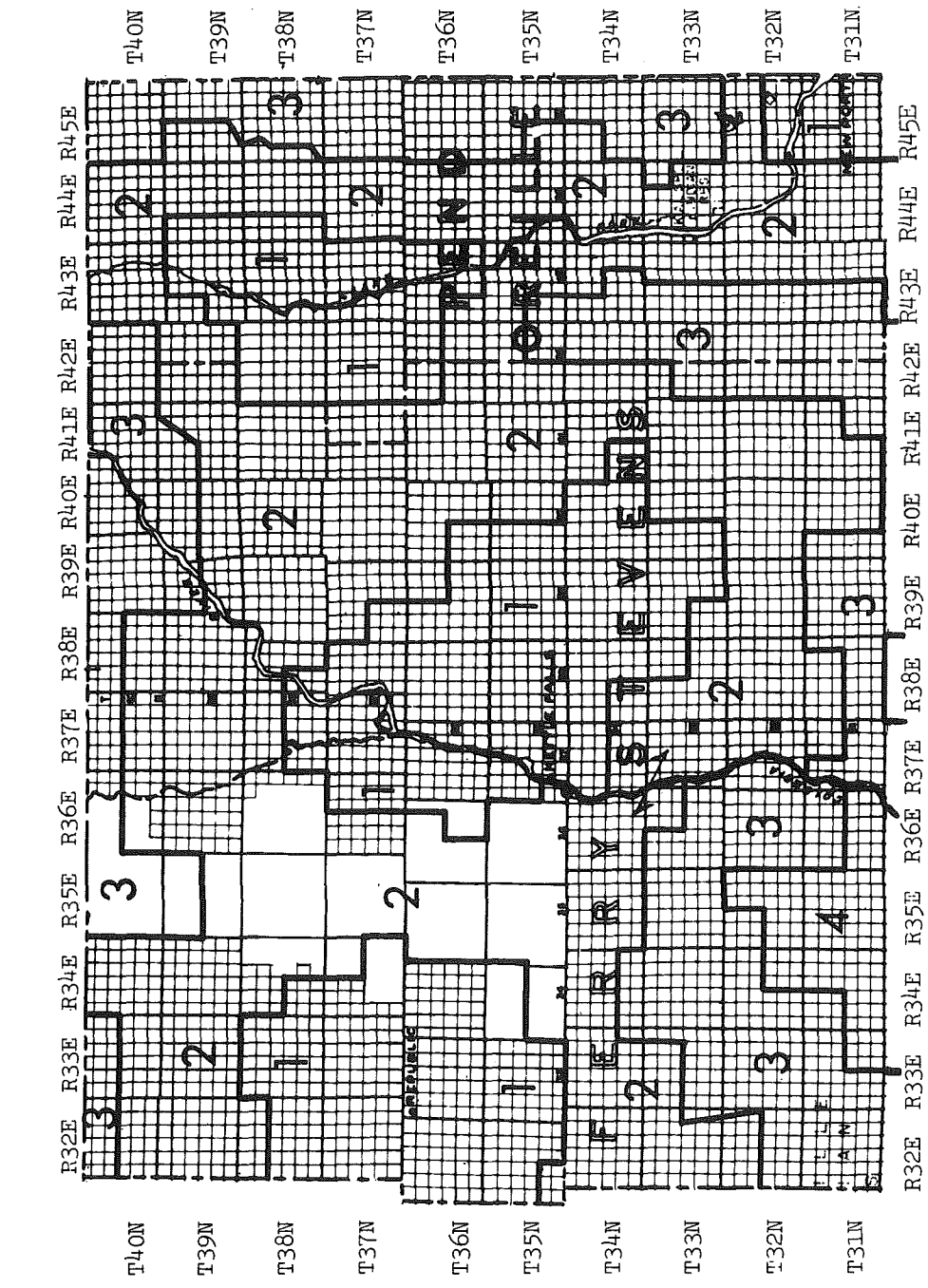
Page 3 of 3

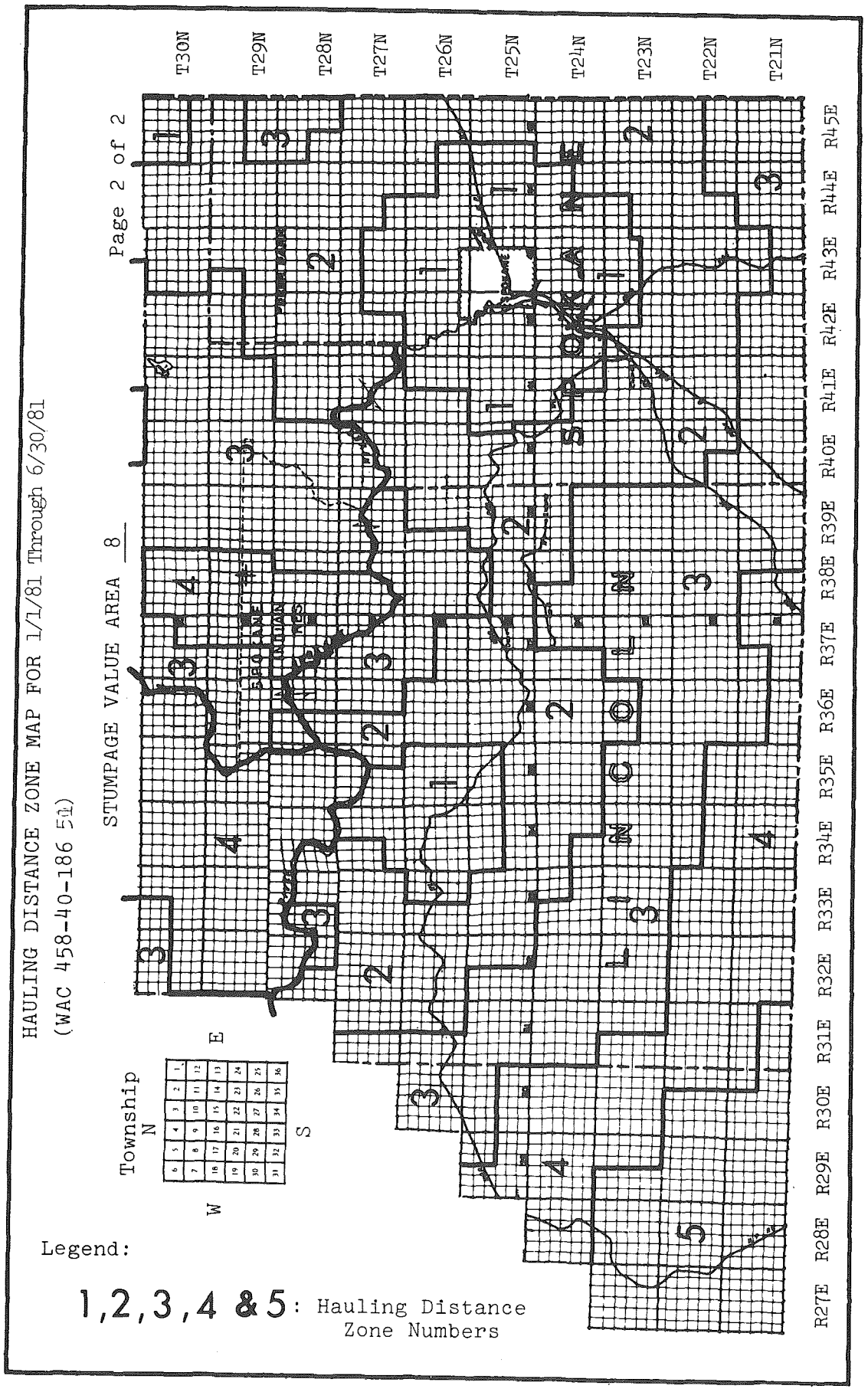


HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18651)

STUMPAGE VALUE AREA 8

Page 1 of 2

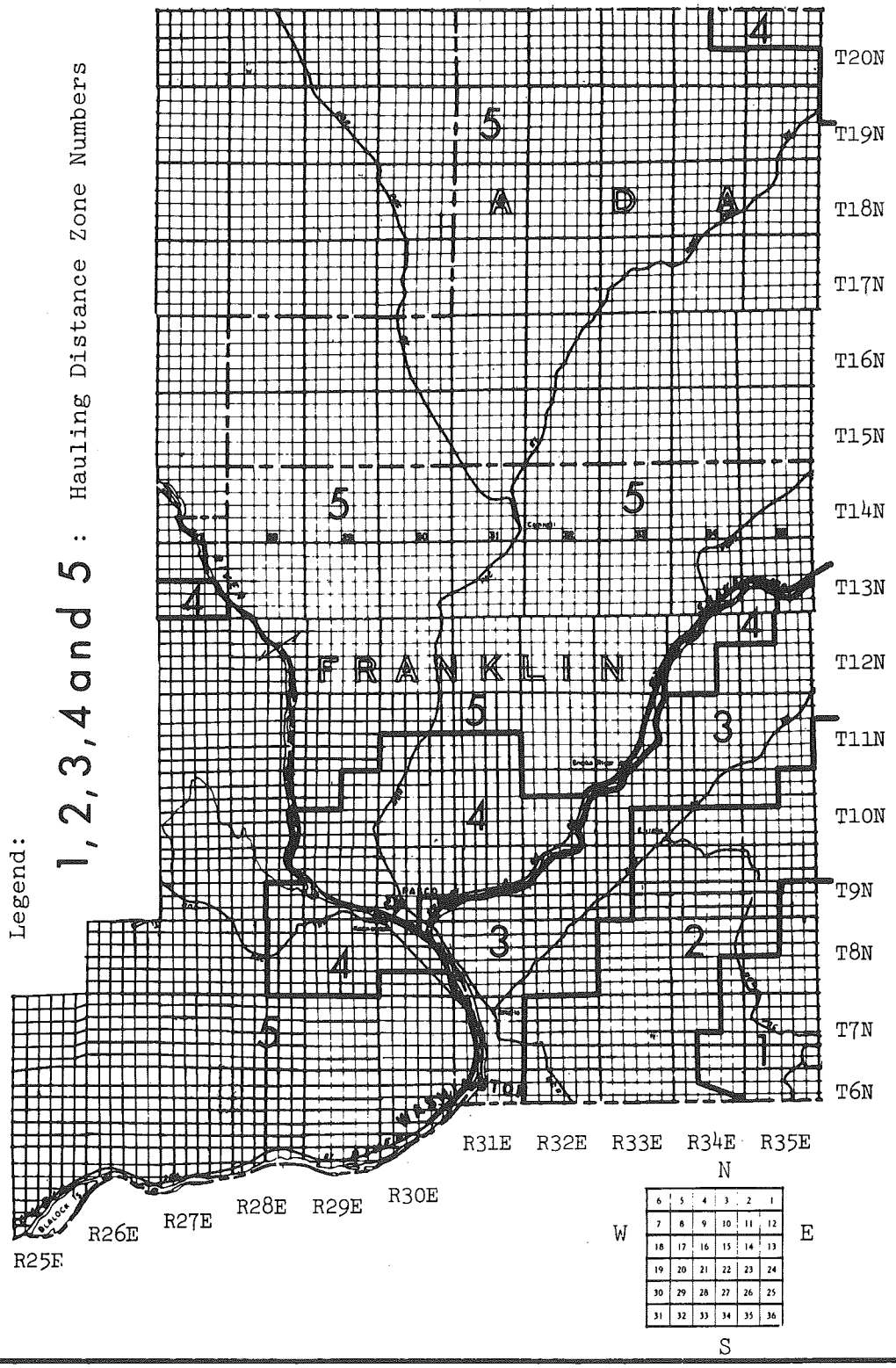



HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-186 5a)
Page 2 of 2
STUMPAGE VALUE AREA 8
T30N
T29N
T28N
T27N
T26N
T25N
T24N
T23N
T22N
T21N
R27E R28E R29E R30E R31E R32E R33E R34E R35E R36E R37E R38E R39E R40E R41E R42E R43E R44E R45E
COLUMBIA
Township
N
S
E
W
Legend:
1,2,3,4 &5: Hauling Distance Zone Numbers

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18651)

STUMPAGE VALUE AREA 9

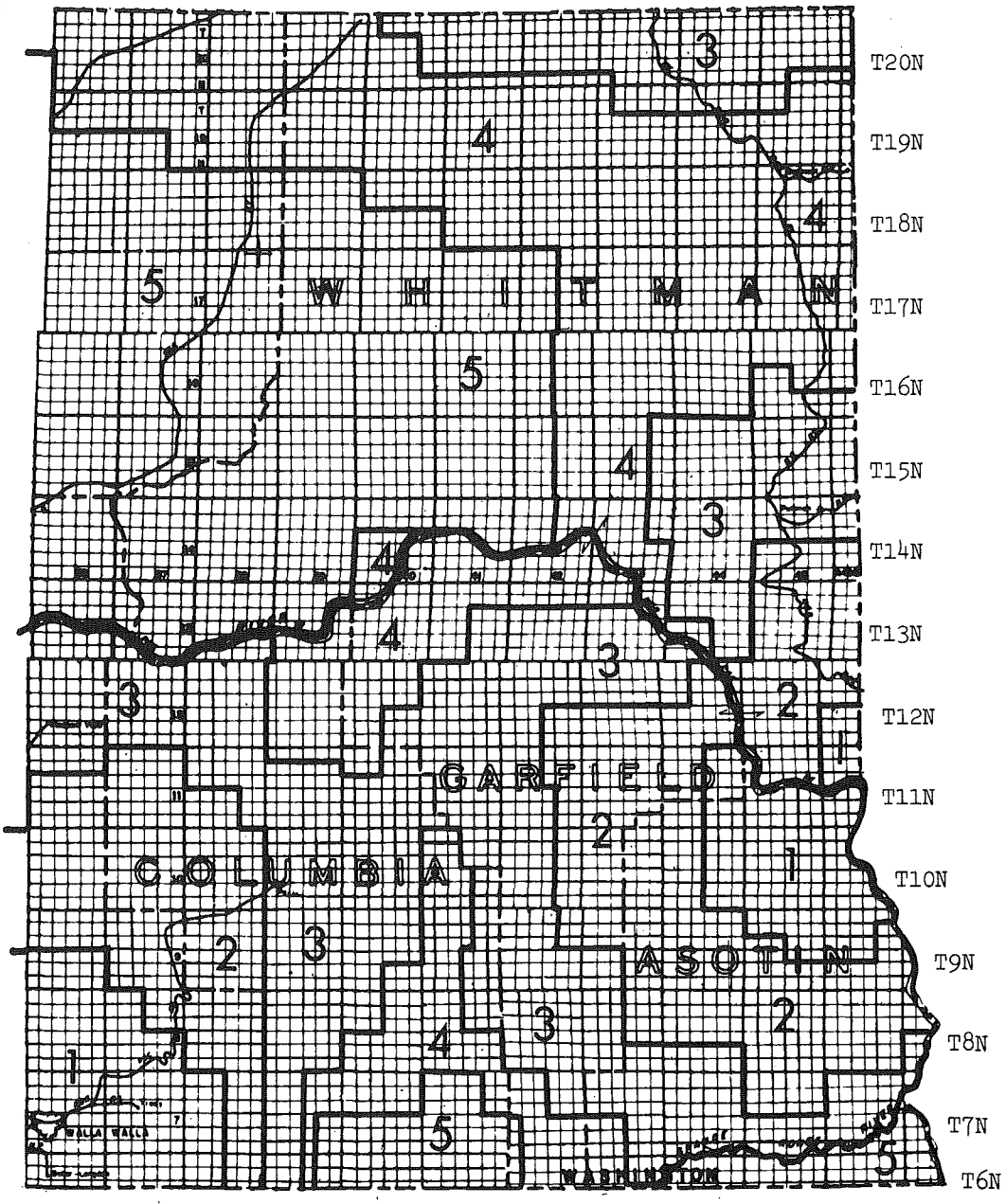
Page 1 of 2



HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18650)

STUMPAGE VALUE AREA 9

Page 2 of 2



Legend:

1, 2, 3, 4 and 5 : Hauling Distance Zone Numbers

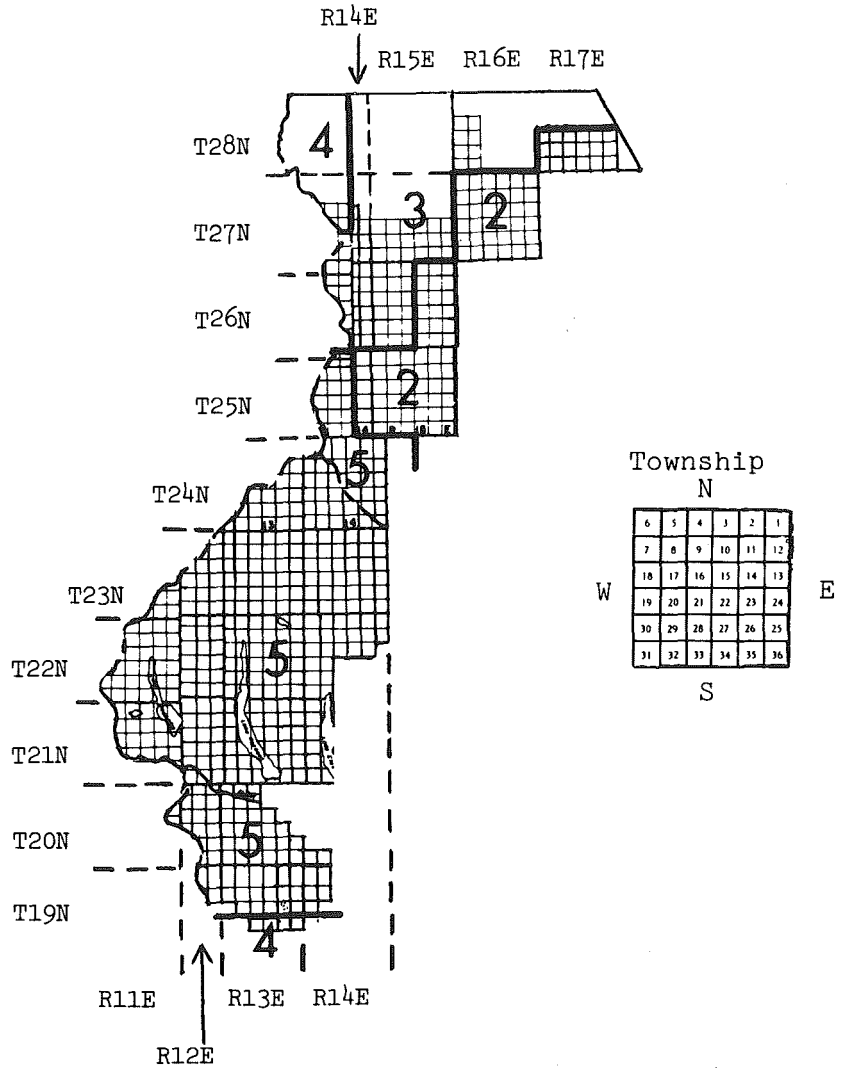
N
W E
S

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81
(WAC 458-40-18651)

STUMPAGE VALUE AREA 10

Page 1 of 1



Legend:

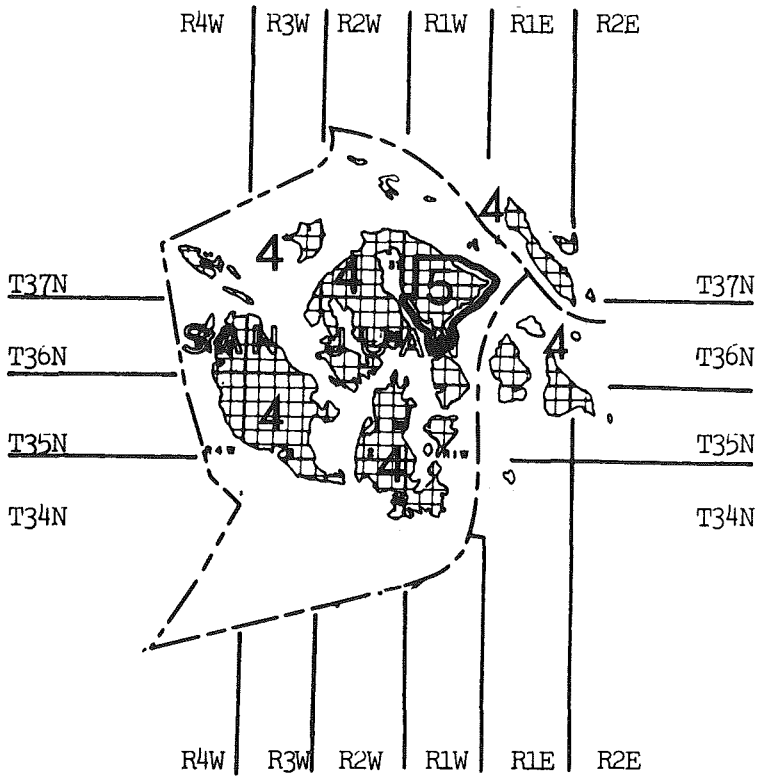
2,3,4 and 5: Hauling Distance Zone Numbers

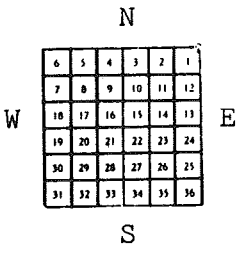
HAULING DISTANCE ZONE MAP FOR 1/1/81 Through 6/30/81

(WAC 458-40-186 51)

STUMPAGE VALUE AREA 11

Page 1 of 1





Legend:

4 and 5: Hauling Distance Zone Numbers

7/1/79

[Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18651, filed 12/30/80.]

WAC 458-40-18652 Timber quality code numbers--Tables for 1/1/81 through 6/30/81. In order to allow for differences in age, size, quality of timber and other relevant factors as required by RCW 84.33.071(3), the department has assigned timber quality code numbers for harvests of the various designated harvest types and species.

Scaling and grading information derived from an acceptable log scaling and grading rule for the particular harvest type and species shall be used to determine the proper quality code number.

For each timber quality code number in the following tables, there is a corresponding timber quality code number for that particular harvest type and species in the stumpage value tables of WAC 458-40-18653 which is to be used in computing timber harvest value.

The following timber quality code tables are hereby adopted for use during the period of January 1, 1981 through June 30, 1981:

TABLE 1--Timber Quality Code Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 1/1/81 through 6/30/81)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Timber Quality Code Number	Species	Log Grade Specifications[1]
1	Douglas-fir	Over 40% Special Mill, No. 1 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Over 20% Special Mill, No. 1 Sawmill, Peeler & better log grade
	Noble Fir & Spruce	Over 35% No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, True Firs & Other Conifer	Over 25% Special Mill, No. 1 Sawmill & better log grade
	Hardwoods	All No. 4 Sawmill logs with a diameter of 8 inches inside bark and larger (at the scaling end) & better log grades
2	Douglas-fir	15-40% inclusive Special Mill, No. 1 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	10-20% inclusive Special Mill, No. 1 Sawmill, Peeler & better log grade
	Noble Fir & Spruce	15-35% inclusive No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, True Firs & Other Conifer	5-25% inclusive Special Mill, No. 1 Sawmill & better log grade

TABLE 1--cont.

Timber Quality Code Number	Species	Log Grade Specifications[1]
3	Douglas-fir	Less than 15% Special Mill, No. 1 Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Less than 10% Special Mill, No. 1 Sawmill, Peeler & better log grade
	Noble Fir & Spruce	Less than 15% No. 1 Sawmill, Peeler or Select & better log grade
	Western Hemlock, True Firs & Other Conifer	Less than 5% Special Mill, No. 1 Sawmill & better log grade
5	Conifer Utility	All conifer logs graded as utility log grade
	Hardwood Utility	All No. 4 Sawmill log grade with a diameter of less than 8 inches inside bark (at the scaling end) and all hardwood logs graded as utility

[1] For detailed descriptions and definitions of log scaling and grading rules and procedures see the Official Log Scaling and Grading Rules revised January 1, 1980, published by Puget Sound Log Scaling and Grading Bureau. These are also used by the Columbia River and Grays Harbor Scaling and Grading Bureaus. To determine timber quality code number, see the example for Western Washington which follows Table 3.

TABLE 2--Timber Quality Code Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 1/1/81 through 6/30/81)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Timber Quality Code Number	Species	Log Grade Specifications[1]
1	Douglas-fir	Over 70% No. 2. Sawmill & better log grade
	Western Redcedar & Alaska-cedar	Over 20% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	Over 70% No. 2 Sawmill & better log grade
	Hardwoods	All No. 4 Sawmill logs with a diameter of 8 inches inside bark and larger (at the scaling end) & better log grades

TABLE 2--cont.

Timber Quality Code Number	Species	Log Grade Specifications[1]
	Douglas–fir	40–70% inclusive No. 2 Sawmill & better log grade
2	Western Redcedar & Alaska–cedar	5–20% inclusive No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	40–70% inclusive No. 2 Sawmill & better log grade
	Douglas–fir	5 to but not including 40% No. 2 Sawmill & better log grade
3	Western Redcedar & Alaska–cedar	Less than 5% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	5 to but not including 40% No. 2 Sawmill & better log grade
4	Douglas–fir, Western Hemlock & Other Conifer, except Western Redcedar & Alaska–cedar	Less than 5% No. 2 Sawmill & better log grade
	Conifer Utility	All conifer logs graded as utility log grade
5	Hardwood Utility	All No. 4 Sawmill log grade with a diameter of less than 8 inches inside bark (at the scaling end) and all hardwood logs graded as utility

[1]For detailed descriptions and definitions of log scaling and grading rules and procedures see the Official Log Scaling and Grading Rules revised January 1, 1980, published by the Puget Sound Log Scaling and Grading Bureau. These are also used by the Columbia River and Grays Harbor Scaling and Grading Bureaus. To determine timber quality code number, see the example for Western Washington which follows Table 3.

TABLE 3--Timber Quality Code Table
Stumpage Values Areas 1, 2, 3, 4, 5, and 11
(for 1/1/81 through 6/30/81)
THINNING
See definition WAC 458-40-18643(9)(d)

Timber Quality Code Number	Species	Log Grade Specifications[1]
	Douglas–fir	Over 70% No. 2 Sawmill & better log grade
1	Western Hemlock & Other Conifer	Over 70% No. 2 Sawmill & better log grade
	Western Redcedar & Alaska–cedar	Over 20% No. 2 Sawmill & better log grade
	Hardwoods	All No. 4 Sawmill logs with a diameter of 8 inches inside bark and larger (at the scaling end) & better log grades
	Douglas–fir	40–70% inclusive No. 2 Sawmill & better log grade
2	Western Redcedar & Alaska–cedar	5–20% inclusive No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	40–70% inclusive No. 2 Sawmill & better log grade
	Douglas–fir	5 to but not including 40% No. 2 Sawmill & better log grade
3	Western Redcedar & Alaska–cedar	Less than 5% No. 2 Sawmill & better log grade
	Western Hemlock & Other Conifer	5 to but not including 40% No. 2 Sawmill & better log grade
4	Douglas–fir, Western Hemlock & Other Conifer	Less than 5% No. 2 Sawmill & better log grade
	Conifer Utility	All conifer logs graded as utility log grade
5	Hardwood Utility	All No. 4 Sawmill log grade with a diameter of less than 8 inches inside bark (at the scaling end) and all hardwood logs graded as utility

[1]For detailed descriptions and definitions of log scaling rules and procedures see the Official Log Scaling and Grading Rules revised January 1, 1980, published by the Puget Sound Log Scaling and Grading Bureau. These are also used by the Columbia River and Grays Harbor Scaling and Grading Bureaus. To determine timber quality code number for Western Washington, see the following example.

WESTERN WASHINGTON EXAMPLE: The following example is for determining the timber quality number code for timber harvested in stumpage value areas 1, 2, 3, 4, 5, and 11 in Western Washington. The following method can be used to determine the quality

code number for species in "old growth final harvest", "young growth final harvest", and "thinning harvest" types.

The example shown below is for a harvest of 150 thousand board feet (150 MBF) of the species, Douglas–fir, and the harvest type, young growth final harvest, with the following volumes at the indicated grades:

Log Grade	Net Volume, Scribner Scale
Special Mill	20 MBF
No. 1 sawmill	20 MBF
No. 2 sawmill	45 MBF
No. 3 sawmill	35 MBF
No. 4 sawmill	30 MBF
TOTAL	150 MBF

To determine the proper quality code number, add the scale volumes for the grades as established by the approved grading rule. Divide this volume by the total volume harvested for the species. In this example, the Special Mill and the No. 1 and 2 sawmill logs account for 85 MBF of the 150 MBF Douglas–fir harvested. Divide as follows:

$$\frac{20 + 20 + 45}{150} \text{ or } \frac{85}{150} = .567 \times 100 = 56.7\%$$

In this example, the Special Mill, No. 1 and 2 sawmill logs make up 56.7% of the Douglas–fir harvested. Since this is between 40 and 70% No. 2 sawmill and better, the entire Douglas–fir harvested would be reported as:

Species	Timber Quality Code Number	Net Volume Harvested
Douglas–fir	2	150 MBF

TABLE 4--Timber Quality Code Table
Stumpage Value Areas 6, 7, 8, and 9
(for 1/1/81 through 6/30/81)
MERCHANTABLE SAWTIMBER, ALL AGES

Timber Quality Code Number	Species	Log Grade Specifications[1]
	Ponderosa Pine	Less than 10 logs 16 feet long per thousand board feet Scribner scale
1	All Conifers Other than Ponderosa Pine	All log sizes
	Hardwoods	Sawlogs only
2	Ponderosa Pine	10 or more logs 16 feet long per thousand board feet Scribner scale

TABLE 4--cont.

Timber Quality Code Number	Species	Log Grade Specifications[1]
4	Utility	All logs graded as utility

[1]To determine timber quality code number in Stumpage Value Areas 6, 7, 8 and 9 for Eastern Washington, see the following example.

EASTERN WASHINGTON EXAMPLE: The following example is for determining the timber quality code for timber harvested in stumpage value areas 6, 7, 8 and 9 in Eastern Washington.

The example shown below is for a harvest of 150 thousand board feet (150 MBF) of the species, Ponderosa Pine, and harvest type merchantable sawtimber, all ages with a sum total log length of 19,200 feet.

Step 1. The highest possible number of sawable sixteen foot logs which could be recovered is determined by dividing the sum total length of all sawable logs harvested (i.e. 19,200) by 16. Answer: 1200 logs.

Step 2. The average net volume per sixteen foot recoverable log is determined by dividing the total volume harvested (150 MBF) by the number of sixteen foot logs (1200). Answer: 125.

Step 3. The total number of logs per thousand board feet is determined by dividing 1000 by the average net volume per sixteen foot recoverable log (125). Answer: 8 logs per 1 MBF.

Step 4. Because the timber quality code table lists 1 to 9 logs per 1 MBF for Ponderosa pine as timber quality code number 1, the harvest was at 8 logs per 1 MBF the entire Ponderosa pine harvest would be reported as:

Species	Timber Quality Code Number	Volume Harvested
Ponderosa Pine (PP)	1	150 MBF

TABLE 5--Timber Quality Code Table
Stumpage Value Area 10
(for 1/1/81 through 6/30/81)
MERCHANTABLE SAWTIMBER, ALL AGES

Timber Quality Code Number	Species	Log Grade Specifications[1]
	Ponderosa Pine & Other Conifers	Less than 5 logs 16 feet long per MBF net log Scribner scale
1	Hardwoods	All logs graded as sawlogs

TABLE 5--cont.

Timber Quality Code Number	Species	Log Grade Specifications[1]
2	Ponderosa Pine	5 to 9 logs inclusive 16 feet long per MBF net log Scribner scale
	Other Conifer	5 to 12 logs inclusive 16 feet long per MBF net log scale
3	Ponderosa Pine	More than 9 logs 16 feet long per MBF net log Scribner scale
	Other Conifer	More than 12 logs 16 feet long per MBF net log Scribner scale
4	Utility	All logs graded as utility

[1]To determine timber quality code number in Stumpage Value Area 10 in Eastern Washington, see the following example.

EASTERN WASHINGTON EXAMPLE: The following example is for determining the timber quality code for timber harvested in stumpage value area 10 in Eastern Washington.

The example shown below is for a harvest of 150 thousand board feet (150 MBF) of the species, Ponderosa Pine, and harvest type merchantable sawtimber, all ages with a sum total log length of 19,200 feet.

Step 1. The highest possible number of sawable sixteen foot logs which could be recovered is determined by dividing the sum total length of all sawable logs harvested (i.e. 19,200) by 16. Answer: 1200 logs.

Step 2. The average net volume per sixteen foot recoverable log is determined by dividing the total volume harvested (150 MBF) by the number of sixteen foot logs (1200). Answer: 125.

Step 3. The total number of logs per thousand board feet is determined by dividing 1000 by the average net volume per sixteen foot recoverable log (125). Answer: 8 logs per 1 MBF.

Step 4. Because the timber quality code table lists 5–9 logs per 1 MBF for Ponderosa pine as timber quality code number 2, the harvest was at 8 logs per 1 MBF the entire Ponderosa pine harvest would be reported as:

Species	Timber Quality Code Number	Volume Harvested
Ponderosa Pine (PP)	2	150 MBF

[Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18652, filed 12/30/80.]

WAC 458-40-18653 Stumpage values--Tables for 1/1/81 through 6/30/81. As required by RCW 84.33-.071 the department has prepared tables which assign stumpage value rates for the various harvest types, which rates vary depending upon the stumpage value area, species, timber quality code number and hauling distance zone involved. Where the timber harvested is used to produce harvest type "special forest products" the value tables of this section shall establish the values for such special forest products.

The following stumpage value and special forest product value tables are hereby adopted for use during the period of January 1, 1981 through June 30, 1981.

TABLE 1--Stumpage Value Table
Stumpage Value Area 1
(for 1/1/81 through 6/30/81)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$317	$313	$309	$305	$301
		2	302	298	294	290	286
		3	271	267	263	259	255
Western Hemlock[1]	WH	1	331	327	323	319	315
		2	265	261	257	253	249
		3	220	216	212	208	204
True Fir[2]	TF	1	331	327	323	319	315
		2	265	261	257	253	249
		3	220	216	212	208	204
Western Redcedar[3]	RC	1	417	413	409	405	401
		2	314	310	306	302	298
		3	209	205	201	197	193
Sitka Spruce	SS	1	370	366	362	358	354
		2	353	349	345	341	337
		3	314	310	306	302	298
Other Conifer	OC	1	317	313	309	305	301
		2	265	261	257	253	249
		3	209	205	201	197	193
Red Alder	RA	1	66	60	54	48	42
Cottonwood	BC	1	25	19	13	7	1
Other Hardwoods	OH	1	50	44	38	32	26
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	12	12	12	12	12

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 2--Stumpage Value Table
Stumpage Value Area 1
(for 1/1/81 through 6/30/81)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$323	$317	$311	$305	$299
		2	308	302	296	290	284
		3	266	260	254	248	242
		4	251	245	239	233	227
Western Hemlock[1]	WH	1	183	177	171	165	159
		2	136	130	124	118	112
		3	119	113	107	101	95
		4	84	78	72	66	60
True Fir[2]	TF	1	183	177	171	165	159
		2	136	130	124	118	112
		3	119	113	107	101	95
		4	84	78	72	66	60
Western Redcedar[3]	RC	1	318	312	306	300	294
		2	234	228	222	216	210
		3	214	208	202	196	190
Other Conifer	OC	1	183	177	171	165	159
		2	136	130	124	118	112
		3	119	113	107	101	95
		4	84	78	72	66	60
Red Alder	RA	1	66	60	54	48	42
Cottonwood	BC	1	25	19	13	7	1
Other Hardwoods	OH	1	50	44	38	32	26
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	12	12	12	12	12

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 3--Stumpage Value Table
Stumpage Value Area 1
(for 1/1/81 through 6/30/81)
THINNING
See definition WAC 458-40-18649(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$298	$292	$286	$280	$274
		2	283	277	271	265	259
		3	241	235	229	223	217
		4	226	220	214	208	202

TABLE 3--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Western Hemlock[1]	WH	1	158	152	146	140	134
		2	111	105	99	93	87
		3	94	88	82	76	70
		4	59	53	47	41	35
True Fir[2]	TF	1	158	152	146	140	134
		2	111	105	99	93	87
		3	94	88	82	76	70
		4	59	53	47	41	35
Western Redcedar[3]	RC	1	293	287	281	275	269
		2	209	203	197	191	185
		3	189	183	177	171	165
Other Conifer	OC	1	158	152	146	140	134
		2	111	105	99	93	87
		3	94	88	82	76	70
		4	59	53	47	41	35
Red Alder	RA	1	66	60	54	48	42
Cottonwood	BC	1	25	19	13	7	1
Other Hardwoods	OH	1	50	44	38	32	26
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	12	12	12	12	12

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 4--Stumpage Value Table
Stumpage Value Area 1
(for 1/1/81 through 6/30/81)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar-Shake Blocks & Boards[1]	RCS	1	$225	$221	$217	$213	$209
Western Redcedar Flatsawn & Shingle Blocks[1]	RCF	1	80	76	72	68	64
Western Redcedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage Value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage Value per lineal foot.

TABLE 5--Stumpage Value Table
Stumpage Value Area 2
(for 1/1/81 through 6/30/81)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$470	$466	$462	$458	$454
		2	444	440	436	432	428
		3	277	273	269	265	261
Western Hemlock[1]	WH	1	315	311	307	303	299
		2	252	248	244	240	236
		3	208	204	200	196	192
True Fir[2]	TF	1	315	311	307	303	299
		2	252	248	244	240	236
		3	208	204	200	196	192
Western Redcedar[3]	RC	1	417	413	409	405	401
		2	314	310	306	302	298
		3	209	205	201	197	193
Sitka Spruce	SS	1	370	366	362	358	354
		2	353	349	345	341	337
		3	314	310	306	302	298
Other Conifer	OC	1	315	311	307	303	299
		2	252	248	244	240	236
		3	208	204	200	196	192
Red Alder	RA	1	41	35	29	23	17
Cottonwood	BC	1	27	21	15	9	3
Other Hardwoods	OH	1	27	21	15	9	3
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	14	14	14	14	14

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 6--Stumpage Value Table
Stumpage Value Area 2
(for 1/1/81 through 6/30/81)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$272	$266	$260	$254	$248
		2	223	217	211	205	199
		3	185	179	173	167	161
		4	108	102	96	90	84
Western Hemlock[1]	WH	1	178	172	166	160	154
		2	172	166	160	154	148
		3	153	147	141	135	129
		4	108	102	96	90	84

TABLE 6--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
True Fir[2]	TF	1	178	172	166	160	154
		2	172	166	160	154	148
		3	153	147	141	135	129
		4	108	102	96	90	84
Western Redcedar[3]	RC	1	319	313	307	301	295
		2	258	252	246	240	234
		3	214	208	202	196	190
Other Conifer	OC	1	178	172	166	160	154
		2	172	166	160	154	148
		3	153	147	141	135	129
		4	108	102	96	90	84
Red Alder	RA	1	41	35	29	23	17
Cottonwood	BC	1	27	21	15	9	3
Other Hardwoods	OH	1	27	21	15	9	3
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	14	14	14	14	14

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 7--Stumpage Value Table
Stumpage Value Area 2
(for 1/1/81 through 6/30/81)
THINNING
See definition WAC 458-40-18649(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$247	$241	$235	$229	$223
		2	198	192	186	180	174
		3	160	154	148	142	136
		4	83	77	71	65	59
Western Hemlock[1]	WH	1	153	147	141	135	129
		2	147	141	135	129	123
		3	128	122	116	110	104
		4	83	77	71	65	59
True Fir[2]	TF	1	153	147	141	135	129
		2	147	141	135	129	123
		3	128	122	116	110	104
		4	83	77	71	65	59
Western Redcedar[3]	RC	1	294	288	282	276	270
		2	233	227	221	215	209
		3	189	183	177	171	165
Other Conifer	OC	1	153	147	141	135	129
		2	147	141	135	129	123
		3	128	122	116	110	104
		4	83	77	71	65	59
Red Alder	RA	1	41	35	29	23	17
Cottonwood	BC	1	27	21	15	9	3
Other Hardwoods	OH	1	27	21	15	9	3

TABLE 7--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	14	14	14	14	14

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 8--Stumpage Value Table
Stumpage Value Area 2
(for 1/1/81 through 6/30/81)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar--Shake Blocks & Boards[1]	RCS	1	$157	$153	$149	$145	$141
Western Redcedar Flatsawn & Shingle Blocks[1]	RCF	1	58	54	50	46	42
Western Redcedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage Value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage Value per lineal foot.

TABLE 9--Stumpage Value Table
Stumpage Value Area 3
(for 1/1/81 through 6/30/81)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$385	$381	$377	$373	$369
		2	339	335	331	327	323
		3	308	304	300	296	292
Western Hemlock[1]	WH	1	327	323	319	315	311
		2	283	279	275	271	267
		3	238	234	230	226	222

TABLE 9--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
True Fir[2]	TF	1	327	323	319	315	311
		2	283	279	275	271	267
		3	238	234	230	226	222
Western Redcedar	RC	1	376	372	368	364	360
		2	300	296	292	288	284
		3	271	267	263	259	255
Sitka Spruce	SS	1	370	366	362	358	354
		2	353	349	345	341	337
		3	314	310	306	302	298
Alaska-cedar	YC	1	1346	1342	1338	1334	1330
		2	937	933	929	925	921
		3	527	523	519	515	511
Other Conifer	OC	1	327	323	319	315	311
		2	283	279	275	271	267
		3	238	234	230	226	222
Red Alder	RA	1	44	38	32	26	20
Cottonwood	BC	1	34	28	22	16	10
Other Hardwoods	OH	1	32	26	20	14	8
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	10	10	10	10	10

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

TABLE 10--Stumpage Value Table
Stumpage Value Area 3
(for 1/1/81 through 6/30/81)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$360	$354	$348	$342	$336
		2	246	240	234	228	222
		3	221	215	209	203	197
		4	168	162	156	150	144
Western Hemlock[1]	WH	1	192	186	180	174	168
		2	187	181	175	169	163
		3	162	156	150	144	138
		4	85	79	73	67	61
True Fir[2]	TF	1	192	186	180	174	168
		2	187	181	175	169	163
		3	162	156	150	144	138
		4	85	79	73	67	61
Western Redcedar[3]	RC	1	284	278	272	266	260
		2	235	229	223	217	211
		3	234	228	222	216	210

TABLE 10--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Other Conifer	OC	1	192	186	180	174	168
		2	187	181	175	169	163
		3	162	156	150	144	138
		4	85	79	73	67	61
Red Alder	RA	1	44	38	32	26	20
Cottonwood	BC	1	34	28	22	16	10
Other Hardwoods	OH	1	32	26	20	14	8
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	10	10	10	10	10

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 11--Stumpage Value Table
Stumpage Value Area 3
(for 1/1/81 through 6/30/81)
THINNING
See definition WAC 458-40-18649(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$335	$329	$323	$317	$311
		2	221	215	209	203	197
		3	196	190	184	178	172
		4	143	137	131	125	119
Western Hemlock[1]	WH	1	167	161	155	149	143
		2	162	156	150	144	138
		3	137	131	125	119	113
		4	60	54	48	42	36
True Fir[2]	TF	1	167	161	155	149	143
		2	162	156	150	144	138
		3	137	131	125	119	113
		4	60	54	48	42	36
Western Redcedar[3]	RC	1	259	253	247	241	235
		2	210	204	198	192	186
		3	209	203	197	191	185
Other Conifer	OC	1	167	161	155	149	143
		2	162	156	150	144	138
		3	137	131	125	119	113
		4	60	54	48	42	36
Red Alder	RA	1	44	38	32	26	20
Cottonwood	BC	1	34	28	22	16	10
Other Hardwoods	OH	1	32	26	20	14	8
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	10	10	10	10	10

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 12--Stumpage Value Table
Stumpage Value Area 3
(for 1/1/81 through 6/30/81)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar-Shake Blocks & Boards[1]	RCS	1	$196	$192	$188	$184	$180
Western Redcedar Flatsawn & Shingle Blocks[1]	RCF	1	71	67	63	59	55
Western Redcedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage Value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot.

TABLE 13--Stumpage Value Table
Stumpage Value Area 4
(for 1/1/81 through 6/30/81)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$408	$404	$400	$396	$392
		2	402	398	394	390	386
		3	396	392	388	384	380
Western Hemlock[1]	WH	1	389	385	381	377	373
		2	316	312	308	304	300
		3	297	293	289	285	281
True Fir[2]	TF	1	389	385	381	377	373
		2	316	312	308	304	300
		3	297	293	289	285	281
Western Redcedar	RC	1	417	413	409	405	401
		2	285	282	278	274	270
		3	212	208	204	200	196
Sitka Spruce	SS	1	370	366	362	358	354
		2	353	349	345	341	337
		3	314	310	306	302	298
Noble Fir	NF	1	1021	1017	1013	1009	1005
		2	679	675	671	667	663
		3	338	334	330	326	322
Alaska-cedar	YC	1	1346	1342	1338	1334	1330
		2	937	933	929	925	921
		3	527	523	519	515	511
Other Conifer	OC	1	370	366	362	358	354
		2	286	282	278	274	270
		3	212	208	204	200	196
Red Alder	RA	1	56	50	44	38	32

TABLE 13--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Cottonwood	BC	1	29	23	17	11	5
Other Hardwoods	OH	1	40	34	28	22	16
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	14	14	14	14	14

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

TABLE 14--Stumpage Value Table
Stumpage Value Area 4
(for 1/1/81 through 6/30/81)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$423	$417	$411	$405	$399
		2	302	296	290	284	278
		3	233	227	221	215	209
		4	206	200	194	188	182
Western Hemlock[1]	WH	1	250	244	238	232	226
		2	222	216	210	204	198
		3	162	156	150	144	138
		4	144	138	132	126	120
True Fir[2]	TF	1	250	244	238	232	226
		2	222	216	210	204	198
		3	162	156	150	144	138
		4	144	138	132	126	120
Western Redcedar[3]	RC	1	300	294	288	282	276
		2	205	199	193	187	181
		3	183	177	171	165	159
Other Conifer	OC	1	250	244	238	232	226
		2	205	199	193	187	181
		3	162	156	150	144	138
		4	144	138	132	126	120
Red Alder	RA	1	56	50	44	38	32
Cottonwood	BC	1	29	23	17	11	5
Other Hardwoods	OH	1	40	34	28	22	16
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	14	14	14	14	14

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 15--Stumpage Value Table
Stumpage Value Area 4
(for 1/1/81 through 6/30/81)
THINNING
See definition WAC 458-40-18649(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$398	$392	$386	$380	$374
		2	277	271	265	259	253
		3	208	202	196	190	184
		4	181	175	169	163	157
Western Hemlock[1]	WH	1	225	219	213	207	201
		2	197	191	185	179	173
		3	137	131	125	119	113
		4	119	113	107	101	95
True Fir[2]	TF	1	225	219	213	207	201
		2	197	191	185	179	173
		3	137	131	125	119	113
		4	119	113	107	101	95
Western Redcedar[3]	RC	1	275	269	263	257	251
		2	180	174	168	162	156
		3	158	152	146	140	134
Other Conifer	OC	1	225	219	213	207	201
		2	180	174	168	162	156
		3	137	131	125	119	113
		4	119	113	107	101	95
Red Alder	RA	1	56	50	44	38	32
Cottonwood	BC	1	29	23	17	11	5
Other Hardwoods	OH	1	40	34	28	22	16
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	14	14	14	14	14

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 16--Stumpage Value Table
Stumpage Value Area 4
(for 1/1/81 through 6/30/81)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar-Shake Blocks & Boards[1]	RCS	1	$252	$248	$244	$240	$236
Western Redcedar Flatsawn & Shingle Blocks[1]	RCF	1	89	85	81	77	73
Western Redcedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15

TABLE 16--cont.

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage value per MBF net Scribner Scale.
[2]Stumpage value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot.

TABLE 17--Stumpage Value Table
Stumpage Value Area 5
(for 1/1/81 through 6/30/81)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$520	$516	$512	$508	$504
		2	390	386	382	378	374
		3	319	315	311	307	303
Western Hemlock[1]	WH	1	444	440	436	432	428
		2	414	410	406	402	398
		3	278	274	270	266	262
True Fir[2]	TF	1	444	440	436	432	428
		2	414	410	406	402	398
		3	278	274	270	266	262
Western Redcedar[3]	RC	1	397	393	389	385	381
		2	273	269	265	261	257
		3	268	264	260	256	252
Sitka Spruce	SS	1	370	366	362	358	354
		2	353	349	345	341	337
		3	314	310	306	302	298
Noble Fir	NF	1	1021	1017	1013	1009	1005
		2	679	675	671	667	663
		3	338	334	330	326	322
Other Conifer	OC	1	370	366	362	358	354
		2	273	269	265	261	257
		3	268	264	260	256	252
Red Alder	RA	1	60	54	48	42	36
Cottonwood	BC	1	32	26	20	14	8
Other Hardwoods	OH	1	44	38	32	26	20
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	16	16	16	16	16

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 18--Stumpage Value Table
Stumpage Value Area 5
(for 1/1/81 through 6/30/81)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$434	$428	$422	$416	$410
		2	361	355	349	343	337
		3	202	196	190	184	178
		4	101	95	89	83	77
Western Hemlock[1]	WH	1	283	277	271	265	259
		2	279	273	267	261	255
		3	119	113	107	101	95
		4	109	103	97	91	85
True Fir[2]	TF	1	283	277	271	265	259
		2	279	273	267	261	255
		3	119	113	107	101	95
		4	109	103	97	91	85
Western Redcedar[3]	RC	1	262	256	250	244	238
		2	256	250	244	238	232
		3	196	190	184	178	172
Other Conifer	OC	1	262	256	250	244	238
		2	256	250	244	238	232
		3	119	113	107	101	95
		4	101	95	89	83	77
Red Alder	RA	1	60	54	48	42	36
Cottonwood	BC	1	32	26	20	14	8
Other Hardwoods	OH	1	44	38	32	26	20
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	16	16	16	16	16

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 19--Stumpage Value Table
Stumpage Value Area 5
(for 1/1/81 through 6/30/81)
THINNING
See definition WAC 458-40-18649(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$409	$403	$397	$391	$385
		2	336	330	324	318	312
		3	177	171	165	159	153
		4	76	70	64	58	52
Western Hemlock[1]	WH	1	258	252	246	240	234
		2	254	248	242	236	230
		3	94	88	82	76	70
		4	84	78	72	66	60

TABLE 19--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
True Fir[2]	TF	1	258	252	246	240	234
		2	254	248	242	236	230
		3	94	88	82	76	70
		4	84	78	72	66	60
Western Redcedar[3]	RC	1	237	231	225	219	213
		2	231	225	219	213	207
		3	171	165	159	153	147
Other Conifer	OC	1	237	231	225	219	213
		2	231	225	219	213	207
		3	94	88	82	76	70
		4	76	70	64	58	52
Red Alder	RA	1	60	54	48	42	36
Cottonwood	BC	1	32	26	20	14	8
Other Hardwoods	OH	1	44	38	32	26	20
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	16	16	16	16	16

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 20--Stumpage Value Table
Stumpage Value Area 5
(for 1/1/81 through 6/30/81)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar-Shake Blocks & Boards[1]	RCS	1	$238	$234	$230	$226	$222
Western Redcedar Flatsawn & Shingle Blocks[1]	RCF	1	83	79	75	71	67
Western Redcedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot.

TABLE 21--Stumpage Value Table
Stumpage Value Area 6, 7, 8, and 9
(for 1/1/81 through 6/30/81)
MERCHANTABLE SAWTIMBER, ALL AGES

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Ponderosa Pine	PP	1	$183	$179	$175	$171	$167
		2	104	100	96	92	88
Douglas-fir	DF	1	131	127	123	119	115
Western Larch	WL	1	131	127	123	119	115
Western Hemlock[1]	WH	1	128	124	120	116	112
True fir[2]	TF	1	128	124	120	116	112
Engelmann Spruce	ES	1	104	100	96	92	88
Western White Pine	WP	1	141	137	133	129	125
Western Redcedar	RC	1	144	140	136	132	128
Lodgepole Pine	LP	1	108	104	100	96	92
Hardwoods	OH	1	14	10	6	2	1
Utility	CU	5	14	14	14	14	14

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".

TABLE 22--Stumpage Value Table
Stumpage Value Area 6, 7, 8, and 9
(for 1/1/81 through 6/30/81)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks[1]	RCF	1	$79	$75	$71	$67	$63
Western Larch Flatsawn Blocks[1]	WLF	1	69	65	61	57	53
Lodgepole Pine & Other Posts[2]	LPP	1	0.20	0.20	0.20	0.20	0.20
Pine Christmas Trees[3]	PX	1	0.13	0.13	0.13	0.13	0.13
Douglas-fir & Other Christmas Trees[4]	DFX	1	0.15	0.15	0.15	0.15	0.15

[1]Stumpage value per MBF net Scribner Scale.
[2]Stumpage value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
[4]Stumpage value per lineal foot.

TABLE 23--Stumpage Value Table
Stumpage Value Area 10
(for 1/1/81 through 6/30/81)
MERCHANTABLE SAWTIMBER, ALL AGES

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Ponderosa Pine	PP	1	$244	$240	$236	$232	$228
		2	242	238	234	230	226
		3	229	225	221	217	213
Douglas–fir	DF	1	292	288	284	280	276
		2	223	219	215	211	207
		3	196	192	188	184	180
Western Larch	WL	1	292	288	284	280	276
		2	223	219	215	211	207
		3	196	192	188	184	180
Western Hemlock[1]	WH	1	257	253	249	245	241
		2	248	244	240	236	232
		3	152	148	144	140	136
True Fir[2]	TF	1	257	253	249	245	241
		2	248	244	240	236	232
		3	152	148	144	140	136
Other Conifer	OC	1	244	240	236	232	228
		2	223	219	215	211	207
		3	152	148	144	140	136
Hardwoods	OH	1	14	10	6	2	1
Utility	CU	5	14	14	14	14	14

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All these species are commonly referred to as "White Fir".

TABLE 24--Stumpage Value Table
Stumpage Value Area 10
(for 1/1/81 through 6/30/81)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar Flatsawn & Shingle Blocks[1]	RCF	1	$104	$100	$96	$92	$88
Western Larch Flat-sawn Blocks[1]	WLF	1	69	65	61	57	53
Lodgepole Pine & Other Posts[2]	LPP	1	0.20	0.20	0.20	0.20	0.20
Pine Christmas Trees[3]	PX	1	0.13	0.13	0.13	0.13	0.13
Douglas–fir & Other Christmas Trees[4]	DFX	1	0.15	0.15	0.15	0.15	0.15

[1]Stumpage value per MBF Scribner scale.
[2]Stumpage value per 8 lineal feet or portion thereof.
[3]Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
[4]Stumpage value per lineal foot.

TABLE 25--Stumpage Value Table
Stumpage Value Area 11
(for 1/1/81 through 6/30/81)
OLD GROWTH FINAL HARVEST
(100 years of age or older)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas–fir	DF	1	$364	$360	$356	$352	$348
		2	318	314	310	306	302
		3	287	283	279	275	271
Western Hemlock[1]	WH	1	269	265	261	257	253
		2	225	221	217	213	209
		3	180	176	172	168	164
True Fir[2]	TF	1	269	265	261	257	253
		2	225	221	217	213	209
		3	180	176	172	168	164
Western Redcedar[3]	RC	1	332	328	324	320	316
		2	279	275	271	267	263
		3	241	237	233	229	225
Other Conifer	OC	1	269	265	261	257	253
		2	225	221	217	213	209
		3	180	176	172	168	164
Red Alder	RA	1	44	38	32	26	20
Cottonwood	BC	1	34	28	22	16	10
Other Hardwoods	OH	1	32	26	20	14	8
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	10	10	10	10	10

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska–cedar.

TABLE 26--Stumpage Value Table
Stumpage Value Area 11
(for 1/1/81 through 6/30/81)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas–fir	DF	1	$318	$312	$306	$300	$294
		2	315	309	303	297	291
		3	153	147	141	135	129
		4	126	120	114	108	102
Western Hemlock[1]	WH	1	192	186	180	174	168
		2	187	181	175	169	163
		3	134	128	122	116	110
		4	85	79	73	67	61
True Fir[2]	TF	1	192	186	180	174	168
		2	187	181	175	169	163
		3	134	128	122	116	110
		4	85	79	73	67	61

TABLE 26--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar[3]	RC	1	284	278	272	266	260
		2	226	220	214	208	202
		3	154	148	142	136	130
Other Conifer	OC	1	192	186	180	174	168
		2	187	181	175	169	163
		3	134	128	122	116	110
		4	85	79	73	67	61
Red Alder	RA	1	44	38	32	26	20
Cottonwood	BC	1	34	28	22	16	10
Other Hardwoods	OH	1	32	26	20	14	8
Hardwood Utility	HU	5	5	5	5	5	5
Conifer Utility	CU	5	10	10	10	10	10

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 27--Stumpage Value Table
Stumpage Value Area 11
(for 1/1/81 through 6/30/81)
THINNING
See definition WAC 458-40-18649(9)(d)

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$293	$287	$281	$275	$269
		2	290	284	278	272	266
		3	128	122	116	110	104
		4	101	95	89	83	77
Western Hemlock[1]	WH	1	167	161	155	149	143
		2	162	156	150	144	138
		3	109	103	97	91	85
		4	60	54	48	42	36
True Fir[2]	TF	1	167	161	155	149	143
		2	162	156	150	144	138
		3	109	103	97	91	85
		4	60	54	48	42	36
Western Redcedar[3]	RC	1	259	253	247	241	235
		2	201	195	189	183	177
		3	129	123	117	111	105
Other Conifer	OC	1	167	161	155	149	143
		2	162	156	150	144	138
		3	109	103	97	91	85
		4	60	54	48	42	36
Red Alder	RA	1	44	38	32	26	20
Cottonwood	BC	1	34	28	22	16	10
Other Hardwoods	OH	1	32	26	20	14	8
Hardwood Utility	HU	5	5	5	5	5	5

TABLE 27--cont.

Species Name	Species Code	Timber Quality Code Number	Stumpage Values Per Thousand Board Feet Net Scribner Log Scale by Hauling Distance Zone Number 1	2	3	4	5
Conifer Utility	CU	5	10	10	10	10	10

[1]Includes Western and Mountain Hemlock.
[2]Includes Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. All of these species are commonly referred to as "White Fir".
[3]Includes Alaska-cedar.

TABLE 28--Stumpage Value Table
Stumpage Value Area 11
(for 1/1/81 through 6/30/81)
SPECIAL FOREST PRODUCTS

Species Name and Product	Species Code	Quality Code Number	Rates Per Unit by Hauling Distance Zone Number 1	2	3	4	5
Western Redcedar-Shake Blocks & Boards[1]	RCS	1	$156	$152	$148	$144	$140
Western Redcedar Flatsawn & Shingle Blocks[1]	RCF	1	57	53	49	45	41
Western Redcedar & Other Posts[2]	RCP	1	0.20	0.20	0.20	0.20	0.20
Douglas-fir Christmas Trees[3]	DFX	1	0.15	0.15	0.15	0.15	0.15
True Fir & Other Christmas Trees[3]	TFX	1	0.35	0.35	0.35	0.35	0.35

[1]Stumpage Value per MBF net Scribner Scale.
[2]Stumpage Value per 8 lineal feet or portion thereof.
[3]Stumpage Value per lineal foot.

[Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18653, filed 12/30/80.]

WAC 458-40-18654 Harvester adjustments--Tables for 1/1/81 through 6/30/81. In order to make reasonable and adequate allowances for costs of removal and size of logging operation in computation of stumpage value rates as required by RCW 84.33.071(3), the department has prepared tables which allow for adjustments to the stumpage value rates derived from the stumpage value tables of WAC 458-40-18653.

Harvest adjustments relating to harvest volume per acre, logging conditions and average volume per log shall be allowed against the stumpage value rates for the designated harvest types and in the designated stumpage value areas as set forth in the following tables with the following limitations:

(1) No harvest adjustment shall be allowed against "special forest products".

(2) No harvest adjustment shall be allowed against "utility", "conifer utility", and "hardwood utility".

(3) Rates for the harvest type "old growth final harvest", shall be adjusted to a value no lower than $10 per thousand board feet.

(4) Rates for the harvest type "young growth final harvest", conifers, shall be adjusted to a value no lower than $5 per thousand board feet.

(5) Stumpage value rates for conifers within the harvest type "merchantable sawtimber, all ages", shall be adjusted to a value no lower than $5 per thousand board feet.

(6) Stumpage value rates for "hardwood" and for "thinning harvest" shall be adjusted to a value no lower than $1 per thousand board feet.

A small harvest adjustment table for use in all stumpage value areas is set forth below providing for adjustment of stumpage value rates if the total volume of timber harvested in a given quarter is within the volume classes provided therein.

Stumpage values of timber situated in areas impacted by Mt. St. Helens eruptions, slides, and floods have been reduced. In many affected areas logging costs will be increased because of consequences from the volcanic eruptions. In some areas timber has been damaged. In other areas the distances and routes over which logs must be hauled have been significantly altered and logging costs have been affected.

Timber harvesters planning to remove timber from the areas affected by the Mt. St. Helens eruptions may apply to the Department of Revenue for adjustment in stumpage value rates. Such applications should contain a map with the legal description of the area from which the timber will be removed, a description of the damage sustained by the timber, and a listing of additional costs incurred because of ash fall, slides, floods or other Mt. St. Helens caused impacts. Such applications should be sent to the Department of Revenue, Forest Tax Division, General Administration Building, Olympia, Washington 98504, before the harvest commences.

In the event the extent of such timber damage or additional costs are not known at the time the application is filed, the harvester may supplement the application when the necessary information is obtained, but in no event later than 90 days following completion of the harvest unit.

Upon application from any person who plans to harvest timber affected by the Mt. St. Helens eruptions the department will make a determination as to the amount of adjustment to be allowed. The harvester will be notified by the department of the amount of the adjustment. This amount can then be taken as a credit against tax liabilities or if the harvester is no longer harvesting, a refund will be authorized.

The following harvest adjustment tables are hereby adopted for use during the period of January 1, 1981 through June 30, 1981:

TABLE 1--Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 1/1/81 through 6/30/81)
OLD GROWTH FINAL HARVEST
(100 years of age, or older)

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	0
Class 2	Harvest of 15 thousand board feet to 40 thousand board feet per acre.	– $4.00
Class 3	Harvest of less than 15 thousand board feet per acre.	– $7.00
II. Logging Conditions		
Class 1	Favorable logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	+ $5.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	– $12.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	– $60.00

TABLE 2--Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 1/1/81 through 6/30/81)
YOUNG GROWTH FINAL HARVEST
(Less than 100 years of age, but not including thinning)

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 30 thousand board feet per acre.	0
Class 2	Harvest of 10 thousand board feet to 30 thousand board feet per acre.	– $2.00
Class 3	Harvest of less than 10 thousand board feet per acre.	– $6.00
II. Logging Conditions		
Class 1	Favorable logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 40%.	+ $4.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 40% to 60%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 60%.	– $14.00

TABLE 2--cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	– $60.00

TABLE 3--Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 11
(for 1/1/81 through 6/30/81)

THINNING

See definition WAC 458-40-18649(9)(d)

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume Per Acre		
Class 1	Harvest of more than 10 thousand board feet per acre.	0
Class 2	Harvest of 5 thousand board feet to 10 thousand board feet per acre.	– $3.00
Class 3	Harvest of less than 5 thousand board feet per acre.	– $5.00
II. Logging Conditions		
Class 1	Favorable wheel tractor logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 20%.	+ $5.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 20% and 40%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 40%. Normally a tower yarding operation.	– $14.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	– $60.00
III. Average Log Size		
Class 1	50 board feet or more.	0
Class 2	Less than 50 board feet.	– $10.00

TABLE 4--Harvest Adjustment Table
Stumpage Value Areas 6, 7, 8, 9 and 10
(for 1/1/81 through 6/30/81)

MERCHANTABLE SAWTIMBER, ALL AGES

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

TABLE 4--cont.

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
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	Favorable logging conditions and easy road construction. No rock outcrops or swamp barriers. Generally flat to gentle slopes under 20%.	+ $6.00
Class 2	Average logging conditions and average road construction. Some rock outcrops or swamp barriers. Generally slopes between 20% to 40%.	0
Class 3	Difficult logging and road building conditions because of numerous rock outcrops and bluffs. Generally rough, broken ground with slopes in excess of 40%.	– $13.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include "Special Forest Products".	– $60.00

TABLE 5--Small Harvest Adjustment Table
All Stumpage Value Areas
(for 1/1/81 through 6/30/81)

A small harvest adjustment is allowed where the total net volume harvested per taxpayer (excluding conifer and hardwood utility) does not exceed 1,000 MBF per calendar year and does not exceed 500 MBF per quarter.

Use percentage adjustments below:

Class	Net Volume Per Quarter	Percentage Adjustment Per Thousand Board Feet
1	1 – 150 MBF	30%
2	151 – 300 MBF	25%
3	301 – 400 MBF	20%
4	401 – 500 MBF	15%

[Statutory Authority: RCW 82.01.060 and 84.33.071. 81-02-007 (Order FT 80-6), § 458-40-18654, filed 12/30/80.]

WAC 458-40-19000 Timber pole volume table for west of Cascade Summit for the calendar period 1/1/81 through 6/30/81. Harvesters of poles in stumpage value areas 1, 2, 3, 4, 5, and 11 shall use the following timber pole volume table to determine the Scribner board foot volume for each pole length and class:

Pole Length	Pole Class[1]	Total Scribner Board foot Volume as per Pole Length and per Pole Class
	1	50
	2	50
	3	40
	4	40
20'	5	30
	6	30
	7	20
	9	20
	10	20
	1	60
	2	60
	3	50
	4	50
25'	5	40
	6	40
	7	30
	9	30
	10	30
	1	110
	2	70
	3	60
30'	4	60
	5	50
	6	50
	7	40
	9	40
	H2	160
	H2	160
	1	130
	2	100
35'	3	80
	4	80
	5	60
	6	60
	7	50
	H4	240(240)
	H3	200(200)
	H2	180
	H1	180
40'	1	150
	2	120
	3	120
	4	90
	5	70
	6	60
	H6	380(380)
	H5	340(340)
	H4	340(340)
	H3	280(270)
	H2	230(130)
45'	H1	230(130)
	1	190(110)
	2	150
	3	120
	4	120
	5	90
	6	90
	H6	430(430)
	H5	370(370)
	H4	370(370)
	H3	300(300)
	H2	260(260)
50'	H1	260(150)
	1	210(120)
	2	160
	3	140
	4	140
	5	100
	H6	470(470)
	H5	410(410)
	H4	410(410)
	H3	330(330)
	H2	280(160)
55'	H1	280(160)
	1	230(130)
	2	180
	3	150
	4	150
	H6	540(540)
	H5	470(470)
	H4	470(470)
	H3	410(410)
60'	H2	340(210)
	H1	340(210)
	1	290(180)
	2	220(150)
	3	190
	4	190

Pole Length	Pole Class[1]	Total Scribner Board foot Volume as per Pole Length and per Pole Class
65'	H6	610(610)
	H5	520(520)
	H4	520(520)
	H3	420(420)
	H2	380(230)
	H1	380(230)
	1	320(190)
	2	260(160)
	3	210
	4	210
70'	H6	650(650)
	H5	560(560)
	H4	560(560)
	H3	480(480)
	H2	400(240)
	H1	400(240)
	1	350(210)
	2	270(170)
	3	230
	4	230
75'	H6	700(700)
	H5	600(600)
	H4	600(600)
	H3	520(520)
	H2	520(520)
	H1	520(330)
	1	440(270)
	2	290(180)
	3	250
80'	H6	820(820)
	H5	700(700)
	H4	700(700)
	H3	600(600)
	H2	600(600)
	H1	540(360)
	1	440(290)
	2	360(240)
	3	290(200)
85'	H6	910(910)
	H5	800(800)
	H4	800(800)
	H3	660(660)
	H2	660(660)
	H1	660(520)
	1	570(450)
	2	490(340)
	3	360(200)
90'	H6	1080(1080)
	H5	930(930)
	H4	930(930)
	H3	820(820)
	H2	820(820)
	H1	690(560)
	1	590(480)
	2	490(420)
	3	400(210)
95'	H6	1170(1170)
	H5	1000(1000)
	H4	1000(1000)
	H3	870(870)
	H2	870(870)
	H1	750(600)
	1	640(510)
	2	540(440)
100'	H6	1190(1190)
	H5	1030(1030)
	H4	1030(1030)
	H3	900(900)
	H2	900(900)
	H1	760(610)
	1	660(530)
	2	550(450)
105'	H6	1310(1310)
	H5	1160(1160)
	H4	1160(1160)
	H3	1000(1000)
	H2	1000(1000)
	H1	860(700)
	1	740(600)
	2	610(510)
110'	H6	1370(1370)
	H5	1220(1220)
	H4	1220(1220)
	H3	1050(1050)
	H2	1050(1050)
	H1	910(740)
	1	780(640)
	2	650(540)

Pole Length	Pole Class[1]	Total Scribner Board foot Volume as per Pole Length and per Pole Class
	H6	1440(1440)
	H5	1280(1280)
	H4	1280(1280)
115'	H3	1100(1100)
	H2	1100(1100)
	H1	960(780)
	1	860(670)
	2	680(570)
	H6	1660(1660)
	H5	1460(1460)
	H4	1460(1460)
120'	H3	1300(1300)
	H2	1300(1300)
	H1	1140(960)
	1	970(820)
	2	820(700)
	H6	1840(1840)
	H5	1600(1600)
	H4	1600(1600)
125'	H3	1410(1410)
	H2	1410(1410)
	H1	1250(1100)
	1	1080(940)
	2	930(830)
	H6	1920(1920)
	H5	1680(1680)
	H4	1680(1680)
130'	H3	1490(1490)
	H2	1490(1490)
	H1	1310(1160)
	1	1120(990)
	2	970(870)

[1]Pole class definitions as per American National Standard specifications and dimensions for wood poles as approved August 7, 1976 under American Nation Standard Institute, Inc. codified ANSI 05.1–1972.

[2]Long log volume calculations are based on Official Log Scaling and Grading Rules, revised January 1, 1980, published by The Puget Sound Log Scaling Bureau. These rules are also used by The Columbia River and the Grays Harbor Log Scaling and Grading Bureau.

[3]The number, enclosed in parenthesis after the total Scribner pole volume for each pole length and class, is the volume per pole for Number 2 sawmill and better log grade, where applicable.

[Statutory Authority: RCW 82.01.060 and 84.33.071. 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.]

WAC 458-40-19001 Timber piling volume table for west of Cascade Summit for the calendar period 1/1/81 through 6/30/81. Harvesters of piling in stumpage value areas 1, 2, 3, 4, 5, and 11 shall use the following piling table to determine the Scribner board foot volume for each piling length and class:

Piling Length	Piling Class[1]	Total Scribner Board Foot Volume as per Piling Length and per Piling Class
20'	A	80
	B	70
25'	A	100
	B	90
30'	A	130
	B	110
35'	A	130
	B	110
40'	A	150
	B	120
45'	A	150
	B	120
50'	A	160
	B	140
55'	A	180
	B	150
60'	A	190
	B	160
65'	A	210
	B	180
70'	A	230
	B	190
75'	A	230
	B	200
80'	A	250
	B	210

Piling Length	Piling Class[1]	Total Scribner Board Foot Volume as per Piling Length and per Piling Class
85'	A	260(140)
	B	210
90'	A	260(150)
	B	220
95'	A	290(150)
	B	240
100'	A	310(160)
	B	250
105'	A	330(170)
	B	270
110'	A	380(220)
	B	300(180)
115'	A	400(230)
	B	310(190)
120'	A	500(290)
	B	400(240)

[1]Piling class definitions as per American Society for Testing and Materials for "Round Timber Piles". As the Designation: D 25–58 (Reapproved 1964).

[2]Long log volume calculations are based on Official Log Scaling and Grading Rules revised January 1, 1980, published by The Puget Sound Log Scaling Bureau. These rules are also used by the Columbia River and the Grays Harbor Log Scaling and Grading Bureau.

[3]The number, enclosed in parenthesis after the total Scribner board foot volume for each piling length and class, is the volume per piling for Number 2 sawmill and better log grade, where applicable.

[Statutory Authority: RCW 82.01.060 and 84.33.071. 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.]

WAC 458–40–19002 Timber pole volume table for east of Cascade Summit for the calendar period 1/1/81 through 6/30/81. Harvesters of poles in stumpage value areas 6, 7, 8, 9 and 10 shall use the following timber pole volume table to determine the Scribner board foot volume. The timber quality code number shall be determined by the procedure contained herein under the tables titled "Timber Quality Code Table, Stumpage Value Areas 6, 7, 8 and 9 Merchantable Sawtimber, All Ages," and "Timber Quality Code Table, Stumpage Value Area 10, Merchantable Sawtimber, All Ages."

Pole Length	Pole Class[1]	Total Scribner Board Foot Volume as per Pole Length and Pole Class
20'	1	70
	2	60
	3	50
	4	50
	5	30
	6	30
	7	20
	9	20
	10	20
25'	1	80
	2	70
	3	50
	4	50
	5	40
	6	40
	7	30
	9	30
	10	20
30'	1	110
	2	90
	3	60
	4	60
	5	50
	6	50
	7	50
	9	40
35'	H2	190
	H1	160
	1	140
	2	100
	3	100
	4	70
	5	60
	6	60
	7	50

Pole Length	Pole Class[1]	Total Scribner Board Foot Volume as per Pole Length and Pole Class
40'	H3	240
	H2	240
	H1	200
	1	170
	2	120
	3	110
	4	100
	5	70
	6	70
45'	H6	390
	H5	330
	H4	330
	H3	270
	H2	270
	H1	220
	1	180
	2	150
	3	110
	4	110
	5	80
	6	70
50'	H6	460
	H5	390
	H4	390
	H3	340
	H2	340
	H1	280
	1	240
	2	190
	3	150
	4	150
	5	120
55'	H6	510
	H5	430
	H4	430
	H3	370
	H2	360
	H1	300
	1	250
	2	190
	3	150
	4	150
60'	H6	610
	H5	530
	H4	530
	H3	440
	H2	440
	H1	380
	1	310
	2	240
	3	200
	4	200
65'	H6	650
	H5	570
	H4	570
	H3	490
	H2	480
	H1	410
	1	350
	2	280
	3	220
	4	220
70'	H6	750
	H5	650
	H4	650
	H3	550
	H2	470
	H1	470
	1	410
	2	320
	3	260
	4	260
75'	H6	810
	H5	700
	H4	700
	H3	600
	H2	600
	H1	500
	1	440
	2	340
	3	270

Pole Length	Pole Class[1]	Total Scribner Board Foot Volume as per Pole Length and Pole Class
	H6	960
	H5	830
	H4	830
	H3	710
80'	H2	710
	H1	610
	1	510
	2	420
	3	340
	H6	1020
	H5	870
	H4	870
	H3	760
85'	H2	760
	H1	640
	1	550
	2	450
	3	360
	H6	1110
	H5	970
	H4	970
	H3	840
90'	H2	840
	H1	720
	1	620
	2	500
	3	420
	H6	1160
	H5	1010
	H4	1010
	H3	870
95'	H2	870
	H1	740
	1	640
	2	510
	H6	1380
	H5	1210
	H4	1210
	H3	1060
100'	H2	1060
	H1	910
	1	780
	2	650
	H6	1430
	H5	1250
	H4	1250
	H3	1100
105'	H2	1100
	H1	940
	1	820
	2	690
	H6	1580
	H5	1390
	H4	1390
	H3	1220
110'	H2	1220
	H1	1070
	1	920
	2	770
	H6	1660
	H5	1470
	H4	1470
	H3	1280
115'	H2	1280
	H1	970
	1	810
	2	680
	H6	1880
	H5	1680
	H4	1680
120'	H3	1480
	H2	1480
	H1	1290
	1	1130
	2	950
	H6	1910
	H5	1690
	H4	1690
	H3	1490
125'	H2	1490
	H1	1140
	1	970
	2	810

Pole Length	Pole Class[1]	Total Scribner Board Foot Volume as per Pole Length and Pole Class
	H6	2170
	H5	1920
	H4	1920
	H3	1710
130'	H2	1710
	H1	1510
	1	1320
	2	1140

[1] Pole class definitions as per 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] Volumes are based on the Scribner Decimal C log rule in the U.S.F.S. Log Scaling Handbook. Poles over 16 feet long were segment scaled in accordance with the rules set forth in the U.S.F.S. Log Scaling Handbook, using the average top diameter by size and class and assuming a 1" in 10' taper.

[Statutory Authority: RCW 82.01.060 and 84.33.071. 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.]

WAC 458-40-19003 Timber piling volume table for east of Cascade Summit for the calendar period 1/1/81 through 6/30/81. Harvesters of piling in stumpage value areas 6, 7, 8, 9 and 10 shall use the following piling table to determine the Scribner board foot of volume. The timber quality code number for each piling length and class shall be determined by the procedure contained herein under the tables titled "Timber Quality Code Table, Stumpage Value Areas 6, 7, 8 and 9 Merchantable Sawtimber, All Ages" and "Timber Quality Code Table, Stumpage Value Area 10, Merchantable Sawtimber, All Ages."

Piling Length	Piling Class[1]	Total Scribner Board Foot Volume per Piling Length and per Piling Class
20'	A	90
	B	70
25'	A	100
	B	80
30'	A	130
	B	110
35'	A	140
	B	100
40'	A	140
	B	100
45'	A	150
	B	110
50'	A	190
	B	150
55'	A	190
	B	150
60'	A	240
	B	200
65'	A	240
	B	200
70'	A	260
	B	210
75'	A	270
	B	220
80'	A	220
	B	220
85'	A	300
	B	240
90'	A	280
	B	280
95'	A	360
	B	280
100'	A	360
	B	280
105'	A	400
	B	300
110'	A	460
	B	340
115'	A	470
	B	360

Piling Length	Piling Class[1]	Total Scribner Board Foot Volume per Piling Length and per Piling Class
120'	A	560
	B	450

[1] Piling class definitions as per American Society for Testing and Materials for "Round Timber Piles". As the Designation: D 25-56 (Reapproved 1964).

[2] Volumes are based on the Scribner Decimal C log rule in the U.S.F.S. Log Scaling Handbook. Poles over 16 feet long were segment scaled in accordance with the rules set forth in the U.S.F.S. Log Scaling Handbook, using the average top diameter by size and class and assuming a 1" in 10' taper.

[Statutory Authority: RCW 82.01.060 and 84.33.071. 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.]

WAC 458-40-19004 Conversion definitions and factors for the calendar period 1/1/81 through 6/30/81. (1) The following standard conversion definitions and factors shall be used in determining Scribner board foot volume scale for timber harvested that was not originally scaled in Scribner board foot volume scale:

Table No.	Conversion Method
1	**Standard Cord** For logs on the average of 8 inches and larger on the small end of the log the conversion factor is 400 Scribner board feet per cord and for logs on the average of less than 8 inch on the small end of the log the conversion factor is 330 Scribner board feet per cord.
2	**Shake Blocks and Boards** A cord consisting of western redcedar shingle or shake blocks based on stacked dimensions of 4 feet by 4 feet by 8 feet is equivalent to **600 Scribner board feet.**
3	**Cants or Lumber from Portable Mills** Payment for cants is generally based on the board foot volume (lumber tally) cut from them. Payment for lumber cut from a portable mill is also generally based on the lumber tally from the log. To convert from lumber tally to Scribner log volume, multiply the lumber tally for the individual species by 75% and round to the nearest one thousand board feet Scribner scale.
4	**Log Length Conversion** Western Washington Only (Stumpage Value Areas 1, 2, 3, 4, 5, and 11). Operations that cut and scale logs in short lengths (16 feet to 20 feet) shall adjust the volume downward to correspond to the long log scale basis used in the Stumpage Value Tables. To convert to long log scale, multiply the short log scale for each species by 82% and round to the nearest thousand board feet.
5	**Log Length Conversion** Eastern Washington Only (Stumpage Value Areas 6, 7, 8, 9 and 10). Operations that cut and scale logs in long lengths (32 feet to 40 feet) shall adjust the volume upward to correspond to the short log scale basis used in the Stumpage Value Tables. To convert to short log scale, multiply the long log scale for each species by 118% and round to the nearest thousand board feet.
6	**Some standard converting factors and equivalents:** (a) 1 standard cord equals 128 cubic feet, gross (b) 1 standard cord equals 85 cubic feet, solid wood (c) 1 standard cord equals 2.4069 cubic meters of solid wood (d) 1 cunit equals 100 cubic feet, log scale (e) 1 meter equals 39.37 inches (f) 1 cubic meter equals 35.315 cubic feet log scale (g) 1 cunit equals 2.832 cubic meters, log scale (h) 1 pound equals 0.454 kilograms (i) 1 kilogram equals 2.2046 pounds (j) 1 short ton equals 2000 pounds (k) 1 short ton equals 907.18 kilograms (l) 1 long ton equals 2240.0 pounds (m) 1 long ton equals 1016.05 kilograms (n) 1 metric ton (or tonne) equals 1000 kilograms or approximately 2204.62 pounds.

(2) If the harvester chooses not to use the designated conversion definitions and/or factors, the harvester shall obtain approval of the procedure from the department before harvesting.

EXAMPLE: Weight or Cubic Measurement. If the original unit of measure was by weight (pounds or tons) or

cubic feet (cunits or units), the harvester shall convert to Scribner Board Foot volume, but may use only such conversion procedures and factors as have been given prior approval by the department.

[Statutory Authority: RCW 82.01.060 and 84.33.071. 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.]

WAC 458-40-19100 Forest land values for year 1977. The true and fair values, per acre, for each grade of forest land for the 1977 assessment year are determined to be as follows:

1977
FOREST LAND VALUES

Land Quality	Accessibility & Topography	Western Washington[1]	Eastern Washington[2]
GOOD	Favorable	$111.00	$33.00
	Average	$ 93.00	$29.00
	Difficult	$ 62.00	$22.00
	Inoperable	$ 5.00	$ 1.00
AVERAGE	Favorable	$ 79.00	$20.00
	Average	$ 66.00	$17.00
	Difficult	$ 43.00	$13.00
	Inoperable	$ 3.00	$ 1.00
POOR	Favorable	$ 44.00	$ 9.00
	Average	$ 37.00	$ 8.00
	Difficult	$ 24.00	$ 6.00
	Inoperable	$ 1.00	$ 1.00

[1]For Western Washington: All private land lying west of the Summit of the Cascade Range of mountains.

[2]For Eastern Washington: All private land lying east of the Summit of the Cascade Range of mountains.

[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.]

WAC 458-40-19101 Forest land values amended for Eastern Washington for year 1978. The true and fair values, per acre, for each grade of forest land for the 1978 assessment year are determined to be as follows:

1978
FOREST LAND VALUES

Land	Accessibility &	Western	Eastern
GOOD	Favorable	$137.00	$36.00
	Average	$119.00	$31.00
	Difficult	$ 87.00	$24.00
	Inoperable	$ 5.00	$ 1.00
AVERAGE	Favorable	$ 98.00	$22.00
	Average	$ 85.00	$18.00
	Difficult	$ 60.00	$14.00
	Inoperable	$ 3.00	$ 1.00
POOR	Favorable	$ 54.00	$10.00
	Average	$ 47.00	$ 9.00
	Difficult	$ 33.00	$ 6.00
	Inoperable	$ 1.00	$ 1.00

[1]For Western Washington: All private land lying west of the Summit of the Cascade Range of mountains.

[2]For Eastern Washington: All private land lying east of the Summit of the Cascade Range of mountains.

[Statutory Authority: RCW 84.33.120. 79-08-015 (Order FT 79-36), § 458-40-19101, filed 7/10/79; Order 77-3, § 458-40-19101, filed 11/30/77.]

WAC 458-40-19102 Forest land values--1979. The true and fair values, per acre, for each grade of forest land for the 1979 assessment year are determined to be as follows:

1979
FOREST LAND VALUES

Land Quality	Accessibility & Topography	Western Washington[1]	Eastern Washington[2]
GOOD	Favorable	$126.00	$41.00
	Average	$107.00	$35.00
	Difficult	$ 70.00	$27.00
	Inoperable	$ 5.00	$ 1.00
AVERAGE	Favorable	$ 90.00	$25.00
	Average	$ 76.00	$21.00
	Difficult	$ 49.00	$16.00
	Inoperable	$ 3.00	$ 1.00
POOR	Favorable	$ 51.00	$11.00
	Average	$ 42.00	$10.00
	Difficult	$ 27.00	$ 7.00
	Inoperable	$ 1.00	$ 1.00

[1]For Western Washington: All private land lying west of the Summit of the Cascade Range of mountains.

[2]For Eastern Washington: All private land lying east of the Summit of the Cascade Range of mountains.

[Statutory Authority: RCW 84.33.120. 78-12-036 (Order FT 78-3), § 458-40-19102, filed 11/22/78.]

WAC 458-40-19103 Forest land values--1980. The true and fair values, per acre, for each grade of forest land for the 1980 assessment year are determined to be as follows:

1980

FOREST LAND VALUES

Land Quality	Accessibility & Topography	Western Washington[1]	Eastern Washington[2]
GOOD	Favorable	$135.00	$44.00
	Average	115.00	38.00
	Difficult	75.00	29.00
	Inoperable	5.00	1.00
AVERAGE	Favorable	97.00	27.00
	Average	82.00	23.00
	Difficult	53.00	17.00
	Inoperable	3.00	1.00
POOR	Favorable	55.00	12.00
	Average	45.00	11.00
	Difficult	29.00	8.00
	Inoperable	1.00	1.00

[1]For Western Washington: All private land lying west of the summit of the Cascade Range of mountains.

[2]For Eastern Washington: All private land lying east of the summit of the Cascade Range of mountains.

[Statutory Authority: RCW 84.33.120. 79-12-061 (Order FT 79-38), § 458-40-19103, filed 11/29/79.]

WAC 458-40-19104 Forest land values--1981. The true and fair value, per acre for those counties that have not completed the land grading as required by RCW 84.33.110 through 84.33.118, for each grade of forest land for the 1981 assessment year are determined to be as follows:

1981

FOREST LAND VALUES

Land Quality	Accessibility & Topography	Western Washington[1]	Eastern Washington[2]
GOOD	Favorable	$144.00	$46.00
	Average	$122.00	$42.00
	Difficult	$ 78.00	$35.00
	Inoperable	$ 5.00	$ 1.00
AVERAGE	Favorable	$103.00	$28.00
	Average	$ 87.00	$25.00
	Difficult	$ 56.00	$21.00
	Inoperable	$ 3.00	$ 1.00
POOR	Favorable	$ 58.00	$12.00
	Average	$ 49.00	$11.00
	Difficult	$ 31.00	$ 9.00
	Inoperable	$ 1.00	$ 1.00

[1]For Western Washington: All private land lying west of the summit of the Cascade Range of mountains.

[2]For Eastern Washington: All private land lying east of the summit of the Cascade Range of mountains.

[Statutory Authority: RCW 84.33.120. 80-18-029 (Order FT 80-3), § 458-40-19104, filed 12/1/80.]

WAC 458-40-19105 Forest land values--1981. The true and fair values per acre for those counties that have completed the private forest land grading program as required by RCW 84.33.110 through 84.33.118, for each forest land grade on private land in the state of Washington for the 1981 assessment year are determined to be as follows:

1981
WASHINGTON FOREST LAND VALUES

LAND GRADE	OPERABILITY CLASS	VALUES PER ACRE
1	1	$141
	2	136
	3	131
	4	95
2	1	118
	2	114
	3	110
	4	80
3	1	93
	2	90
	3	87
	4	66
4	1	70
	2	68
	3	66
	4	52
5	1	51
	2	48
	3	46
	4	31
6	1	26
	2	25
	3	25
	4	23
7	1	12
	2	12
	3	11
	4	11
8		1

[Statutory Authority: RCW 84.33.120. 80-18-030 (Order FT 80-4), § 458-40-19105, filed 12/1/80.]

WAC 458-40-19300 Private forest land grades according to species and site index. Notwithstanding the provisions of WAC 458-40-020, those counties that have received certification of their forest land grades by the department of revenue as required by RCW 84.33-.110 through 84.33.118, the following shall constitute the conversion of species and site indices to forest land grades:

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
	under 68 ft.		6
Red Alder	117 ft. and over		6
	under 117 ft.		7
	MFP & NC *2		8
	EASTSIDE		
Douglas Fir & Ponderosa Pine	137 ft. and over	*1	3
	120–136 ft.	*1	4
	95–119 ft.	*1	5
	69–94 ft.	*1	6
	under 69 ft.	*1	7
	MFP & NC	*2	8

*1 These are the site indices for 100% stocked stands. Stands with lower stocking levels would require higher site indices to occur in the same land grade.

*2 (MFP) Marginal Forest Productivity
(NC) Non Commercial

[Statutory Authority: RCW 84.33.120. 80-18-030 (Order FT 80-4), § 458-40-19300, filed 12/1/80.]

WAC 458-40-300 Forest land classification. These rules relate to procedures to be used when the county assessor determines that a particular parcel of land shall be classified as forest land under RCW 84.33.020 and 84.33.120.

This law contemplates that substantially all of the privately owned forest land in the state will be graded and assessed initially under RCW 84.33.110 without implementing the designation procedures of subsection (3) of RCW 84.33.120 and 84.33.130. [Order FT 75-3, § 458-40-300, filed 6/5/75.]

WAC 458-40-310 Definitions. (1) "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 the land only.

(2) "Legal Description," means a description using government lots and standard General Land Office subdivision procedures. If the boundary of the area applied for is irregular, the physical boundary is to be described by metes and bounds or by other means that will clearly identify the property; provided, that in all cases involving irregular boundaries a map shall be prepared which clearly identifies the area and shows the number of acres to be classified as forest land.

(3) "Timber," means forest trees, standing or down, on privately-owned land, and except as provided in RCW 84.33.170 includes Christmas trees. [Order FT 75-3, § 458-40-310, filed 6/5/75.]

WAC 458-40-320 Application for forest land classification. Subsection (2) of RCW 84.33.120 directs the assessor each year to assess and value as CLASSIFIED FOREST LAND all forest land that is not then designated pursuant to subsection (3) of RCW 84.33.120 or RCW 84.33.130. The assessor shall mail notice to the owner by certified mail on or before January 15 of the first year in which such land was classified as forest land together with a notice that when such classified forest land is removed from classification a compensating tax shall be imposed. If the owner desires not to have such land assessed and valued as classified forest land, he shall give the assessor written notice thereof on or before March 31 of such year and the assessor shall remove from the assessment and tax rolls the classification notation and shall thereafter assess and value such land in the manner provided by law other than chapter 84.33 RCW. [Order FT 75-3, § 458-40-320, filed 6/5/75.]

WAC 458-40-330 Notation on assessment and tax rolls of classified forest land. When land has been classified as forest land the assessment and tax rolls shall have noted on it for each parcel of land that it is classified forest land. [Order FT 75-3, § 458-40-330, filed 6/5/75.]

WAC 458-40-340 Removal of forest land classification. Land that has been assessed and valued as classified forest land as of any year commencing with 1975 assessment year or earlier shall continue to be so assessed and valued until removal of forest land classification by the assessor only upon the occurrence of one of the following events:

(a) Receipt of notice from the owner to remove such land from classification as forest land;

(b) Sale or transfer to an ownership making such land exempt from ad valorem taxation;

(c) Determination by the assessor, after giving the owner written notice and an opportunity to be heard, that, because of actions taken by the owner, such land is no longer primarily devoted to and used for growing and harvesting timber;

(d) Determination that a higher and better use exists for such land than growing and harvesting timber after giving the owner written notice and an opportunity to be heard.

The assessor shall remove classification pursuant to subsections (c) or (d) above prior to September 30 of the year prior to the assessment year for which termination of classification is to be effective. Removal of classification as forest land upon occurrence of subsection (a), (b) or (d) above shall apply only to the land affected, and upon occurrence of subsection (c) shall apply only to the actual area of land no longer primarily devoted to and used for growing and harvesting timber. [Order FT 75-3, § 458-40-340, filed 6/5/75.]

WAC 458-40-350 Removal from classification--Compensating tax not imposed. Land that has been classified as forest land and that has been removed from classification shall be subject to the compensating tax, except no compensating tax shall be imposed if the removal of classification as forest land resulted solely from:

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

(b) A taking through the exercise of the power of eminent domain; or sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of such power;

(c) Sale or transfer of land within two years after the death of the owner of at least a fifty percent interest in such land;

(d) With respect to any land that has been designated prior to May 6, 1974, pursuant to subsection (3) of RCW 84.33.120, the assessor may, prior to January 1, 1975, on his own motion or pursuant to petition by the owner, change, without imposition of the compensating tax provided under RCW 84.33.140, the status of such designated land to classified forest land. [Order FT 75-3, § 458-40-350, filed 6/5/75.]

WAC 458-40-360 Notification to owner of removal. Within thirty days after such removal of classification of forest land, the assessor shall notify the owner in writing setting forth the reasons for such removal. The owner of such land shall have the right to apply for designation of such land as forest land pursuant to subsection (3) RCW 84.33.130 or to appeal such removal to the County Board of Equalization. [Order FT 75-3, § 458-40-360, filed 6/5/75.]

WAC 458-40-370 Compensating tax liability and rate. Unless the owner successfully applies for designation of such land or unless the removal is reversed on appeal, a compensating tax shall be imposed, except as provided in subsection (8) of RCW 84.33.120. On or before May 31 of the year following the notice of removal of classification, the assessor shall compute the amount of such compensating tax and mail notice to the owner of the amount thereof and the date on which payment is due. Said compensating tax shall be due and payable to the county treasurer on or before April 30 of the year following computation of the compensating tax.

The amount of the compensating tax payment shall be equal to the difference between the amount of tax last levied on such land as classified forest land and an amount equal to the new assessed valuation of such land multiplied by the dollar rate that was last levied against such land and multiplied by a number of years equal to the number of years for which such land was classified as forest land, commencing with assessment year 1975, but in no event greater than ten years. [Order FT 75-3, § 458-40-370, filed 6/5/75.]

WAC 458-40-380 Appeals procedure for classification of forest lands. An owner of forest land which is assessed and valued by the assessor other than pursuant to the procedures set forth in RCW 84.33.110 and subsections (1) and (2) RCW 84.33.120, and which has in the immediately preceding year, been assessed and valued by the assessor as forest land, may appeal to the county board of equalization by filing an application with the board in the manner prescribed in subsection (2) of RCW 84.33.130. The application for such an appeal shall be provided on request from the assessor. The county board shall afford the applicant an opportunity to be heard if the applicant so requests and shall act upon the application in the manner prescribed in subsection (3) of RCW 84.33.130. [Order FT 75-3, § 458-40-380, filed 6/5/75.]

Chapter 458-50 WAC
INTERCOUNTY UTILITIES AND TRANSPORTATION COMPANIES—— ASSESSMENT AND TAXATION

WAC

458-50-010 Assessment of public utilities——Purpose——Definitions.
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.
458-50-050 Access to books, records, and property.
458-50-060 Failure to make report——Default valuation——Penalty——Estoppel.
458-50-070 Annual assessment——Procedure.
458-50-080 True cash value——Criteria.
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.

WAC 458-50-010 Assessment of public utilities--Purpose--Definitions. (1) **Introduction.** The Department of Revenue has the statutory responsibility valuing and apportioning the operating property of inter-county and inter-state public utilities. This responsibility is a task of

considerable magnitude, and requires the combined efforts and cooperation of the Department of Revenue, the county assessors, and the public utilities in order to ensure accurate and fair assessment and apportionment of utility operating property at minimal overall expense to all parties concerned.

(2) **Purpose.** These rules are promulgated by the Department of Revenue, pursuant to the authority granted by RCW 82.01.060 and 82.12.360, for the purpose of performing the valuation and apportionment of public utility operating property in an expeditious, orderly, and uniform manner consistent with the Department's duties as set forth in chapter 84.12 RCW.

(3) **Definitions.** (A) For purposes of chapter 458-50 WAC, and unless otherwise required by the context, the meaning given to the terms set forth in RCW 84.12.200 shall be applicable to such terms as used herein.

(B) The term "Department" shall mean the Department of Revenue of the State of Washington. [Order PT 75-2, § 458-50-010, filed 3/19/75.]

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 & 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.]

WAC 458-50-050 Access to books, records, and property. The Department shall have access to all books, papers, documents, statements and accounts on file or of record in any of the departments of the state. The records, books, accounts, and papers of each company shall be subject to visitation, investigation, or examination by the Department, or any employee or agent thereof officially designated by the Department. All real and/or personal property of any company shall be subject to visitation, investigation, examination and/or listing at any and all times by the Department, or any person officially designated by the Director. [Order PT 75-2, § 458-50-050, filed 3/19/75.]

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(17) 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, 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. The Department shall appoint a time between the tenth and twenty–fifth days of July, 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 subsection (C), below.

(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 WAC 458–50–070; *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 WAC 458–50–070; *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. [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 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 458-50-090 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. (1) **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:

(A) *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).

(B) *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).

(C) *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.

(D) *Motor vehicle transportation companies* – The ratio that the cost (historical or original) of tangible operating property situated within each county or taxing district bears to the total cost (historical or original) of all tangible operating property within the state as of January 1 of the assessment year; *Provided*, that intangible property shall be apportioned on the basis of the ratio that mileage operated over franchised route within a county or taxing district bears to the total mileage operated over such franchised route within the state during the previous calendar year.

(E) *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.

(F) *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 (historical or original) of all operating property within the state as of January 1 of the assessment year.

(G) *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.

(H) *Airplane companies* – The ration 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.

(I) *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. [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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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 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 described in this

chapter for the department's annual ratio study are designed to ensure uniformity and equity in taxation throughout the state to the maximum extent possible. [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. (1) "Advisory values" mean the true and fair value determinations by department appraisers or auditors made at the request of the county assessor.

(2) "Appraisal" means the determination of the true and fair value of real property by department appraisers or county appraisers certified under RCW 36.21.015.

(3) "Audit" means the determination of true and fair value of taxable personal property through examination of the records of the property owner by department auditors or county auditors of the assessor's staff who are qualified by training and experience in making such examinations.

(4) "Average assessed value" is the total county assessed value of a sample grouping or classification of real or personal property divided by the number of properties in the sample.

(5) "Average true and fair personal property value" is the total value of a sample grouping or classification as determined from personal property audits divided by the number of audits in the sample group.

(6) "Average market value" is the total sales price, less five percent, of a sample grouping or classification of real property divided by the number of properties in the sample, or the total appraised value of a sample grouping or classification of real property divided by the number of appraisals in the same group.

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

(8) "Director" means the director of revenue.

(9) "Land use code" as designated by the department means the identification of each real property parcel by numerical digits as representations of the actual major use of the property. This land use code is derived from the Standard Land Use Coding Manual as prepared by the Federal Bureau of Public Roads.

(10) "Personal property" for the purpose of the ratio rules means the items of personal property as identified on the county assessment roll, and it shall include all personal property required to be reported by the taxpayer under RCW 84.40.185, but excluding property owned by and assessed to another taxpayer.

(11) "Ratio" is the percentage relationship of real property assessed value to the true and fair value of real property as determined by real property sales, by department appraisals, or by department approved county appraisals; or the percentage relationship of personal property assessed value to the true and fair value of personal property as determined from department audits or from department approved county audits.

(12) "Ratio study" is the department's annual comparison of the relationship between the county assessed values of real and personal property with the true and fair value of that property as determined by the department's analysis of sales, appraisals, and/or audits.

(13) "Sales study" is the comparison of the assessed value of real property with the selling price of the same property.

(14) "Stratification" means the grouping of the real or personal property assessment records into specific assessed value classes and/or use code classes for measurement purposes.

(15) "Stratum" refers to a single class of property with a given range of assessed value or having the same use code.

(16) "Strata" refer to classes of property grouped by assessed value and/or use codes.

(17) "Taxable real property parcels" means all real property parcels shown as subject to taxation on the county assessment record.

(18) "Trending" consists of adjusting the sales price of a property or the appraisal value from the time of sale or appraisal to a specific point in time which is the January 1 assessment date of the study. Trending will be for time only and developed from market data only.

(19) "True and fair value" means market value and has the same meaning as defined by WAC 458-12-300. [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) The stratification process is the grouping of data into meaningful classifications for informational or analytical purposes. Stratification is used in determining the number of appraisals or audits needed for ratio study purposes and also is used in actual ratio computation. The latest available official county assessment roll values are used in ratio study stratification procedures.

Assessed valuation presently forms the basis for stratification of assessment rolls and is used because the nature of most assessors' records provides a state-wide uniformity for this characteristic. Also, the values in this classification generally are indicative of property types. By not later than the 1982 assessment year a land use classification system will replace the value stratification as assessors' records uniformly reflect properties according to their use.

(2) The stratification of the real property assessment rolls will include a parcel count of the taxable real property parcels less forest lands and current use properties. For the real property ratio study, the assessment roll will normally be stratified according to the following assessed value strata:

$ 0	- $ 9,999
10,000	- 15,999
16,000	- 29,999
30,000	- 59,999
60,000	- 99,999
100,000	- 199,999
200,000	- 399,999
400,000	- and over

Other higher strata than listed above may be used in counties having large numbers of high value properties.

(3) In counties for which real property high value strata, as listed in (2) above, do not number at least two hundred an appropriate upper limit ($60,000 and over, $100,000 and over) which will accommodate at least two hundred real property parcels, will be determined.

(4) The stratification process will be performed by the department or by the county with data processing capability adequate to meet the standards as provided by the department.

(5) A count of taxable real property parcels, less forest lands and current use properties, in each value stratification is necessary for computation of the county ratio. Multiplying an average sample sales value, an average sample appraisal value, or an average assessed value by the number of taxable parcels in the county produces an estimated total market value or total estimated assessed value used in ratio computation.

(6) In the stratification of county taxable real property parcels to be used in the ratio study, the count of these parcels should exclude designated and classified timber or forest lands and open space (current use) lands. These lands are deleted from properties used in the sales study and will be considered separately and included in ratio determinations after computations of sales data have been completed. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-030, filed 10/11/79. Formerly WAC 458-52-030.]

WAC 458-53-040 Land use code--Ratio study. (1) By not later than the 1982 assessment year, each county will institute a land use code system which will identify each parcel according to its use. Upon establishment of such land use code system the abstract of the assessment roll will be reported on the basis of the land use code. As prescribed by this section, stratification of the assessment roll and computation of the indicated real property ratio will be based upon the land use code abstract report as provided in these rules. Land use classifications may further be defined by assessed value stratification within use code designations.

(2) A two digit land use code will be used in the ratio study as a standard by the department to identify the actual use of the land. The categories as selected are those published in the "Standard Land Use Coding Manual" by the Federal Bureau of Public Roads, January 1965, plus those use classifications as specified by Washington law. Counties may elect to institute a more detailed level of land use coding (i.e., the three digit or four digit level), but the two digit level provided herein is the minimum detail level necessary.

Residential

11 Household, single family units
12 Household, 2-4 units
13 Household, multi-units (5 or more)
14 Residential hotels - 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

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 Reforestation chapter 84.28 RCW
87 Classified forest land chapter 84.33 RCW
88 Designated forest land 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 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-040, filed 10/11/79.]

WAC 458-53-050 Land use code--Abstract report. Stratification of the assessment rolls and the annual abstract report for real property will be made on the following abstract categories:

Abstract Category	Land Use Code
1. Single family residence	11, 18, 19
2. Multiple family residence	12, 13, 14
3. Manufacturing	21 through 39
4. Commercial	15, 16, 17, 41-49, 51-59, 61-69, 71-79
5. Agricultural	81
6. Agricultural (Current-use Law)	83
7. Forest lands (chapter 84.33 RCW)	87, 88
8. Reforestation (chapter 84.28 RCW)	86
9. Open space (Current use law)	94
10. Timberland (Current use law)	95
11. Other	82, 84, 85, 89, 91, 92, 93, 96-99

[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 458-53-060 Stratification--Personal property. The county taxable assessed personal property accounts will be stratified based upon the latest assessment roll, normally using the following assessed value strata:

$ 0 -	$ 9,999
10,000 -	39,999
40,000 -	79,999
80,000 -	199,999
200,000 -	499,999
500,000 -	999,999
1,000,000 -	1,999,999
2,000,000 -	and over

The largest valuation stratum designated for each county will depend on the number of large value accounts in the county.

In counties for which personal property high value strata, as listed above, do not number at least two hundred, an appropriate upper limit ($40,000 and over, $80,000 and over) which will accommodate at least two hundred personal property accounts, will be determined.

The stratification process will be performed by the department or by the county according to the standards as provided by WAC 458-53-140. [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.]

WAC 458-53-070 Sales studies. Real property sales data obtained from the real estate excise tax sales affidavits will form the basis of the sales study in each county. Validation of these sales as arms-length transactions will follow department criteria as provided in WAC 458-53-080.

The department's sales study generally will be used as the basis for the real property ratios. In addition, the department will supplement the sales study results with appraisals in any assessed value stratum or land use code classification where sales are judged to be insufficient to represent all properties in that stratum or land use class according to criteria set out in these rules.

Five percent will be deducted from the sales price shown on the affidavit on all valid real property sales as an adjustment for values transferred that are not assessable as real property.

Those sales in the study with ratios of less than twenty-five percent or greater than one hundred seventy-five percent will be deleted from the sales study and from ratio computations. Other sales not deemed representative for use in the study, as defined by the deletion list in WAC 458-53-080 will also be eliminated from consideration in ratio computation. Sales used in the study will include only those which occurred over an eight month period between August 1 preceding January 1 of the assessment year and March 31 of the assessment year. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-070, filed 10/11/79. Formerly WAC 458-52-060.]

WAC 458-53-080 Sales samples. (1) The starting point for the sales studies will be a sampling of the real estate excise tax sales affidavits each month. Samples

used in a current study will be sales during the last five months of the calendar year immediately preceding the current study assessment year and the first three months of the study assessment year.

A sampling plan will be developed by the department of revenue each year based on each county's previous year sales volume. The sampling will be conducted considering sales transferring via warranty deed or contract instruments as initially subject for inclusion in the study. All sales represented by other instruments such as tax deeds, quitclaim deeds, etc., will be excluded from consideration. Timber sales also will be excluded as the valuation of this type of real property is dictated by state law. There are numerous reasons why a warranty deed or contract sale may also be excluded from the study. Conditions such as a sale between relatives, a forced sale or a sale to a nonprofit organization, for example, are sufficient to mark these transactions as being other than "arms–length" and therefore, not a valid indicator of full "true and fair" value. A listing of such reasons and other conditions that will cause a sale to be excluded are shown on the deletion list contained in subsection (2) of this section.

(2) The following sales transactions are examples of sales to be excluded from the sales studies. Deviations from the numerical coding designations set forth in this example may be used as agreed to by individual counties and the department.

NUMERICAL CODE	TYPE OF TRANSACTION
1	Family – a sale between relatives.
2	Transfers to and from 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	Government agency (federal, state, or local).
8	Nonprofit organization (religious, educational, cemetery lots, etc.)
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 foreclosure, condemnation or liquidation.
16	Easement or right of way.
17	Deed in fulfillment of contract (on a current transaction, contract with a fulfillment deed is a valid sale.)
18	Property sold differs from property assessed.
19	Timber or forest land.
20	New plat – with less than twenty percent sold.
21	Exempt properties.
22	$1,000 sale or under.
23	Lease.
24	Open space. (Designated open space property sold at true and fair value).
25	Other – necessary to identify reason i.e., inclusion of personal property not separately identified, liquor license, etc.
26	Segregations that have not been appraised.
27	Multiple sales not appropriately identified or appraised.
28	Improvements not on assessment roll before May 31 of the ratio study year.
29	Individual sales with assessment–to–sales ratios of less than twenty–five percent or greater than one hundred seventy–five percent.
30	Plottage – where an adjoining property is sold at a price significantly different than for property of a similar type.
31	Change of use where rezoning takes place.

[Statutory Authority: RCW 84.48.075. 79–11–029 (Order PT 79–3), § 458–53–080, filed 10/11/79.]

WAC 458–53–090 Sales samples--Assessed valuation. (1) After the sampling of sales has been completed in Olympia, the assessed valuations of the properties remaining in the sample will be obtained by the department's sales analysts from official records retained by county officials. The assessed valuation total recorded will be the official figure as of January 1, the current ratio year assessment date. At this point, attention also will be given to factors which would indicate that a particular transaction is not suitable for inclusion in the study, such as: (a) Changes in the physical condition of the property subsequent to the date of assessment, and (b) verification that the property sold agrees with the description of the property on the assessment roll. Any other factors which can be ascertained at this time are used to analyze whether sales may be deleted from the study as not being an indicator of full "true and fair" value.

The relationship of the assessed value for a real property parcel to a corresponding valid sale of this property within the time period established for the annual ratio sales study indicates the individual ratio for the property. The stratum averages for all such valid sales values and related assessed values in a county, when multiplied

by the number of listings in the strata, determine the established real property totals on which the indicated real property ratio is based.

(2) In counties for which the department conducts the sales analysis and ratio studies a sales pre-list will be provided to each assessor. These pre-lists will identify valid sale properties to be used in computation of each county's real property ratio. Department personnel will review these pre-lists with assessors or their staffs to verify the validity of the sale properties identified and the values indicated.

Properties designated in the department-approved county revaluation plan relative to the current ratio study year, and properties on which new construction may be completed during a ratio study year, will be included in that year's ratio study. For these properties the available current county assessed valuation will be used. Assessors have until May 31st of each assessment year to place new values on such properties and these values in a corresponding ratio study are included after the close of the assessors' rolls on May 31st.

(3) Certain properties have limited exemptions in assessed value granted by law to persons owning those properties (senior citizens exemptions). In computing a ratio relative to the sale of such property, the full assessed value for the property, before exemption, must be used to determine a proper assessment-to-sales relationship.

(4) Average sample real property assessed values and true and fair values for each value or land use stratum in a county will be derived from sales and appraisal study results. These average values, as provided in WAC 458-53-150, will aid in determining the county real property indicated ratio. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-090, filed 10/11/79.]

WAC 458-53-100 Use of county sales studies. (1) If agreed upon by the department and the assessor, the department will use a county sales study, providing it is made according to the standards specified in these rules. Any such agreement shall provide that counties generating their own sales studies will use all or an agreed upon percentage of sales validated by department standards, and that the county shall furnish the department with data from sales deemed invalid as well as those deemed valid and give the reason for deeming invalid any particular sale. All such county studies shall be subject to department audit.

(2) Generally, the county-generated study will include the following:

(a) All agreed to real property transactions occurring in a county shall be used in the study and shall be for a period of eight consecutive months. Sales transactions used will include only those which occur between August 1 preceding January 1 of the assessment year and March 31 of the assessment year.

(b) Sales of properties identified on the published department of revenue deletion list (WAC 458-53-080) will be removed from the sales analysis study and separately will be produced on a data processing machine listing. This listing will display for each deleted sale an appropriate parcel identification, the sales price, the assessed value, and a numerical code or narrative designation of the reason for deletion of the property from the study. The numerical code used should coincide with the department of revenue published deletion list (WAC 458-53-080). Any numerical code 25 (miscellaneous) should be accompanied by a narrative reason for deletion.

(c) Individual valid sales having a resultant assessment-sales ratio under twenty-five percent or over one hundred seventy-five percent will be excluded from consideration in the study.

(d) Sales remaining in the sales analysis study will be stratified and printed by assessed value strata. Necessary data for each sale property remaining in the study will be:

(i) Excise tax sales affidavit number, parcel number, or other file identification number.

(ii) The sales price of the transaction, lowered five percent to ninety-five percent of its original value. Further adjustment of any individual sale may be made only if personal property is identified and its value is in excess of five percent of the sale price.

(iii) The current assessed value on the assessors' rolls for the property described on the sales affidavit.

(iv) A computed ratio based on the percent that the assessed valuation is to the adjusted sales price figure.

(3) As soon as practicable following the close of the assessors' rolls on May 31st, and prior to July 1st, the county sales-assessment ratio study should be submitted to the department of revenue. This will allow time for departmental analysis, field review, and insertion of appraisal data, where appropriate, for final ratio determination by the last week of July, and ultimate ratio certification back to the assessor by August 1. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-100, filed 10/11/79.]

WAC 458-53-110 Property values used in the ratio study. The following property values will be included in the ratio study as provided in these rules:

(1) Values required to be determined by the department by law, but excluding property valued under chapters 84.12 and 84.16 RCW.

(2) Values determined by county assessors (chapter 84.41 RCW).

(3) Values of land classified under chapters 84.33 and 84.34 RCW. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-110, filed 10/11/79.]

WAC 458-53-120 Review procedures for county studies. (1) Counties using data processing facilities to produce their own sales-assessment ratio study will be subject to a department of revenue review of ratio study elements and processes.

Department of revenue review procedures generally will monitor county adherence to WAC rules relating to the annual sales-assessment ratio study.

(2) Elements of the ratio study which may be checked and verified will include:

(a) property identification

(b) verification of properties reported on sales affidavits

(c) sales month identification and incidence in study

(d) deletion practices and identification

(e) computation procedures

(f) sales and assessment values

(g) verification of revaluation assessment practices

(3) Ratio study review findings will be discussed with individual county assessors upon completion of reviews pertaining to the ratio studies generated by their individual data processing facilities and staffs. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-120, filed 10/11/79.]

WAC 458-53-130 Real property appraisal studies. (1) The department will review a county's prior year's sales studies to determine which assessed value stratum or land use class may not have sufficient sales to produce a valid measurement of the level of assessment of the properties in that stratum or use class. Department appraisers then will appraise selected properties in those strata. The selection of properties to be appraised will be on a random basis. Random selection will use accepted statistical methods such as stated numerical sequence or random number tables to provide each parcel of real property in a universe of real property parcels an equal opportunity to be selected as a representative sample of that universe. The appraisal date will coincide with the assessment date of the ratio study.

(2) The starting point of the appraisal study is a stratified random sample of the real property listings, with the controlling factor being the assessed valuation of each parcel as of the current January 1 assessment date. Assessed valuation is used as the basis for stratification because the nature of the most assessors' records presently precludes the use of any other characteristic on a state-wide basis. The sample selection process is initiated by "stratification" of the real property roll. For counties not possessing data processing capabilities manual stratification by department of revenue staff involves the following: (a) Examination of each property listing and tallying it (by placing a mark in the appropriate value class or stratum) according to the magnitude of its assessed valuation, (b) random selection of properties from each class to be placed in a pool from which the ultimate selection of properties for appraisal will be made, and (c) recording on a take-off sheet, the assessed value and identification (account number, page, and line number, etc.) for the selected samples. The completed stratification provides a count of the listings on the roll by valuation class.

(3) The number of appraisals deemed necessary for each county value or land use stratum will be determined by application of statistical determination to the previous year county ratio study results.

Once the number of appraisals to be conducted in each value classification has been determined, the identification of each of the randomly selected appraisal samples to be used in the study will be obtained from county records. When the names, addresses, legal descriptions and other information necessary to conduct the appraisals are known, letters will be forwarded to the taxpayers involved. These letters will notify them of the impending visit by an appraiser from the department of revenue property tax division.

(4) The actual physical appraisals conducted by department personnel use the same tools that are available to the county assessors (state manuals, private, publications, etc.). The department's appraisers do not, however, use the so-called "mass appraisal" technique which is, of necessity, practiced by the various counties; but perform complete appraisals regardless of the amount of time required in order to assure that the most valid estimate of market value is reached.

Three approaches to value are considered; namely, cost, market and income. The cost approach utilizes an approved cost manual. When properly used, this manual gives an estimation of reproduction cost of the improvements to the property. The reproduction cost then is depreciated, taking into consideration all physical depreciation, functional and economic obsolescence. The end result is the depreciated value of the improvements. To this value is added the value of the land, resulting in the market value of the real property. The market approach uses sales of comparable properties for an indication of value. The income approach uses a capitalization rate developed from a comparison of typical income and the sale price of comparable properties.

This capitalization rate then is divided into the net income of the subject properties for a value indication of that property.

(5) When the appraisals in a county have been completed and reviewed by the supervisory staff of the department, they are reviewed individually with the assessor and his staff. At this time, changes may be made stemming from such factors as errors in the mathematical calculations, changes in use from the date of assessment to the date of the appraisal, the inclusion of items in the appraisal that are not included in the assessment (mainly personal property), etc. When the review process is completed and changes, if any are made, the appraisal data are considered as completely valid and ready for inclusion in the computation of the total real property ratio.

(6) When the department's sample appraisals fall within a county's current revaluation area and the assessor's appraisals, upon audit, are found to be a supportable estimate of market value, the department will accept the county's appraised values on those properties randomly selected for appraisal in the county.

(7) Department appraisals, required for assessment ratio determination, will be performed as indicated by department statistical determinations. Appraisals will complement sales to provide an adequate number of samples on which to base a ratio computation.

(8) When properties, classified by the department as industrial properties, are selected for inclusion in real or personal property ratio studies, the department's property audits and appraisals will be made on the total

property, using department valuation procedures. Allocation of total industrial value for ratio purposes will be determined using each assessor's method of classifying real and personal property. Audit determinations for personal property will not include properties classified as real property by the assessor. Appraisal determinations for real property will not include properties classified as personal property by the assessor. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-130, filed 10/11/79. Formerly WAC 458-52-070.]

WAC 458-53-140 Personal property audit studies. (1) Personal property audits will be performed on those accounts selected at random within each assessed value stratum used in the ratio study for each county. These audits will be the basis of the county's personal property ratio as provided in WAC 458-53-160.

The department may use county audit results as ratio study audits when department accepted audit procedures are used on accounts selected as sample audits and audited by the county audit staff as of the assessment date used in the department's ratio study.

(2) The general procedures for audits are similar to those followed in the appraisal-assessment study in that sample audits of personal property accounts will be used as the basis for determining total assessed value and estimated total true and fair value of personal property. The relationship of the total estimated assessed value to the total estimated true and fair value of personal property will indicate the personal property ratio.

(a) Stratification of rolls - The program is initiated by stratification of the personal property roll in the counties being audited. From this process is obtained: a count of the number of listings in each assessed valuation class, an estimation of the total assessed value in each class, and a pool of samples in each class from which the ultimate listings to be audited are selected. The strata or assessed valuation classes have different limits than those used in the appraisal-assessment study. A listing of assessed value strata used (WAC 458-53-060) is as follows:

$ 0 -	$ 9,999
10,000 -	39,999
40,000 -	79,999
80,000 -	199,999
200,000 -	499,999
500,000 -	999,999
1,000,000 -	1,999,999
2,000,000 -	and over

(b) Personal property sample audit selection - The number of audits to be performed is derived in the same general manner as in the appraisal-assessment procedure in that statistical determination is applied to county previous year's ratio study results to obtain a representative number of samples on which to base a county ratio.

Stratification procedures which determine the number of personal property audits needed for the current ratio study begin in the summer months of the calendar year immediately preceding the currently designated ratio study year.

The audits are conducted through June of the designated ratio study year.

(3) The sample accounts to be audited in each valuation classification are randomly chosen using accepted statistical methods such as stated numerical sequence or random number tables to provide each personal property account in a universe of personal property accounts an equal opportunity to be selected as a representative sample of that universe. Names and addresses of taxpayers for these accounts and copies of assessment detail sheets are obtained from county records.

Letters of intent to audit are mailed to each taxpayer selected.

(4) The personal property audits which are conducted to derive the true and fair value figures are made from an examination of the taxpayer's books and records. In valuation procedures, the department's auditors utilize the manuals and schedules which the department prepares and distributes to all assessors. The technique is generally one of trending forward historical cost data and the application of depreciation percentages to arrive at current worth or value.

(5) When the audits have been completed in a county, they are reviewed with the assessor and his staff. The primary emphasis at this meeting is to make sure that the property covered by the audit is comparable to the property covered by the assessment. The completion of the review and adjustments, if any, mark the audit data as valid for use in the computation of the personal property portion of the total indicated ratio.

(6) In a manner similar to that used for real property, sample personal property assessed values and true and fair values for each stratum are derived from audit results, the weighted sums of which are the basis for determining the personal property indicated ratio. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-140, filed 10/11/79. Formerly WAC 458-52-080.]

WAC 458-53-150 Indicated real property ratio--Computation. (1) For each real property value or land use stratum within a county average sample assessed value and average sample true and fair value will be determined from the results of selected sales and appraisal studies. Average sample assessed value and average sample true and fair value for each stratum will be multiplied by the total number of real property parcels in each corresponding stratum to derive an estimated total assessed value and a total estimated true and fair value for each stratum. Stratum estimated totals will be added to derive county estimated total assessed value and county estimated total true and fair value. When the ratio relationship between these two estimated values is applied to the actual county assessed value, as provided by the assessor in his current Assessors' Certificate of Assessment Rolls to the County Board of Equalization, and forest land and current use values are added to the actual assessed value and ratio-related market value, the

totals will represent the county real property indicated ratio.

(2) Valid arms–length sales occurring in each county will be the basis for determining individual stratum ratios unless a representative number of samples for any one stratum requires the addition of department appraisals. In all strata where both sales and appraisal samples are present, assessment and market values for all valid appraisal samples will be combined with assessment and market values for all valid sales samples to derive a stratum ratio.

(3) Present county forest land assessed values (chapter 84.33 RCW) will be included in determination of the indicated real property ratios for each county. Current use assessed values (chapter 84.34 RCW) will be included in determination of the indicated real property ratios for counties whose current use land values are five percent or greater in proportion to the total county land value outside of cities and towns. Counties with less than five percent of total land value outside of cities and towns in current use property values may request inclusion of current use values in determination of their real property ratio. The request, in writing, should be submitted to the department prior to October 1 of each ratio study period for which current use consideration is desired. Department current use appraisals will be the basis for the assessment–to–appraisal values from which current use ratios are determined.

(4) Values from each county's Assessor's Certificate of Assessment Rolls to County Board of Equalization will be used in the computation of each county's indicated real property ratio except as provided in subsection (6) of this section.

(a) The county preliminary real property ratio, calculated from estimated totals of county sales and appraisal study results, will be applied to each county's certificate listing of total real property assessed value (excluding forest land and current use assessed values) to determine an estimated true and fair value which relates to the actual assessed real property value of a county.

(b) To the actual real property assessed value and ratio–related true and fair value totals for a county are added certificate forest land and current use assessed values (as provided in subsection (2) of this section), and related true and fair values calculated by the ratio relationships determined for forest lands and current use properties.

(c) The sum of the total real property assessed and true and fair values, forest land assessed and true and fair values, and current use assessed and true and fair values (as provided in subsection (2) of this section) shall be the basis for a county's indicated real property ratio. The sum total of assessed values will be divided by the sum total of true and fair values to derive the ratio.

(5) The following illustration, using simulated values, indicates simplified ratio study computation procedures for real property.

Step 1 – Determination of Average Sample Values

Stratum	(1) Number of Samples	(2) Total Assessed Value of Samples	(3) Average Assessed of Samples (Col. 2 ÷ Col. 1)	(4) Total Market Value of Samples	(5) Average Market Value of Samples (Col. 4 ÷ Col. 1)
[$] 0 – 9,999	10	$ 60,000	$ 6,000	$ 80,000	$ 8,000
10,000 – 15,999	20	260,000	13,000	300,000	15,000
Over 15,999	5	200,000	40,000	250,000	50,000

Average values for real property sales samples, average real property appraisal samples, and average personal property audit samples all are determined in the same manner.

Step 2 – Weighting of Average Sample Values

Stratum	(1) Total Property Listings	(2) Average Sample Assessed Value	(3) Total Estimated Assessed Value (Col. 2 × Col. 1)	(4) Average Sample Market Value	(5) Total Estimated Market Value (Col. 4 × Col. 1)	(6) Ratio (Col. 3 ÷ Col. 5)
$ 0 – 9,999	105	$ 6,000	$ 630,000	$ 8,000	$ 840,000	.7500
10,000 – 15,999	211	13,000	2,743,000	15,000	3,165,000	.8667
Over 15,999	51	40,000	2,040,000	50,000	2,550,000	.8000
			5,413,000		6,555,000	.8258

Sample study weighted ratio (82.58%)

Average values for real property sales samples, average real property appraisal samples, and average personal property audit samples all are weighted in the same manner.

Step 3
Application of Sample Weighted Relationship to Actual Real Property Assessed Value and addition of timber and forest land values and open space values.

	(1) Actual County Real Property Assessed Value (From Assessor's Certificate)	(2) Determined Assessment To Market Ratio	(3) County Real Property Market Value Related To Actual Assessed Value (Col. 1 ÷ Col. 2)
	$ 6,544,000 (Simulated Value)	.8258 (82.58%) (from Step 2)	$ 7,924,437
Add: Timber and Forest Land	1,520,000 (Simulated Value)	1.0000 (100.00%)	1,520,000
Open Space (Where Applicable) Open Space Ratios Determined By Open Space Appraisals	400,000 (Simulated Value)	.9000 (90.00%) (Simulated Ratio)	444,444
	$ 8,464,000	÷	$ 9,888,881 = .8559
County Indicated Real Property Ratio			85.59%

(6) If a copy of the certification of current values is not received from an assessor in a timely manner for inclusion in ratio computation, the Assessors Abstract of Assessed Values from the previous year will be used as the information source for ratio computation.

(7) A copy of each county's certification of values to the County Board of Equalization will be filed with the department on or before the second Monday in July. The certification will show the total taxable assessed value of the real property roll (indicating separately the total value of forest land assessed pursuant to chapter 84.33 RCW and land classified under chapter 84.34 RCW – current use) and the total taxable assessed value of the personal property roll.

(8) Valid ratio study individual assessed or true and fair values which either exceed or fall below the mean assessed or true and fair value by more than five times the average deviation of other values in a stratum, will be classified as

"outriders" and shall be considered separately in average sample computation. Outriders are so treated to prevent the application of excess weight by nontypical sample values in determining average sample values and resulting total estimated assessed and total estimated true and fair values.

(9) 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 validity checks of the result of the sales and appraisal studies. The director may authorize modification of the results of the sales and appraisal study where there is a demonstrable showing to the 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 true and fair value such that a significant variation results from the rates of the previous year not deemed by the director comparable with general trends in property values. Such modification shall be made only after notice to all assessors that information other than the sales and appraisal studies are being considered, and opportunity for a meeting has been made available for the director (or the director of property tax) and a representative committee authorized and appointed by the assessors to review the results of the sales and appraisal study and the proposal to modify the study results. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-150, filed 10/11/79. Formerly WAC 458-52-090.]

WAC 458-53-160 Indicated personal property ratio--Computation. (1) For each personal property assessed value stratum in a county an average sample assessed value and an average sample true and fair value will be determined from the results of selected audit studies. These average stratum sample values will be multiplied by the corresponding number of personal property accounts in each stratum to derive a stratum estimated total assessed value and a stratum estimated total true and fair value. These estimated stratum total estimated assessed and true and fair values will be added to provide a county total estimated assessed value and a county total estimated true and fair value. When these two total values are equated to the county actual assessed value, as provided on the Assessors' Certificate of Assessment Rolls to County Board of Equalization, their relationship will form the basis for the county indicated personal property ratio.

(2) If reported to the department prior to July 15th of the study year, values added to the assessment roll resulting from the disclosure of unreported or under-reported personal property due to audits may be included, but only to the extent the department is satisfied the assessor is correcting omissions of a similar nature in personal property assessments generally.

(3) Values from each county's Assessor's Certificate of Assessment Rolls to County Board of Equalization will be used in the computation of each county's indicated personal property ratio except as provided in WAC 458-53-150(6).

(4) The following illustration, using simulated values, indicates simplified ratio study computation procedures for personal property.

Step 1 - Determination of Average Sample Values

Stratum	(1) Number of Samples	(2) Total Assessed Value of Samples	(3) Average Assessed Value of Samples (Col. 2 ÷ Col. 1)	(4) Total Market Value of Samples	(5) Average Market Value of Samples (Col. 4 ÷ 61.1)
$ 0 - 9,999	15	$ 75,000	$ 5,000	$100,000	$ 6,667
10,000 - 39,999	20	400,000	20,000	500,000	25,000
Over 39,999	10	500,000	50,000	750,000	75,000

Step 2 - Weighting of Average Sample Values

Stratum	(1) Total Property Listings	(2) Average Sample Assessed Value	(3) Total Estimated Assessed Value (Col. 2 × Col. 1)	(4) Average Sample Market Value	(5) Total Estimated Market Value (Col. 4 × Col. 1)	(6) Ratio (Col. 3 ÷ Col. 5)
$ 0 - 9,999	125	$ 5,000	$ 625,000	$ 6,667	$ 833,375	.7500
10,000 - 39,999	216	20,000	4,320,000	25,000	5,400,000	.8000
Over 39,999	79	50,000	3,950,000	75,000	5,925,000	.6667
			$8,895,000		$12,158,375	.7316
Sample study weighted ratio.						(73.16%)

Step 3 - Application of Sample Weighted Relationship to Actual Assessed Value.

(1) Actual County Assessed Value Personal Property (From Assessor's Certificate)	(2) Determined Assessment-To-Market Ratio	(3) County Market Value Related To Actual Assessed Value (Col. 1 ÷ Col. 2)
$ 9,100,000 (Simulated Value)	.7316 (from Step 2)	$12,438,491
County indicated personal property ratio	73.16%	

(5) Individual assessed or true and fair personal property values, classified as "outriders" according to WAC 458-53-150(8), will be used in personal property ratio computation in a manner similar to that used for real property outriders in real property ratio computation. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-160, filed 10/11/79. Formerly WAC 458-52-100.]

WAC 458-53-170 Final indicated ratio--Computation. (1) The indicated real property ratio and the indicated personal property ratio for each county will be weighted into the final combined county indicated ratio based upon the relationship of assessed value of both the real and personal state-assessed property, after equalization, and the locally-assessed real and personal property as reported by the county assessors on their individual Abstract of Assessed Value pursuant to RCW 84.48.010. This final indicated ratio is the one used in carrying out the department's responsibilities to compute the state property tax levy (RCW 84.52.065).

(2) The following illustration indicates simplified combined indicated ratio procedures used to combine real and personal property ratio study values of locally assessed property and values of utility companies as determined by the department. A combined indicated ratio for each county is prepared and used in the state property tax levy for schools.

Simulated values used in this illustration are those used in WAC 458-53-140 and 458-53-150. The utility values used have not appeared in other tables and are illustrative only.

	Total Assessed Value – Real Property	Indicated Real Property Market Value	Total Assessed Value – Personal Property	Indicated Personal Property Market Value	Total Real and Personal Property Assessed Value	Total Real and Personal Property Market Value
	Utility Equalized Value – Real Property	Utility Full Value – Real Property	Utility Equalized Value Personal Property	Utility Full Value – Personal Property	Utility Value – Real and Personal Property	Utility Full Value – Real and Personal Property
Locally Assessed	$ 8,464,000	$ 9,888,881	$ 9,100,000	$12,438,491	$17,564,000	$22,327,372
Utilities	479,304	560,000	548,700	750,000	1,028,004	1,310,000
Combined					$18,592,004	$23,637,372

$18,592,004 ÷ $23,637,372 = .7866

County Combined Indicated Ratio 78.66%

[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.]

WAC 458-53-180 Use of indicated ratios. The indicated ratios will be used by the department as follows:

(1) The value of properties assessed by the state under chapters 84.12 and 84.16 RCW, will be certified to the county assessor using:

(a) The indicated personal property ratio for personal property; and

(b) The indicated real property ratio for real property.

(2) The final indicated ratio will be used for state levy purposes as required by RCW 84.52.065. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-180, filed 10/11/79. Formerly WAC 458-52-120.]

WAC 458-53-190 County assessor's review. The county assessor will be given the opportunity to review with the department the sales, appraisal, and audit studies. This review will precede the final data computation in establishing the indicated real property and indicated personal property ratios. [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.]

WAC 458-53-200 Certification of county indicated ratios. The department will annually determine the real property and personal property indicated ratios for each county and will certify these ratios to the county assessor on or before August 1, and revisions or corrections thereof may be made by the department after consideration of recommendations received from an assessor prior to the first Monday in August. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-200, filed 10/11/79. Formerly WAC 458-52-140.]

WAC 458-53-210 Assessor's appeal. If an assessor has reviewed the ratio study as provided in WAC 458-53-190, the assessor may appeal the department's ratio determination, as certified for that county, to the state board of tax appeals pursuant to RCW 82.03.130(5)(a). The appeal to the state board of tax appeals must be filed on or before August 11. [Statutory Authority: RCW 84.48.075. 79-11-029 (Order PT 79-3), § 458-53-210, filed 10/11/79. Formerly WAC 458-52-150.]

Chapter 458-56 WAC
RULES RELATING TO GIFT TAXES

WAC

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458-56-050 Annual exclusion.
458-56-060 Time and place for filing return.
458-56-070 Gifts made during prior calendar years.
458-56-080 Gross gifts made during calendar year.
458-56-090 Description of property.
458-56-100 Valuation of property.
458-56-110 Exempt gifts.
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458-56-140 (Reserved)
458-56-150 Penalties.
458-56-160 Payment of tax.
458-56-170 Gifts taxable as inheritance.
458-56-180 Gift tax returns.
458-56-190 Liens.
458-56-200 Valuation of securities and accounts.
458-56-210 Federal audits.
458-56-220 Receipts.
458-56-230 Appeals and appellate procedure.

WAC 458-56-010 Scope of rules. RCW 83.56.100 and RCW 83.56.310 authorizes the department of revenue to prescribe and publish all needful rules and regulations for the enforcement of chapter 83.56 RCW – Gift Taxes, as applied to those gifts made subsequent to March 20, 1941. [Order IT-75-1, § 458-56-010, filed 11/21/75.]

WAC 458-56-020 Imposition of tax. The statute imposes no tax upon property, but subjects to tax transfers of property by gift. The tax is not limited in its imposition to transfers of property without consideration, which in common law are termed gifts, but extends to sales and exchanges for less than an adequate and full consideration in money or money's worth. The statute taxes all transfers of property made during each calendar year to the extent that they are donative in character and exceed the exemptions, exclusions and deductions authorized. The tax applies to all individuals, whether resident or nonresident. In the case of residents of Washington, the tax applies to transfers of any property, excepting real or personal property permanently located outside the state, and in the case of nonresidents, to transfers of property situated within this state. [Order IT-75-1, § 458-56-020, filed 11/21/75.]

WAC 458-56-030 Requirement of return. Any resident of the state of Washington who makes any transfer by gift of any property whatsoever, except real and tangible personal property permanently located outside this state, and any non-resident of the state who makes a transfer by gift of any real or tangible personal property situated in this state within any calendar year must file a gift tax return with the department of revenue if such gift to any one donee exceeds $3,000 in value. All persons are required to file returns if they make any gift of a future interest in property regardless of its value, and no annual exclusion is allowed.

Where the donor dies before filing his return, the executor or administrator of his estate must file the return and pay the tax thereon to the state treasurer. The return is required even though a gift tax may not be due.

Where there is a gift of separate property to which the spouse of the donor has consented, two separate gift tax returns are required. [Order IT-75-1, § 458-56-030, filed 11/21/75.]

WAC 458-56-040 Joint accounts and trusts. Gifts involving life insurance, joint tenancies, tenancies in common, joint bank accounts, trusts, and contracts are to be valued in the manner prescribed in these rules. When a gift is made to a trust or in trust, a copy of the trust instrument or the contract must be furnished when the return is filed. [Order IT-75-1, § 458-56-040, filed 11/21/75.]

WAC 458-56-050 Annual exclusion. The first $3,000 gift to any one donee during the calendar year is excluded from the gross gifts for the year. Gifts made during the calendar year to any one person of $3,000 or less should not be returned unless the gifts consisted of future interests in property. Gifts of future interests in property are required to be included in the total gifts, regardless of their value, and no part of the value is excluded from the gross gifts regardless of the number or relationship of the donees. Any estate or interests limited to commence in possession or enjoyment at a future date is a future interest. For instance, when a donor transfers the title to real estate and retains a life estate therein, the gift is a future interest gift. [Order IT-75-1, § 458-56-050, filed 11/21/75.]

WAC 458-56-060 Time and place for filing return. The gift tax return must be filed with the department of revenue on or before the fifteenth day of April following the close of the calendar year in which gifts are made. The return should not be filed prior to the close of the calendar year. [Order IT-75-1, § 458-56-060, filed 11/21/75.]

WAC 458-56-070 Gifts made during prior calendar years. The aggregate net gifts for all years prior to the present net gift must be entered on the gift tax return and added to the present net gift. The gift tax is an accumulative tax and the aggregate total of all net gifts must be considered on each gift tax return. "Net gift" is the sum remaining after the deduction of the allowable annual exclusion from the gross gift. [Order IT-75-1, § 458-56-070, filed 11/21/75.]

WAC 458-56-080 Gross gifts made during calendar year. Every gross gift made during the calendar year in excess of $3,000 should be entered on the return. A gift of a future interest should be included regardless of its value. The gift should be entered, whether in trust or otherwise, whether direct or indirect, and whether the property is real or personal, tangible or intangible. A taxable gift may be effected by the declaration of a trust, by the foregoing of a debt, by the assignment of a judgment, by the assignment of the benefits of a contract of insurance, or the naming of the beneficiary thereof, or the transfer of cash, certificates of deposit, or federal, state, or municipal bonds. Inasmuch as the tax is imposed upon gifts indirectly made, all transactions whereby property or property rights or interests are donatively passed or conferred upon another, regardless of the means or device employed, constitute gifts subject to tax. Examples of transactions resulting in taxable gifts if entered into without an adequate and full consideration in money or money's worth are as follows:

(a) The transfer of property by a corporation without an adequate and full consideration in money or money's worth to B is a gift from the stockholders of the corporation to B.

(b) The transfer of property to B where there is imposed upon B the obligation of paying a commensurate annuity to C would constitute a gift to C.

(c) The payment of money or the transfer of property by A to B in consideration whereof B is to render a service to C would constitute a gift to C or both to B and C, depending on whether the services to be rendered

by B to C was or was not an adequate and full consideration in money or money's worth for that which was received by B.

(d) Where A creates a joint bank account for himself and B, there is a gift to B when he draws upon the account for his own benefit to the extent of the amount drawn.

(e) The irrevocable assignment of a life insurance policy, or the naming of a beneficiary without retaining the unlimited right to change the beneficiary or the unconditional right to the cash or surrender value, or the relinquishment or assignment of the right to the cash or surrender value to a beneficiary already named, or to any other person constitutes a gift in the amount of the net cash or surrender value, if any, plus the prepaid insurance premium adjusted to the date of the gift.

(f) Where premiums on a life insurance policy are paid by the insured who has none of the legal incidents of ownership in the policy, and the beneficiary is other than the insured's estate, each premium paid is a gift in the amount thereof to the beneficiary.

(g) When separate property of one spouse is in any way converted into community property of both spouses, there is a gift of one–half the value of the property from the spouse owning the separate property, to the other spouse.

(h) Where property is transferred in trust without an adequate and full consideration in money or money's worth and without reserving the power of revocation, the transfer is a gift, but where the transferor or donor has the power to revest in himself title to the property transferred in trust, the transfer does not constitute a gift within the meaning of the statute. The relinquishment or termination of the power to revest in the donor the title to property transferred in trust, is a gift of such property at the time of the relinquishment or termination of the power without an adequate and full consideration of money or money's worth, except where the power is terminated by the donor's death. The payment of income to the beneficiary of a trust other than the donor is a gift by the trustor of such income where the trustor has the power to revest in himself title to the trust property. These provisions are applicable to both where a donor has the power alone to revest in himself title to the property transferred in trust and where he has such power in conjunction with any person not having a substantial adverse interest in the disposition of the trust property or the income therefrom. Where the power to revest in the donor property transferred in trust reposes in the donor in conjunction with any other person having a substantial adverse interest in the property or income therefrom or where the power is in such other person alone, the transfer is subject to tax as though no such power existed.

(i) Where property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration constitutes a gift within the meaning of the statute. If the consideration is not reducible to a money value as in the case of love and affection, promise of marriage, etc., it is to be wholly disregarded and the entire value of the property transferred constitutes the amount of the gift.

(j) If the income from a trust is required to be paid regularly to the beneficiary for a specified period of time, after which the corpus shall be distributed to him, the present value of the income during the specified period computed at the rate of three and one–half percent per annum is a gift of a present interest, and the value of the remainder is a future interest gift. If the trustee is empowered to accumulate and distribute the income at its discretion, the entire gift is that of a future interest. The annual exclusion of $3,000 is not available when the gift is that of a future interest. [Order IT–75–1, § 458–56–080, filed 11/21/75.]

WAC 458–56–090 Description of property. The property comprising the gifts made during the calendar year must be so described on the return, or by appropriate schedules attached thereto, that the subject matter of the gift may be readily identified. Thus, a legal description must be given of each parcel of real estate and, if located in a city, the name of street and number, its area, and, if improved, a short statement of the character of the improvements. The assessed valuation for the parcel must also be given. Description of bonds should include the number transferred, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number where there is more than one issue, the exchange upon which listed or the principal business office of the corporation, if unlisted. Description of stocks should include number of shares, whether common or preferred, and, if preferred, what issue thereof, par value, quotation at which returned, exact name of corporation, and, if stock is unlisted, the location of the principal business office and state in which incorporated and the date of incorporation. If a listed security, state principal exchange upon which sold. Description of notes should include name of maker, date on which given, date of maturity, amount of principal, amount of principal unpaid, rate of interest and whether simple or compound, date to which interest has been paid, and amount of unpaid interest. Description of land contracts transferred should include name of vendee, date of contract, description of property, sale price, initial payment, amounts of installment payments, unpaid balance of principal and accrued interest, interest rate, and date prior to gift to which interest has been paid. Description of life insurance should give the name of the insurer, the amount of the premium, number of policy, face value, and amount paid or payable thereunder. In describing an annuity the name and address of the grantor of the annuity should be given, or if payable out of a trust or other funds such a description as will identify it. If the annuity is payable for a term of years the duration of the term and the date on which it began should be given, and if payable for the life of any person, the date of birth of such person should be stated. Judgments should be described by giving the title of the cause and the name of the court in which rendered, date of judgment, name and address of judgment debtor, amount of judgment, rate of interest to which subject

and whether any payments have been made thereon, and, if so, when and in what amounts. [Order IT-75-1, § 458-56-090, filed 11/21/75.]

WAC 458-56-100 Valuation of property. If the gift is made in property other than money, it shall be valued at its true and fair value in money as of the date of the gift. Where the gift is in the form of an annuity, life, or term estate, it is to be valued in accordance with rules, methods, and standards of mortality set forth in tables furnished by the insurance commissioner, computed at four percent for those gifts made prior to June 11, 1953, and three and one-half percent for those gifts made after June 10, 1953. If the gift is in the form of a remainder or reversionary interest, it is to be valued by subtracting from the total value of the property the value of the limited or term estate. [Order IT-75-1, § 458-56-100, filed 11/21/75.]

WAC 458-56-110 Exempt gifts. Gifts to benevolent, charitable, educational, or religious institutions or organizations organized for such purposes are not subject to taxation. The fair market value of such gifts and a description thereof must be entered on the gift tax return.

A gift to a corporate entity or organization not solely engaged in exempt activities may be exempt only if the gift is specifically directed to be used only for a charitable or benevolent purpose. A gift for the benefit of the members of an organization, in any degree, will have the effect of a disallowance of the charitable exemption. [Order IT-75-1, § 458-56-110, filed 11/21/75.]

WAC 458-56-120 Specific exemptions. There may be allowed from the total amount of gifts made by any donor a specific exemption of $10,000 for gifts to class A donees and of $1,000 for gifts to class B donees. The provisions permitting the allowance of a $10,000 class A exemption and a $1,000 class B exemption are so limited that such exemptions are allowed a donor but once, regardless of the number of calendar years in which a donor makes gifts, and regardless of the number of donees in the class. The exemption is allowed for gifts to the class as a whole and not as to gifts to individual donees. [Order IT-75-1, § 458-56-120, filed 11/21/75.]

WAC 458-56-130 Community property and separate property. Where there is a transfer of community property, real or personal, tangible or intangible, to a person other than a member of the community, two separate gift tax returns shall be made, one by each spouse and each for one-half of the whole value of the property transferred.

Whenever a gift of separate property is made by a member of a community to third persons and the spouse of the donor has consented to such gift on the donor's return, a gift tax return must be made by the consenting spouse as to one-half of the fair market value of the gift. The other half will be reported on the tax return of the donor. Joint returns by husband and wife are not allowed. [Order IT-75-1, § 458-56-130, filed 11/21/75.]

WAC 458-56-140 (Reserved)

WAC 458-56-150 Penalties. (1) In the case of failure to make and file a return required by the Gift Tax Act of 1941 within the time prescribed, 25 percent of the amount of the tax is added to the tax unless the return is later filed and failure to file the return within the time prescribed is shown to the satisfaction of the department of revenue to be due to reasonable cause and not to wilful neglect.

(2) Every person, whether as principal, agent or accessory, who misrepresents or conceals facts relating to the ascertainment, determination or collection of gift taxes shall be guilty of a gross misdemeanor and subject to the penalties therefor.

(3) The following are acceptable reasonable causes for failure to file, provided that affidavits in support thereof are furnished:

(a) When the delay was caused by the death or serious illness of the donor or any member of his immediate family,

(b) When the delay was caused by unavoidable and unforeseen absence of the donor from the state,

(c) When the donor, in good faith, relied upon the advice of a reputable attorney or accountant, who was skilled in tax matters, and who advised the taxpayer that the transfer was not a taxable gift.

The following are not acceptable reasons to avoid the penalty:

(d) When the donor furnished his attorney or accountant with the necessary information to prepare a return and relied upon him to do so,

(e) When the donor was ill but was able to and did file an income tax return which was due at the same time,

(f) When the donor was ignorant of the law and was not aware that a return was due. [Order IT-75-1, § 458-56-150, filed 11/21/75.]

WAC 458-56-160 Payment of tax. The tax must be paid to the department of revenue by the donor on or before the 15th day of April following the close of the calendar year in which the gifts were made. The tax may be paid at any time prior to the 15th day of April following the close of the calendar year in which the gifts were made. The department may, at the request in writing by the donor, extend the time of the payment of the tax for a period not to exceed 6 months from the due date, subject, however to the payment of interest on the tax due at the statutory rate. Any application for an extension of time for the payment of tax must set forth the specific reason for desiring the extension. Interest during the period as extended cannot be waived. [Order IT-75-1, § 458-56-160, filed 11/21/75.]

WAC 458-56-170 Gifts taxable as inheritance. If a gift tax has been paid on any gift and thereafter, upon the death of the donor, a Washington inheritance tax is imposed on the same gift, there shall be credited against the inheritance tax as so imposed an amount equal to the gift tax paid on such gift. The amount of the gift tax

paid shall be included as an asset of the estate of the donor. [Order IT-75-1, § 458-56-170, filed 11/21/75.]

WAC 458-56-180 Gift tax returns. (1) All gift tax returns must be made on the forms provided by the Department. Upon request, an adequate supply thereof will be furnished to taxpayers and preparers. Photocopies and/or copies of the return are not acceptable and any such copies will be returned to the sender for completion of the approved return.

(2) Any person preparing the gift tax return for a taxpayer must endorse the return by signing his name thereon identifying his relationship to the donor (i.e., attorney, CPA, LPA, etc.), and supplying his address and phone number. [Order IT-75-1, § 458-56-180, filed 11/21/75.]

WAC 458-56-190 Liens. (1) A certificate of lien may be foreclosed following the procedures allowed by law for the foreclosing of a real estate mortgage.

(2) When the tax and interest have been fully paid upon which a certificate of lien has been filed, the Department of Revenue, upon request, will issue a certificate of release of lien. A partial release may be issued upon partial payment of tax and interest. [Order IT-75-1, § 458-56-190, filed 11/21/75.]

WAC 458-56-200 Valuation of securities and accounts. (1) The value of shares of closely owned stock and other interests in business shall be determined by all relevant factors such as value of the assets, earning capacity, and the outlook of the particular business and of its industry in general. Relevant factors that may be considered in the valuation of closely held stock could include the period of time that the issuing corporation has been in existence and its position in the trade, the nature of the corporation, the operating history of the corporation and particularly its earnings over a period of time, the balance sheet of the corporation, the standard of earnings maintained by concerns engaged in similar lines of endeavor, dividend-paying capacity, the prices paid on private sales of the shares to persons who were in a position to know their value, future earning prospects, and the management and personnel. The market price of corporations engaged in a similar business whose shares are traded over the counter or on a stock exchange may also be considered.

When such securities are the subject matter of the gift, there must be furnished with the return the following:

(a) A balance sheet closest to the date of the gift, together with notations as to fair market value and assessed values,

(b) A complete financial statement, including a balance sheet and income statement,

(c) A listing of the net earnings for the past 5 years, and

(d) A statement of the total number of shares authorized, issued, and outstanding.

(2) In evaluating notes, accounts receivable, claims, debts, et cetera, the value of notes and contracts is the amount of unpaid principal plus accrued interest to the date of death, unless the donor can establish by satisfactory evidence that the item is worth less than the balance of principal and interest due. [Order IT-75-1, § 458-56-200, filed 11/21/75.]

WAC 458-56-210 Federal audits. If after the values of a gift have been determined under chapter 83.56 RCW the same gift is valued under the Federal Gift Tax Statutes, and the value of the gift or any portion thereof is increased above or decreased below the values fixed by chapter 83.56 RCW, and the Federal valuation is accepted by the donor either by agreement or Federal Court determination, the value as fixed by chapter 83.56 RCW on such property or portion thereof shall be increased or decreased to that Federal value. [Order IT-75-1, § 458-56-210, filed 11/21/75.]

WAC 458-56-220 Receipts. No receipt will be issued evidencing the gift tax paid. Canceled checks will serve as acknowledgment of the payment of the tax assessed. [Order IT-75-1, § 458-56-220, filed 11/21/75.]

WAC 458-56-230 Appeals and appellate procedure. Any person feeling aggrieved may appeal any determination of values or tax liability in relation to a gift or gift tax return by filing a notice of appeal with the assistant director, inheritance tax division. Upon receipt of such notice, the assistant director shall set a time for hearing on the appeal not less than 15 days after the receipt of the notice and not more than 30 days thereafter. Such hearing date may be continued at the request of the taxpayer.

The inheritance and gift tax hearing board shall be composed of three members, one of whom shall be the chairman selected by the members. The members shall be selected from:

The director of revenue or his designate
The assistant director, inheritance tax
The assistant attorney general, revenue
The counsel, inheritance tax
The chief deputy, inheritance tax

The taxpayer or his agent shall be notified of the composition of the board at the same time he is furnished with the notice of hearing. Any objection to a member of the board must be filed five days prior to the hearing.

Upon conclusion of the hearing and within ten days thereafter, the board shall render its decision in writing and signed by the chairman. The decision of the board may be appealed to Superior Court, provided that such appeal must be taken within thirty days after the rendi-

tion of the decision. A conference prior to a hearing may be allowed at the request of the taxpayer.

Nothing contained in this rule shall preclude the taxpayer from appealing directly to Superior Court without exhausting the administrative remedy provided for herein. [Order IT-75-1, § 458-56-230, filed 11/21/75.]

Chapter 458-57 WAC
STATE OF WASHINGTON INHERITANCE TAX RULES

WAC

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WAC 458-57-010 Scope of rules. These rules are promulgated under the general rule making authority of the Department of Revenue, Inheritance Tax Division, as authorized in RCW 82.01.060 and 83.36.010 and are intended to implement chapters 83.01 through 83.52 RCW. [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.]

WAC 458-57-020 Nature of inheritance tax. The inheritance tax is a state tax on the privilege of succession to a decedent's property. The amount of the tax depends on the value of the property passing, the legal relationship between the decedent and the heir, and the number and relationship of all of the persons taking property from the 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), § 458-57-020, filed 2/21/80.]

WAC 458-57-030 Property subject to inheritance tax. The inheritance tax is measured by the full value of all property, or interest in any property, or the qualified use value of the property as set forth in chapters 83.16 and 83.40 RCW and WAC 458-57-490 within the jurisdiction of this state which passes by will or by statutes of inheritance, by transfer during the three-year period ending on the date of the decedent's death, by gifts in contemplation of death, by transfer which takes effect at death, or by a transfer in trust or otherwise, under which the grantor or donor retained a life interest in possession or enjoyment of the property or any income from it. The full value for inheritance tax purposes shall be deemed to be the fair market value less all liens and encumbrances as of the date of death. [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.]

WAC 458-57-040 Jurisdiction--Domicile of decedent. (1) If a decedent was domiciled in the state of Washington at the time of death, the jurisdiction of this state to impose the tax extends to all of his property interest, wherever located, except for real estate located outside this state, and tangible personal property which is located and has attained a situs outside the state of Washington. Mineral and oil leases shall be treated as tangible personal property, taxable at their situs. Royalties from mineral rights shall be taxed as intangibles. The intangible assets, wherever located, of a deceased domiciliary of the state of Washington shall be subject

to inheritance tax in this state. Intangibles include vendor's interests in real estate contracts, bank accounts, stocks and bonds, and all other choses in action. Ownership by the decedent of any interest in trust assets regardless of their nature or location shall not operate to defeat the foregoing provisions.

(2) Where the decedent was a domiciliary of another state or territory of the United States at the time of death, the state of Washington has jurisdiction to tax the passage of real estate located within its borders, and of tangible personal property which has its situs within this state. Intangibles belonging to a deceased domiciliary of another state or territory of the United States is not taxed in this state.

(3) Where the decedent was domiciled in another country, all of his property interests within this state shall be subject to inheritance tax, including real estate, tangible and intangible personal property. [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.]

WAC 458–57–050 Status and character of assets. The status of the assets of the deceased is determined as of the date of acquisition, and, once established, the separate or community character of their status does not change unless changed in some manner recognized by law.

Example: If the decedent was a resident of another state before becoming domiciled in Washington, the character of his assets brought with him to the state of Washington will retain that of the other state until such time as they are no longer identifiable as having that characterization from the previous state. [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.]

WAC 458–57–060 Valuation. (1) In general. The inheritance tax base is the fair market value, or qualified use value under chapter 83.16 RCW, at the date of death. Fair market value generally is the price that a willing buyer will pay to a willing seller, neither of whom is under any compulsion to buy or sell. Qualified use value is that value as determined under chapter 83-.16 RCW and WAC 458–57–490. All relevant facts and elements of value as of the date of death will be considered in the determination of value.

(2) Values. All values used for inheritance tax purposes shall be the value as of the date of death. Subsequent increases or decreases in value do not affect the tax base. Alternate date valuations cannot be used for state tax purposes. [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.]

WAC 458–57–070 Valuation--Real estate. (1) In general. Where the assets consist of real property, the full legal description shall be given, with the County Assessor's identifying parcel number, together with the assessed value, as well as the fair market value plus the qualified use value where the qualified use is used as a basis of the inheritance tax base. The assessed value to be used is the most recent value assigned to the property by the County Assessor, including any reassessed value fixed after the most recent tax statement.

(2) Fair market value. In arriving at the fair market value, the personal representative may make the appraisal or a qualified appraiser may be retained for that purpose. In arriving at the qualified use value the value should be determined as prescribed in chapter 83.16 RCW and WAC 458–57–490. However, since the tax is fixed on the full fair market value or qualified use value, the inheritance tax release will not be issued until the department is satisfied that the value reported is, in fact, the fair market value or the proper qualified use value and the tax is paid on that amount.

(3) Assessed value. The assessed value of all real estate must be furnished on the inventory. Such valuation shall not be controlling as a basis for inheritance tax.

(4) Character of real estate. The character and nature of each parcel of real estate shall be reported, e.g., business property, the kind of business; farm land, the number of acres and what all acreage is being used for, if under cultivation the yield per acre; and, if any of the real estate is classified forest land or "open space," that fact and the value placed thereon by the assessor other than the "open space" or lesser value shall be reported and noted on the inventory.

(5) Timber. Real estate which has standing timber thereon shall have the value of the timber stated separately.

(6) Growing crops. Factors to be considered in the valuation of a property interest consisting of growing crops shall be the probable market value of the crop when harvested and the probable cost of producing and marketing the crop and the price, if any, paid at or about the date of the transferor's death for futures in the same kind of crop.

(7) Market value less than assessed value. When it is reported that the fair market value of an asset is less than the assessed value, the reason for such position shall be stated and be accompanied with an appraisal by a qualified disinterested party. [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.]

WAC 458–57–080 Valuation--Gold and silver bullion. (1) If gold or silver owned by a Washington domiciliary before his death is situated within this state it shall be reported as in the case of all other assets at its fair market value.

(2) If ownership of gold, silver or coin is evidenced by a certificate showing a share of an undifferentiated mass, then it is taxable as an asset in the Washington estate regardless of its location. [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.]

WAC 458-57-090 Valuation--Securities. Stocks and bonds. The value of stocks and bonds is measured by the fair market value of the shares or bonds on the date of death.

(1) Selling prices. If there is a published market price for stocks or bonds on a stock exchange, in an over-the-counter market, or otherwise, the mean between the highest and lowest quoted selling prices on the date of death is the fair market value per share or bond.

(2) No sales—Holidays. If there were no sales on the date of death but there were sales on dates within a reasonable time both before and after the date of death, the fair market value is determined by taking a weighted average of the mean between the highest and lowest sales on the nearest date before and the nearest date after the date of death. The average is to be weighted inversely by the respective numbers of trading days between the selling dates and the date of death.

(3) Lack of sufficient sales information. If there are no actual arm's length sales prices or bona fide bid and asked prices available within a reasonable time before the date of death, the most recent sale may be used provided it is trended to the fair market value as of the date of death.

(4) Source of information. If the stocks or bonds are listed on more than one exchange, the records of the exchange where the stocks or bonds are principally dealt in should be employed if such records are available in a generally available listing or publication of general circulation. In the event that such records are not so available and such stocks or bonds are listed on a composite listing of combined exchanges available in a generally available listing or publication of general circulation, the records of such combined exchanges shall be employed. In valuing listed securities, the personal representative is required to consult accurate records to obtain values as of the date of death. If quotations of unlisted securities are obtained from brokers, or evidence as to their sale is obtained from officers of the issuing companies, copies of the letters furnishing such quotations or evidence of sale should be attached to the return.

(5) Blockage. In certain exceptional cases, the size of the block of stock to be valued in relation to the number of shares changing hands in sales may be relevant in determining whether selling prices reflect the fair market value of the block of stock to be valued. If the personal representative can show that the block of stock to be valued is so large in relation to the actual sales on the existing market that it could not be liquidated in a reasonable time without depressing the market, the price at which the block could be sold as such outside the usual market, as through an underwriter, may be a more accurate indication of value than market quotations. Complete data in support of any allowance claimed due to the size of the block of stock being valued shall be submitted with the return. On the other hand, if the block of stock to be valued represents a controlling interest, either actual or effective, in a going business, the price at which other lots change hands may have little relation to its true value.

(6) Where selling prices or bid and asked prices are unavailable. If the foregoing provisions of this section are inapplicable because actual sale prices and bona fide bid and asked prices are lacking, then the fair market value is to be determined by taking the following factors into consideration:

(a) In the case of corporate or other bonds, the soundness of the security, the interest yield, the date of maturity, and any other relevant factors;

(b) In the case of shares of stock, the company's net worth, prospective earning power and dividend-paying capacity, and any other relevant factors.

Some of the "other relevant factors" referred to in paragraphs (a) and (b) of this subsection are: The good will of the business; the economic outlook in the particular industry; the company's position in the industry and its management; the degree of control of the business represented by the block of securities to be valued; and the values of securities of corporations engaged in the same or similar lines of business which are listed on a stock exchange. However, the weight to be accorded such comparisons or any other evidentiary factors considered in the determination of a value depends upon the facts of each case. In addition to the relevant factors described above, consideration shall also be given to nonoperating assets, including proceeds of life insurance policies payable to or for the benefit of the company, to the extent such nonoperating assets have not been taken into account in the determination of net worth, prospective earning power and dividend-earning capacity. Complete financial and other data upon which the valuation is based shall be submitted with the return, including copies of reports of any examinations of the company made by accountants, engineers, or any technical experts as of or near the date of death.

(7) Pledged securities. The full value of securities pledged to secure an indebtedness of the decedent is includable in the gross estate. If the decedent had a trading account with a broker, all securities belonging to the decedent and held by the broker at the date of death shall be included at their fair market value as of the date of death. Securities purchased on margin for the decedent's account and held by a broker shall also be returned at their fair market value as of the date of death. The amount of the decedent's indebtedness to a broker or other person with whom securities were pledged shall be allowed as a deduction from the gross estate.

(8) Securities subject to an option or contract to purchase. Another person may hold an option or a contract to purchase securities owned by a decedent at the time of his death. The effect, if any, that is given to the option or contract price in determining the value of the securities for inheritance tax purposes depends upon the circumstances of the particular case. Little weight will be accorded a price contained in an option or contract under which the decedent is free to dispose of the underlying securities at any price he chooses during his lifetime. Such is the effect, for example, of an agreement on the part of a shareholder to purchase whatever shares of stock the decedent may own at the time of his death.

Even if the decedent is not free to dispose of the underlying securities at other than the option or contract price, such price will be disregarded in determining the value of the securities unless it is determined under the circumstances of the particular case that the agreement represents a bona fide business arrangement and not a device to pass the decedent's shares to the natural objects of his bounty for less than an adequate and full consideration in money or money's worth.

(9) Stock sold "ex–dividend." In any case where a dividend is declared on a share of stock before the decedent's death but payable to stockholders of record on a date after his death and the stock is selling "ex–dividend" on the date of the decedent's death, the amount of the dividend is added to the ex–dividend quotation in determining the fair market value of the stock as of the date of the decedent's death.

(10) United States treasury bonds. United States treasury bonds eligible for redemption at par for purposes of paying the United States estate tax shall be valued at par plus accrued interest to the extent they are redeemable at that value for federal estate tax purposes. [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.]

WAC 458–57–100 Closely held securities––Partnerships––Sole proprietorships. The valuation of the decedent's interest in a business, be it a sole proprietorship, partnership, or closely held shares in a corporation, is determined by all relevant factors such as the value of the assets, including the real estate, earning capacity, and the outlook of the particular business and of its industry in general. Relevant factors considered in the case of closely held stock include the period of time that the issuing corporation has been in existence and its position in the trade, the nature of the corporation, the operating history of the corporation and particularly its earnings over a period of time, the balance sheet of the corporation, the standard of earnings maintained by concerns engaged in similar lines of endeavor, dividend–paying capacity, the prices paid on private sales of the shares to persons who were in a position to know their value, future earning prospects, and the management and personnel. The factors in the valuation of corporate stock and for closely owned securities shall be considered to the extent applicable in the valuation of a partnership or a sole proprietorship. [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.]

WAC 458–57–110 Valuation of certain life insurance and annuity contracts––Valuation of shares in an open–end investment company. (1) Valuation of certain life insurance and annuity contracts.

(a) The value of a contract for the payment of an annuity, or an insurance policy on the life of a person other than the decedent, issued by a company regularly engaged in the selling of contracts of that character is established through the sale by that company of comparable contracts. An annuity payable under a combination annuity contract and life insurance policy on the decedent's life (e.g., a "retirement income" policy with death benefit) under which there was no insurance element at the time of the decedent's death, is treated like a contract for the payment of an annuity for purposes of this section.

(b) As valuation of an insurance policy through sale of comparable contracts is not readily ascertainable when, at the date of the decedent's death, the contract has been in force for some time and further premium payments are to be made, the value may be approximated by adding to the interpolated terminal reserve at the date of the decedent's death the proportionate part of the gross premium last paid before the date of the decedent's death which covers the period extending beyond that date. If, however, because of the unusual nature of the contract such an approximation is not reasonably close to the full value of the contract, this method may not be used.

(2) Examples. The application of this subsection may be illustrated by the following examples. In each case involving an insurance contract, it is assumed that there are no accrued dividends or outstanding indebtedness on the contract.

Example 1. X purchased from a life insurance company a joint and survivor annuity contract under the terms of which X was to receive payments of $1,200 annually for his life and, upon X's death, his wife was to receive payments of $1,200 annually for her life. Five years after such purchase, when his wife was fifty years of age, X died. The value of the annuity contract at the date of X's death is the amount which the company would charge for an annuity providing for the payment of $1,200 annually for the life of a female fifty years of age.

Example 2. Y died holding the incidents of ownership in a life insurance policy on the life of his wife. The policy was one on which no further payments were to be made to the company (e.g., a single premium policy or a paid–up policy). The value of the insurance policy at the date of Y's death is the amount which the company would charge for a single premium contract of the same specified amount on the life of a person of the age of the insured.

Example 3. Z died holding the incidents of ownership in a life insurance policy on the life of his wife. The policy was an ordinary life policy issued nine years and four months prior to Z's death and at a time when Z's wife was thirty–five years of age. The gross annual premium is $2,811 and the decedent died four months after the last premium due date. The value of the insurance policy at the date of Z's death is computed as follows:

Terminal reserve at end of tenth year ...	$14,601.00
Terminal reserve at end of ninth year ...	$12,965.00
Increase	$ 1,636.00

One–third of such increase (Z having died four months following the last preceding premium due date) is	$ 545.33
Terminal reserve at end of ninth year	$12,965.00
Interpolated terminal reserve at date of Z's death	$13,510.33
Two–thirds of gross premium (2/3 x $2,811)	1,874.00
Value of the insurance policy ..	$15,384.33

(3) Valuation of shares in an open–end investment company. The fair market value of a share in an open–end investment company (commonly known as a "mutual fund") is the public redemption price of a share. In the absence of an affirmative showing of the public redemption price in effect at the time of death, the last public redemption price quoted by the company prior to the date of death shall be presumed to be the applicable public redemption price. If there is no public redemption price quoted by the company for the date of death (e.g., the valuation date is a Saturday, Sunday, or holiday), the fair market value of the mutual fund share is the mean between the last public redemption price quoted by the company for the first day preceding the date of death and the day following the date of death for which there is a quotation. In any case where a dividend is declared on a share in an open–end investment company before the decedent's death but payable to shareholders of record on a date after his death and the share is quoted "ex–dividend" on the date of the decedent's death, the amount of the dividend is added to the ex–dividend quotation in determining the fair market value of the share as of the date of the decedent's death. As used in this paragraph, the term "open–end investment company" means a company which on the date of death was engaged in offering its shares to the public in the capacity of 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.]

WAC 458–57–120 Notes--Other intangibles. The fair market value of notes, secured or unsecured, accounts receivable, claims, debts, contracts of all types, and other like intangibles is the amount of unpaid principal, plus interest accrued to the date of death unless the personal representative establishes that the value is lower or that the chattels are worthless. Sales of property outright or on contract at less than fair market value, promissory notes, and personal loans at low interest rates or no interest to close family members shall not be considered a disfavoring factor. Items of interest shall be separately stated. If not returned at face value, plus accrued interest, satisfactory evidence must be submitted that the chattel is worth less than the unpaid amount, because of the interest rate, date of maturity, or other cause, or that the chattel is uncollectable, either in whole or in part (by reason of insolvency of the party or parties liable, or for other cause), and that any property pledged or mortgaged as security is insufficient to satisfy the obligation. [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.]

WAC 458–57–130 Real estate contracts. (1) Real estate contracts shall be valued at face value, plus accrued interest to date of death, unless it can clearly be shown that the contract is disfavored.

(2) In determining the value of a real estate contract if a discount is proper, the amount allowed shall be that amount which will produce a yield factor comparable to the current real estate first lien mortgage market in effect in the general area of the situs of the real estate for contracts of a like nature as of the date of death of decedent.

(3) Additional factors which may be taken into consideration in determining whether a contract is disfavored include:

(a) Where the contract has a history of delinquency, or the purchaser is not financially responsible;

(b) Where the real property is not of sufficient value to provide adequate security for the amount owing;

(c) Where there is no interest payable on the contract, or where the interest rate is considerably below the current market.

When a contract is discounted in the Inventory of Assets because one or more of these factors is deemed to exist, a full factual statement shall be provided by schedule or supplementary letter and forwarded to the department along with the return when filed.

When it is necessary to sell a contract during probate to pay the expenses and costs of administration, the value of the contract is the gross price paid the personal representative for same. [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.]

WAC 458–57–140 Cash on hand or on deposit. The amount of cash belonging to the decedent at the date of his death, whether in his possession or in the possession of another, or deposited with a bank, is included in the decedent's gross estate. If bank checks outstanding at the date of death and given in discharge of bona fide legal obligations of the decedent incurred for an adequate and full consideration in money or money's worth are subsequently honored by the bank and charged to the decedent's account, the balance remaining in the account may be reported, but only if the obligations are not claimed as deductions from the gross 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), § 458–57–140, filed 2/21/80.]

WAC 458–57–150 Tangible personal property, household and personal effects. (1) Tangible personal property shall be valued at its fair market value as of the date of death. Amounts actually received from sales following the death shall not be controlling as to value;

however, they may be considered as one factor in establishing value.

(2) General rule. The fair market value of the decedent's household and personal effects may be reported in a lump sum amount: *Provided, However,* That any individual items in excess of the value of one thousand dollars must be listed and reported individually.

(3) Special rule in cases involving a substantial amount of valuable articles. If there are included among the household and personal effects and those items specifically bequeathed articles having marked artistic or intrinsic value (e.g., jewelry, furs, silverware, paintings, etchings, engravings, antiques, statuary, vases, oriental rugs, coin or stamp or gun collections), the appraisal of an expert or experts, setting forth the fair market retail value, under oath, shall be filed with the return. The appraisal shall be accompanied by a written affidavit as to the completeness of the itemized list of such property and as to the disinterested character and the qualifications of the appraiser or appraisers.

(4) Additional rules if an appraisal involved. If, pursuant to paragraphs (2) and (3) of this section, expert appraisers are employed, care shall be taken to see that they are reputable and of recognized competency to appraise the particular class of property involved. In the appraisal, if there are paintings having artistic value, the size, subject, and artist's name should be stated. In the case of oriental rugs, the size, make, and general condition should be given. Sets of silverware should be listed in separate groups. Groups or individual pieces of silverware should be weighed and the weights given in troy ounces. In arriving at the value of silverware, the appraisers should take into consideration its antiquity, utility, desirability, condition, and obsolescence. [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.]

WAC 458–57–160 Valuation of annuities, life estates, terms for years, remainders, and reversions. (1) In general. Except as otherwise provided in chapter 458–57 WAC, the fair market value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under this section and WAC 458–57–170. The value of annuities issued by companies regularly engaged in their sale, and of insurance policies on the lives of persons other than the decedent is determined under WAC 458–57–440(15). The fair market value of a remainder interest in a charitable remainder unitrust is its present value as determined by the provisions of section 2031 of the Internal Revenue Code of 1954, as in effect May 30, 1979. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of death less the fair market value of the remainder interest on such date determined under the provisions of section 2031 of the Internal Revenue Code of 1954, as in effect May 30, 1979. The fair market value of interests in a pooled income fund is their value determined under the provisions of section 2031 of the Internal Revenue Code of 1954, as in effect May 30, 1979.

(2) Use of actuarial tables. The present value of an annuity, life estate, remainder or reversion determined under this section which is dependent on the continuation or termination of the life of one person is computed by the use of Table A(1) or A(2) in WAC 458–57–170. Table A(1) is to be used when the person upon whose life the interest is based is a male and Table A(2) is to be used when such person is a female. The present value of an annuity, term for years, remainder or reversion dependent on a term certain is computed by the use of Table B in WAC 458–57–170. If the interest to be valued is dependent upon more than one life or there is a term certain concurrent with one or more lives, see subsection (8) of this section. For purposes of the computations described in this section, the age of a person is that of his nearest birthday at the time of the decedent's death.

(3) Annuities—Payable annually at end of year. If an annuity is payable annually at the end of each year during the life of an individual (as, for example, if the first payment is due one year after decedent's death), the amount payable annually is multiplied by the figure in column 2 of Table A(1) or A(2) of WAC 458–57–170, whichever is appropriate, opposite the number of years in column 1 nearest the age of the individual whose life measures the duration of the annuity. If the annuity is payable annually at the end of each year for a definite number of years, the amount payable annually is multiplied by the figure in column 2 of Table B of WAC 458–57–170 opposite the number of years in column 1 representing the duration of the annuity. The application of this subsection may be illustrated by the following examples:

Example 1. The decedent received, under the terms of his father's Will, an annuity of $10,000 a year payable annually for the life of his elder brother. At the time he died, an annual payment had just been made. The brother at the decedent's death was forty years eight months old. By reference to Table A(1) of WAC 458–57–170, the figure in column 2 opposite forty–one years, the number nearest to the brother's actual age, is found to be 12.9934. The present value of the annuity at the date of the decedent's death is, therefore, $129,934 ($10,000 x 12.9934).

Example 2. The decedent was entitled to receive an annuity of $10,000 a year payable annually throughout a term certain. At the time he died, an annual payment had just been received and five more annual payments were still to be made. By reference to Table B of WAC 458–57–170, it is found that the figure in column 2 opposite five years is 4.2124. The present value of the annuity is, therefore, $42,124 ($10,000 x 4.2124).

(4) Payable at the end of semiannual, quarterly, monthly, or weekly periods. If an annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods during the life of an individual (as, for example, if the first payment is due one month after the decedent's death), the aggregate amount to be paid within a

year is first multiplied by the figure in column 2 of Table A(1) or A(2) of WAC 458–57–170, whichever is appropriate, opposite the number of years in column 1 nearest the age of the individual whose life measures the duration of the annuity. The product so obtained is then multiplied by whichever of the following factors is appropriate:

1.0148 for semiannual payments,
1.0222 for quarterly payments,
1.0272 for monthly payments,
1.0291 for weekly payments.

If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods for a definite number of years, the aggregate amount to be paid within a year is first multiplied by the figure in column 2 of Table B of WAC 458–57–170 opposite the number of years in column 1 representing the duration of the annuity. The product so obtained is then multiplied by whichever of the above factors is appropriate. The application of this subsection may be illustrated by the following example:

Example. The facts are the same as those contained in example 1 set forth in subsection (3) of this section, except that the annuity is payable semiannually. The aggregate annual amount, $10,000, is multiplied by the factor 12.9934, and the product multiplied by 1.0148. The present value of the annuity at the date of the decedent's death is, therefore, $131,857.02 ($10,000 x 12.9934 x 1.0148).

(5) Payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods.

(a) If the first payment of an annuity for the life of an individual is due at the beginning of the annual or other payment period rather than at the end (as, for example, if the first payment is to be made immediately after the decedent's death), the value of the annuity is the sum of (i) the first payment plus (ii) the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in subsections (3) or (4) of this section. The application of this subsection may be illustrated by the following example:

Example. The decedent was entitled to receive an annuity of $50 a month during the life of another, a woman. The decedent died on the day a payment was due. At the date of the decedent's death, the person whose life measures the duration of the annuity is fifty years of age. The value of the annuity at the date of the decedent's death is $50 plus the product of $50 x 12 x 12.5793 (see Table A(2) WAC 458–57–170) x 1.0272 (see subsection (4) of this section). That is, $50 plus $7,752.87, or $7,802.87.

(b) If the first payment of an annuity for a definite number of years is due at the beginning of the annual or other payment period, the applicable factor is the product of the factor shown in Table B (of WAC 458–57–170) multiplied by whichever of the following factors is appropriate:

1.0600 for annual payments,
1.0448 for semiannual payments,
1.0372 for quarterly payments,
1.0322 for monthly payments,
1.0303 for weekly payments.

The application of the foregoing may be illustrated by the following example:

Example. The decedent was the beneficiary of an annuity of $50 a month. On the day a payment was due, the decedent died. There were three hundred payments to be made, including the payment due. The value of the annuity as of the date of decedent's death is the product of $50 x 12 x 12.7834 (see Table B, WAC 458–57–170) x 1.0322, or $7,917.02.

(6) Life estates and terms for years. If the interest to be valued is the right of a person for his life, or for the life of another person, to receive the income of certain property or to use nonincome producing property, the value of the interest is the value of the property multiplied by the figure in column 3 of Table A(1) or A(2) of WAC 458–57–170, whichever is appropriate, opposite the number of years nearest to the actual age of the measuring life. If the interest to be valued is the right to receive income of property or to use nonincome producing property for a term of years, column 3 of Table B of WAC 458–57–170 is used. The application of this subsection may be illustrated by the following example:

Example. The decedent or his estate was entitled to receive the income from a fund of $50,000 during the life of his elder brother. Upon the brother's death, the remainder is to go to X. The brother was thirty–one years five months old at the time of decedent's death. By reference to Table A(1) of WAC 458–57–170 the figure in column 3 opposite thirty–one years is found to be 0.86117. The present value of decedent's interest is, therefore, $43,058.50 ($50,000 x 0.86117).

(7) Remainders or reversionary interests. If a decedent had, at the time of his death, a remainder or a reversionary interest in property to take effect after an estate for the life of another, the present value of his interest is obtained by multiplying the value of the property by the figure in column 4 of Table A(1) or A(2) of WAC 458–57–170, whichever is appropriate, opposite the number of years nearest to the actual age of the person whose life measures the preceding estate. If the remainder or reversion is to take effect at the end of a term for years, column 4 of Table B of WAC 458–57–170 is used. The application of this subsection may be illustrated by the following example:

Example. The decedent was entitled to receive certain property worth $50,000 upon the death of his elder sister, to whom the income was bequeathed for life. At the time of the decedent's death, the elder sister was thirty–one years five months old. By reference to Table A(2) of WAC 458–57–170, the figure in column 4 opposite thirty–one years is found to be 0.10227. The present value of the remainder interest at the date of decedent's death is, therefore, $5,113.50 ($50,000 x 0.10227).

(8) Special actuarial computations. If the valuation of the interest involved is dependent upon the continuation or the termination of more than one life or upon a term certain concurrent with one or more lives, a special factor must be used. The factor is to be computed on the basis of interest at the rate of six percent a year, compounded annually, and life contingencies determined, as to each male and female life involved, from the values of 1x that are set forth in columns 2 and 3, respectively, of Table LN of WAC 458-57-170. In these and other special instances the inheritance tax division will compute the factor if needed. [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.]

WAC 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.

The tables herein are:

(1) Table A(1) male and Table A(2) female, six percent, showing the present value of an annuity, of a life interest, and of a remainder interest;

(2) Table B showing the present worth at six percent of an annuity for a term certain, of an income interest for a term certain, and of a remainder interest postponed for a term certain;

(3) Table LN – Values of 1x.

TABLE A

Present value at 6% of an annuity, a life interest or a remainder interest

TABLE A(1) — MALE				TABLE A(2) — FEMALE			
1 Age	2 Annuity	3 Life Estate	4 Remainder	1 Age	2 Annuity	3 Life Estate	4 Remainder
0	15.6175	.93705	.06295	0	15.8972	.95383	.04617
1	16.0362	.96217	.03783	1	16.2284	.97370	.02630
2	16.0283	.96170	.03830	2	16.2287	.97372	.02628
3	16.0089	.96053	.03947	3	16.2180	.97308	.02692
4	15.9841	.95905	.04095	4	16.2029	.97217	.02783
5	15.9553	.95732	.04268	5	16.1850	.97110	.02890
6	15.9233	.95540	.04460	6	16.1648	.96989	.03011
7	15.8885	.95331	.04669	7	16.1421	.96853	.03147
8	15.8508	.95105	.04895	8	16.1172	.96703	.03297
9	15.8101	.94861	.05139	9	16.0901	.96541	.03459
10	15.7663	.94598	.05402	10	16.0608	.96365	.03635
11	15.7194	.94316	.05684	11	16.0293	.96176	.03824
12	15.6698	.94019	.05981	12	15.9958	.95975	.04025
13	15.6180	.93708	.06292	13	15.9607	.95764	.04236
14	15.5651	.93391	.06609	14	15.9239	.95543	.04457
15	15.5115	.93069	.06931	15	15.8856	.95314	.04686
16	15.4576	.92746	.07254	16	15.8460	.95076	.04924
17	15.4031	.92419	.07581	17	15.8048	.94829	.05171
18	15.3481	.92089	.07911	18	15.7620	.94572	.05428
19	15.2918	.91751	.08249	19	15.7172	.94303	.05697
20	15.2339	.91403	.08597	20	15.6701	.94021	.05979
21	15.1744	.91046	.08954	21	15.6207	.93724	.06276
22	15.1130	.90678	.09322	22	15.5687	.93412	.06588
23	15.0487	.90292	.09708	23	15.5141	.93085	.06915
24	14.9807	.89884	.10116	24	15.4565	.92739	.07261
25	14.9075	.89445	.10555	25	15.3959	.92375	.07625
26	14.8287	.88972	.11028	26	15.3322	.91993	.08007
27	14.7442	.88465	.11535	27	15.2652	.91591	.08409
28	14.6542	.87925	.12075	28	15.1946	.91168	.08832
29	14.5588	.87353	.12647	29	15.1208	.90725	.09275
30	14.4584	.86750	.13250	30	15.0432	.90259	.09741

TABLE A--cont.

TABLE A(1) — MALE				TABLE A(2) — FEMALE			
1 Age	2 Annuity	3 Life Estate	4 Remainder	1 Age	2 Annuity	3 Life Estate	4 Remainder
31	14.3528	.86117	.13883	31	14.9622	.89773	.10227
32	14.2418	.85451	.14549	32	14.8775	.89265	.10735
33	14.1254	.84752	.15248	33	14.7888	.88733	.11267
34	14.0034	.84020	.15980	34	14.6960	.88176	.11824
35	13.8758	.83255	.16745	35	14.5989	.87593	.12407
36	13.7425	.82455	.17545	36	14.4975	.86985	.13015
37	13.6036	.81622	.18378	37	14.3915	.86349	.13651
38	13.4591	.80755	.19245	38	14.2811	.85687	.14313
39	13.3090	.79854	.20146	39	14.1663	.84998	.15002
40	13.1538	.78923	.21077	40	14.0468	.84281	.15719
41	12.9934	.77960	.22040	41	13.9227	.83536	.16464
42	12.8279	.76967	.23033	42	13.7940	.82764	.17236
43	12.6574	.75944	.24056	43	13.6604	.81962	.18038
44	12.4819	.74891	.25109	44	13.5219	.81131	.18869
45	12.3013	.73808	.26192	45	13.3781	.80269	.19731
46	12.1158	.72695	.27305	46	13.2290	.79374	.20626
47	11.9253	.71552	.28448	47	13.0746	.78448	.21552
48	11.7308	.70385	.29615	48	12.9147	.77488	.22512
49	11.5330	.69198	.30802	49	12.7496	.76498	.23502
50	11.3329	.67997	.32003	50	12.5793	.75476	.24524
51	11.1308	.66785	.33215	51	12.4039	.74423	.25577
52	10.9267	.65560	.34440	52	12.2232	.73339	.26661
53	10.7200	.64320	.35680	53	12.0367	.72220	.27780
54	10.5100	.63060	.36940	54	11.8436	.71062	.28938
55	10.2960	.61776	.38224	55	11.6432	.69859	.30141
56	10.0777	.60466	.39534	56	11.4353	.68612	.31388
57	9.8552	.59131	.40869	57	11.2200	.67320	.32680
58	9.6297	.57778	.42222	58	10.9980	.65988	.34012
59	9.4028	.56417	.43583	59	10.7703	.64622	.35378
60	9.1753	.55052	.44948	60	10.5376	.63226	.36774
61	8.9478	.53687	.46313	61	10.3005	.61803	.38197
62	8.7202	.52321	.47679	62	10.0587	.60352	.39648
63	8.4924	.50954	.49046	63	9.8118	.58871	.41129
64	8.2642	.49585	.50415	64	9.5592	.57355	.42645
65	8.0353	.48212	.51788	65	9.3005	.55803	.44197
66	7.8060	.46836	.53164	66	9.0352	.54211	.45789
67	7.5763	.45458	.54542	67	8.7639	.52583	.47417
68	7.3462	.44077	.55923	68	8.4874	.50924	.49076
69	7.1149	.42689	.57311	69	8.2068	.49241	.50759
70	6.8823	.41294	.58706	70	7.9234	.47540	.52460
71	6.6481	.39889	.60111	71	7.6371	.45823	.54177
72	6.4123	.38474	.61526	72	7.3480	.44088	.55912
73	6.1752	.37051	.62949	73	7.0568	.42341	.57659
74	5.9373	.35624	.64376	74	6.7645	.40587	.59413
75	5.6990	.34194	.65806	75	6.4721	.38833	.61167
76	5.4602	.32761	.67239	76	6.1788	.37073	.62927
77	5.2211	.31327	.68673	77	5.8845	.35307	.64693
78	4.9825	.29895	.70105	78	5.5910	.33546	.66454
79	4.7469	.28481	.71519	79	5.3018	.31811	.68189
80	4.5164	.27098	.72902	80	5.0195	.30117	.69883

TABLE A--cont.

TABLE A(1) — MALE				TABLE A(2) — FEMALE			
1 Age	2 Annuity	3 Life Estate	4 Remainder	1 Age	2 Annuity	3 Life Estate	4 Remainder
81	4.2955	.25773	.74227	81	4.7482	.28489	.71511
82	4.0879	.24527	.75473	82	4.4892	.26935	.73065
83	3.8924	.23354	.76646	83	4.2398	.25439	.74561
84	3.7029	.22217	.77783	84	3.9927	.23956	.76044
85	3.5117	.21070	.78930	85	3.7401	.22441	.77559
86	3.3259	.19955	.80045	86	3.5016	.21010	.78990
87	3.1450	.18870	.81130	87	3.2790	.19674	.80326
88	2.9703	.17822	.82178	88	3.0719	.18431	.81569
89	2.8052	.16831	.83169	89	2.8808	.17285	.82715
90	2.6536	.15922	.84078	90	2.7068	.16241	.83759
91	2.5162	.15097	.84903	91	2.5502	.15301	.84699
92	2.3917	.14350	.85650	92	2.4116	.14470	.85530
93	2.2801	.13681	.86319	93	2.2901	.13741	.86259
94	2.1802	.13081	.86919	94	2.1839	.13103	.86897
95	2.0891	.12535	.87465	95	2.0891	.12535	.87465
96	1.9997	.11998	.88002	96	1.9997	.11998	.88002
97	1.9145	.11487	.88513	97	1.9145	.11487	.88513
98	1.8331	.10999	.89001	98	1.8331	.10999	.89001
99	1.7554	.10532	.89468	99	1.7554	.10532	.89468
100	1.6812	.10087	.89913	100	1.6812	.10087	.89913
101	1.6101	.09661	.90339	101	1.6101	.09661	.90339
102	1.5416	.09250	.90750	102	1.5416	.09250	.90750
103	1.4744	.08846	.91154	103	1.4744	.08846	.91154
104	1.4065	.08439	.91561	104	1.4065	.08439	.91561
105	1.3334	.08000	.92000	105	1.3334	.08000	.92000
106	1.2452	.07471	.92520	106	1.2452	.07471	.92529
107	1.1196	.06718	.93282	107	1.1196	.06718	.93282
108	.9043	.05426	.94574	108	.9043	.05426	.94574
109	.4717	.02830	.97170	109	.4717	.02830	.97170

TABLE B

Present worth at 6% of an annuity for a term certain, of an income interest for a term certain, and of a remainder interest postponed for a term certain

1 Number of Years	2 Annuity	3 Term Certain	4 Remainder
1	0.9434	.056604	.943396
2	1.8334	.110004	.889996
3	2.6730	.160381	.839619
4	3.4651	.207906	.792094
5	4.2124	.252742	.747258
6	4.9173	.295039	.704961
7	5.5824	.334943	.665057
8	6.2098	.372588	.627412
9	6.8017	.408102	.591898

TABLE B--cont.

1 Number of Years	2 Annuity	3 Term Certain	4 Remainder
10	7.3601	.441605	.558395
11	7.8869	.473212	.526788
12	8.3838	.503031	.496969
13	8.8527	.531161	.468839
14	9.2950	.557699	.442301
15	9.7122	.582735	.417265
16	10.1059	.606354	.393646
17	10.4773	.628636	.371364
18	10.8276	.649656	.350344
19	11.1581	.669487	.330513
20	11.4699	.688195	.311805

TABLE B--cont.

1 Number of Years	2 Annuity	3 Term Certain	4 Remainder
21	11.7641	.705845	.294155
22	12.0416	.722495	.277505
23	12.3034	.738203	.261797
24	12.5504	.753021	.246979
25	12.7834	.767001	.232999
26	13.0032	.780190	.219810
27	13.2105	.792632	.207368
28	13.4062	.804370	.195630
29	13.5907	.815443	.184557
30	13.7648	.825890	.174110
31	13.9391	.835745	.164255
32	14.0840	.845043	.154957
33	14.2302	.853814	.146186
34	14.3681	.862088	.137912
35	14.4982	.869895	.130105
36	14.6210	.877259	.122741
37	14.7368	.884207	.115793
38	14.8460	.890761	.109239
39	14.9491	.896944	.103056
40	15.0463	.902778	.097222
41	15.1380	.908281	.091719
42	15.2245	.913473	.086527
43	15.3062	.918370	.081630
44	15.3832	.922991	.077009
45	15.4558	.927350	.072650
46	15.5244	.931462	.068538
47	15.5890	.935342	.064653
48	15.6500	.939002	.060998
49	15.7076	.942454	.057546
50	15.7619	.945712	.054288
51	15.8131	.948785	.051215
52	15.8614	.951684	.048316
53	15.9070	.954418	.045582
54	15.9500	.956999	.043001
55	15.9905	.959433	.040567
56	16.0288	.961729	.038271
57	16.0649	.963895	.036105
58	16.0990	.965939	.034061
59	16.1311	.967867	.032133
60	16.1614	.969686	.030314

TABLE LN -- Special Actuarial Computations
Values of 1x

Age X	Total Males	Total Females
(1)	(2)	(3)
0	100000.	100000.
1	97087.	97744.
2	96911.	97589.
3	96800.	97498.
4	96714.	97429.
5	96643.	97371.
6	96580.	97320.
7	96522.	97277.
8	96469.	97238.
9	96420.	97204.
10	96375.	97173.
11	96333.	97144.
12	96290.	97116.
13	96242.	97086.
14	96182.	97053.
15	96107.	97016.
16	96014.	96973.
17	95905.	96925.
18	95779.	96872.
19	95641.	96815.
20	95491.	96756.
21	95330.	96694.
22	95158.	96629.
23	94981.	96561.
24	94803.	96491.
25	94631.	96418.
26	94466.	96342.
27	94306.	96262.
28	94148.	96179.
29	93990.	96090.
30	93826.	95996.
31	93656.	95894.
32	93479.	95785.
33	93293.	95668.
34	93097.	95543.
35	92889.	95409.
36	92666.	95265.
37	92426.	95110.
38	92166.	94942.
39	91883.	94759.
40	91572.	94560.
41	91230.	94343.
42	90854.	94106.
43	90441.	93848.
44	89988.	93568.
45	89492.	93265.
46	88950.	92938.
47	88359.	92583.
48	87709.	92199.

TABLE LN -- Special Actuarial Computations--cont.

Age X	Total Males	Total Females
(1)	(2)	(3)
49	86992.	91781.
50	86199.	91327.
51	85325.	90833.
52	94369.	90297.
53	83333.	89720.
54	82222.	89104.
55	81039.	88451.
56	79783.	87758.
57	78451.	87020.
58	77032.	86227.
59	75513.	85367.
60	73887.	84430.
61	72151.	83409.
62	70308.	82302.
63	68361.	81108.
64	66316.	79828.
65	64177.	78462.
66	61947.	77008.
67	59631.	75457.
68	57235.	73798.
69	54770.	72016.
70	52244.	70100.
71	49665.	68047.
72	47040.	65856.
73	44375.	63521.
74	41676.	61035.
75	38950.	58394.
76	36210.	55610.
77	33468.	52693.
78	30732.	49635.
79	28006.	46424.
80	25300.	43063.
81	22619.	39555.
82	19983.	35939.
83	17439.	32290.
84	15045.	38707.
85	12845.	25269.
86	10819.	21877.
87	8979.9	28593.
88	7332.7	15490.
89	5875.8	12628.
90	4608.7	10056.
91	3534.0	7810.9
92	2648.5	5910.7
93	1938.9	4356.1
94	1386.7	3128.5
95	969.97894	2193.0122
96	665.24779	1504.0497
97	446.27929	1008.9868

TABLE LN -- Special Actuarial Computations--cont.

Age X	Total Males	Total Females
(1)	(2)	(3)
98	292.53610	661.39091
99	187.17106	423.17250
100	116.76480	263.99194
101	70.944391	160.39721
102	41.934196	94.808454
103	24.086138	54.456022
104	13.428065	30.359329
105	7.2577386	16.408923
106	3.7985839	8.5881668
107	1.9229289	4.3475238
108	0.94040163	2.1261413
109	0.44377201	1.0033181
110	-0-	-0-

[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.]

WAC 458-57-180 Transfers prior to death--Computation of time--Valuation--Contemplation. (1) In the case of a decedent dying after May 29, 1979:

(a) A gift made after this date and within three years of death is includable in the decedent's estate if the transfer required a Gift Tax Return to be filed.

(b) A gift made prior to May 30, 1979, is includable in the decedent's estate if made in contemplation of death.

(2) The value of all property which is includable in the decedent's estate which was transferred during the three-year period ending on the date of decedent's death shall be the value of the property on the date of death of the decedent, plus the amount of any state and Federal gift tax paid thereon.

NOTE: See WAC 458-57-440(12) Contents of Return - Transfers Prior to Death and RCW 83.04.010(2).

[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.]

WAC 458-57-190 Deductions. (1) In general. Only those items which are specifically referred to in RCW 83.04.013 and 83.24.035 are deductible. They must be listed either on the Inheritance Tax Return or by appropriate schedules attached thereto.

(2) Taxes. These include all prior and current years' taxes, including real estate, assessed and that remain unpaid as of the date of death of the decedent.

(3) Debts. All debts owing by the decedent at the date of death are deductible: *Provided*, That the debts founded upon a promise or agreement shall be only allowed to the extent that they were contracted, bona fide, and for full and adequate consideration in money or

money's worth. The term "deductions from the gross value of the property passing" shall mean that the decedent's community one–half of the debts owed at decedent's death shall be deducted from decedent's one–half of the community estate passing to decedent's heirs. Community debts are chargeable as deductions first against the community property of the decedent and the surviving spouse. Only after the community property is exhausted may community debts be charged against decedent's separate estate. The separate debts of the decedent are primarily a charge upon the separate property until that fund is exhausted. Any balance of separate debts shall then be allowed as a deduction against decedent's one–half of the community property.

(4) Funeral and burial. The obligation of the personal representative to dispose of the remains of the decedent in a dignified manner and to provide a monument or crypt for a deceased person is a primary obligation, and the amount of such expense is to be deducted, in the case of community property, from the decedent's one–half. The amount of such expense shall be reasonable.

(5) Expenses of administering estate.

(a) In general. The other amounts deductible from a decedent's estate are limited to such fees as are actually and necessarily incurred in the administration of the decedent's estate; that is, in the collection of assets, payment of debts, and distribution of property to the persons entitled to it. The fees contemplated in the law are those only as attend the settlement of an estate and the transfer of the property of the estate to individual beneficiaries or to a trustee, whether the trustee is the personal representative or some other person. Fees incurred in settling the decedent's interest in property or vesting good title to property in the beneficiaries are deductible. Fees not coming within this description but incurred on behalf of the transferees are not deductible. Fees incurred not essential to the proper settlement of the estate, but incurred for the individual benefit of the heirs, legatees, or devisees, may not be taken as deductions. Administration fees include personal representative's fees, attorney's fees, appraiser's fees, accountant's fees, and court costs. The first two are considered separately below.

(b) Personal representative's fees.

(i) The personal representative (in a probated estate) may deduct his reasonable fees in such an amount as has actually been paid, or in an amount which at the time of filing the return may reasonably be expected to be paid, but no deduction may be taken if no fees are to be collected. If the deduction is allowed in advance of payment and payment is thereafter waived, it shall be the duty of the personal representative to notify the director and to pay the resulting tax, together with interest.

(ii) A bequest or devise to the personal representative in lieu of fees is not deductible. If, however, the decedent fixed by his will the compensation payable to the personal representative for services to be rendered in the administration of the estate, deduction may be taken to the extent that the amount does not exceed the usual and customary charge in the locality for similar services.

(iii) Except to the extent that a trustee is in fact performing services in connection with state and Federal death taxes or with respect to the estate which would normally be performed by a personal representative, amounts paid as trustee's fees do not constitute deductible expenses.

(c) Attorney's fees.

(i) The personal representative, in filing the return, may deduct such an amount of attorney's fees as are reasonable and have actually been paid, or an amount which at the time of filing may reasonably be expected to be paid. If on the final accounting the fees claimed have been disallowed in whole or in part, the deficiency in tax as a result thereof shall be paid.

(ii) A deduction for attorney's fees incurred in contesting an asserted deficiency or in prosecuting a claim for refund shall be claimed at the time the deficiency is contested or the refund claim is prosecuted. A deduction for reasonable attorney's fees actually paid in contesting an asserted deficiency or in prosecuting a claim for refund made within the time allowed by law will be allowed even though the deduction, as such, was not claimed in the Return or in the claim for refund.

(iii) Attorney's fees incurred by beneficiaries incident to litigation as to their respective interests do not constitute a proper deduction, inasmuch as expenses of this character are incurred on behalf of the beneficiaries personally.

The application of this subsection may be illustrated by the following examples:

Example 1. In 1970, the decedent made an irrevocable transfer of property to the X Trust Company, as trustee. The instrument of transfer provided that the trustee should pay the income from the property to the decedent for the duration of his life and, upon his death, distribute the corpus of the trust among designated beneficiaries. The property was included in the decedent's gross estate. Three months after the date of death, the trustee distributed the trust corpus among the beneficiaries, except for $6,000 which it withheld. The amount withheld represented $5,000 which it retained as trustee's fees in connection with the termination of the trust and $1,000 which it had paid to an attorney for representing it in connection with the termination. Under these circumstances, the estate is allowed a deduction of $6,000 if the fees are reasonable.

Example 2. In 1975, the decedent made an irrevocable transfer of property to Y Trust Company, as trustee. The instrument of transfer provided that the trustee should pay the income from the property to the decedent during his life. If the decedent's wife survived him, the trust was to continue for the duration of her life, with Y Trust Company and the decedent's son as co–trustees, and with income payable to the decedent's wife for the duration of her life. Upon the death of both the decedent and his wife, the corpus is to be distributed among designated remaindermen. The decedent was survived by his wife. The property was included in the decedent's gross estate. The trustee made an accounting to the court as of the date of the decedent's death. Following the death of

the decedent, a controversy arose among the remaindermen as to their respective rights under the instrument of transfer, and a suit was brought in court to which the trustee was made a party. As a part of the accounting, the court approved the following expenses which the trustee paid within three years following the date of death: $10,000, trustee's fees; $5,000, accountant's fees; $25,000, attorney's fees; and $2,500, representing fees paid to the guardian of a remainderman who was a minor. The trustee's fees and accountant's fees were for services in connection with the usual issues involved in a trust accounting as also were one–half of the attorney's and guardian's fees. The remainder of the attorney's and guardian's fees were for services performed in connection with the suit brought by the remaindermen. The amount allowed as a deduction is the $28,750, ($10,000, trustee's fees; $5,000, accountant's fees; $12,500, attorney's fees; and $1,250, guardian's fees) incurred as expenses in connection with the usual issues involved in a trust accounting. The remaining expenses are not allowed as deductions since they were incurred on behalf of the transferees.

Example 3. The decedent died without property, having disposed of all property by an irrevocable trust prior to death, and no personal representative of his estate is appointed, so that it is necessary for the trustee to prepare an Inheritance Tax Return; or, if the trustee required accounting proceedings for its own protection, trustee's, attorney's, and guardian's fees in connection with the inheritance tax or accounting proceedings would be deductible. Deductions incurred under similar circumstances by a surviving joint tenant or the recipient of life insurance proceeds would also be deductible.

(d) If more than fifty percent of the court costs and fees are claimed as deductions from decedent's one–half of the community estate, documentation to support such allocation of the deductions must be provided by the personal representative.

(6) No probate proceedings. Wherever applicable, the foregoing deductions shall be allowed in the determination of tax without probate proceedings. [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.]

WAC 458–57–200 Nondeductible items. Some examples of nondeductible items are:

(1) Federal estate tax.

(2) Those fees of the appraiser, accountant, trustee, executor, or attorney in excess of the usual and customary charge in the locality for similar services.

(3) Costs of insurance premiums during administration, repairs or additions to property, casualty losses, expenses to carry on estate business or trade, expenses incurred in administering assets not includable in the taxable estate, postage, telephone expenses, and mileage.

(4) Income tax obligations of legatees in connection with the testamentary transfer of assets. Such taxes are personal to the legatees, rather than an encumbrance on the 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), § 458–57–200, filed 2/21/80.]

WAC 458–57–210 Exempt entities. (1) In general. In order for a bequest to be exempt from inheritance tax it must come within the provisions of RCW 83.20.010. Some examples where the bequest is not exempt are: (a) A bequest to a cemetery association as such associations are not charitable organizations, (b) bequests to the "Elks" or the "Eagles," since the organizations are not devoted exclusively to charitable or other like work. However, a bequest to one of such organizations to be used only for a specific charitable program, e.g., aid to the mentally retarded, is exempt.

(2) In establishing the right of an estate to the exemption authorized by RCW 83.20.010, the personal representative shall complete the department's "Exemption Affidavit," along with other required documentation, for those organizations which are not clearly exempted by the statute. It should be noted that because an entity is exempt for Federal estate or income tax purposes it is not automatically exempt from state 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), § 458–57–210, filed 2/21/80.]

WAC 458–57–220 Classes of beneficiaries—Heirs. (1) For inheritance tax purposes, the actual relationship and age of the heirs to the decedent must be accurately stated, since this is the basis for determining the applicable tax rates and exemptions. The Class A and Class B relationships cover only those persons specified by the statute. Failure to state age will result in all heirs being treated as though they are age twenty–five or older.

(2) The terms "son–in–law" and "daughter–in–law" are no longer used in the statute. The statute refers to lineal ancestors, descendants and spouses of lineal descendants. To be classified as a Class A heir, the wife (daughter–in–law) or husband (son–in–law) of a deceased lineal descendant must be an un–remarried widow or widower; e.g., a predeceased lineal descendant's spouse will be classified as a Class C heir if the lineal descendant's marital relationship has been severed by divorce, or death and a subsequent remarriage.

(3) (a) An adopted child is a lineal descendant by operation of law. The spouse of an adopted child is therefore a spouse of a lineal descendant. The adopted child is not a legal lineal descendant of his biological parents and is therefore a Class C heir to them.

(b) If the decedent is an adopted child and was over eighteen years of age at the time of the adoption and the legal relationship has not existed for more than five years, the surviving adoptive parent shall not be recognized as a Class A beneficiary.

(4) Stepchildren are Class A heirs and a person who was once a stepchild will continue under that designation, even though the parent by whom the relationship was created has been divorced or has died in the meantime. A spouse of a stepchild shall be treated the same

as a spouse of a natural child or adopted child. Likewise, a spouse of a stepchild's lineal descendant and his or her lineal descendants are Class A heirs. Stepchildren are Class A heirs as to their stepparents only by virtue of RCW 83.08.005. Unless a stepchild is adopted by a stepparent, the Class A relationship as to the biological parents continues to exist.

(5) Class B heirs are decedent's brothers or sisters, or lineal descendants of decedent's brothers or sisters. Half–brothers and half–sisters of the decedent are also in a Class B relationship. Thus, lineal descendants of a half–brother or half–sister are Class B 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.]

WAC 458–57–230 Exemptions--Class A. (1) Only the total sum of any amounts up to the statutory exemption passing to the spouse or minor children of the decedent is exempt. If there is no spouse, the statutory exemption shall be attributable to the minor children of the decedent. The statutory exemption is the total exemption allowable to the spouse or children under this section.

(2) In addition, there is exempt $10,000 for each living minor child of the decedent. This exemption is an automatic exemption for each living child under twenty–five years of age or for any child regardless of age who is incompetent or unable to support himself or herself because of a physical or mental handicap. Proof of said handicap must be by affidavit of a physician currently licensed to practice medicine in the state of Washington attesting to the fact of the handicap.

(3) $10,000 of any amount passing to an adult child (twenty–five years of age or older) of the decedent is exempt.

(4) In addition, $10,000 of any amount passing to the descendants of any deceased child, stepchild, or adopted child as a class, e.g., by their right of representation is exempt.

(5) In determining the exemptions for transfer of property to a surviving spouse or child, if less than an absolute interest in property is transferred to a beneficiary, the interests of the beneficiary shall be actuarially determined in accordance with the provisions of RCW 83.16.020, WAC 458–57–160 and 458–57–170.

Example: Decedent's will bequeathed $200,000 to a trustee to pay the income to his wife (W), age 45, for her life, remainder to their son (S). The factor for the valuation of the life estate is 0.80269. Accordingly, the value of the life estate of W is $160,538 and the value of the remainder to S is $39,462.

The value of property transferred to the surviving spouse and minor child may be aggregated for the purpose of the "spouse and minor child" exemption under RCW 83.08.015.

Example: Decedent's will bequeathed $100,000 to a trustee to pay the income to his wife (W), remainder to their minor son (S). The interests of W and S both qualify for the $100,000 exemption.

Exemptions may be allowed for interests transferred to a surviving spouse, minor child, or adult unless there is a strong probability that the transfers will not be effective. The department will take into account all of the relevant facts and circumstances. If any person has authority to divert the property in whole or in part which is not limited by an agreement with the department (comparable to the agreement referred to in RCW 83.05-.050), an exemption will not be allowed to the extent the property may be diverted.

(6) The exemptions allowed in subsections (1), (3), (4) and (5) of this rule shall not be in excess of the amount actually passing to the heir or 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), § 458–57–230, filed 2/21/80.]

WAC 458–57–240 Exemptions--Classes B and C. (1) $10,000 of any amount passing to Class B shall be exempt if no exemption is allowed for Class A. The Class B exemption is applied to that portion of the total amount passing to Class B which is taxable at the lowest rates.

(2) There is no exemption for Class 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.]

WAC 458–57–250 Exemptions--Aliens. Where the decedent was not a resident of a state or territory of the United States, no exemptions are allowed in any class. The term "resident" shall be construed to mean "domiciliary." [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.]

WAC 458–57–260 Insurance--Exemptions. (1) All insurance on the life of the decedent shall be reported to the department to determine if any portion of it is taxable. RCW 83.16.080 states in part: "The value of property passing shall include the proceeds of policies of life insurance on the life of the decedent . . .". Insurance payable to a decedent's estate, the executor or administrator, or a predeceased beneficiary is taxable as an asset. In these instances the estate is not accorded any exemption for insurance.

(2) Insurance purchased by the payment of premiums with community funds is community property, and each spouse owns an undivided one–half interest in the policy so purchased. Insurance purchased prior to marriage or after marriage with separate funds is separate property.

(3) A policy of life insurance insuring the life of the decedent claimed to be owned by the surviving spouse shall be deemed to be the surviving spouse's separate property if, and only if, the surviving spouse can show by competent evidence that ownership and the premiums were paid with noncommunity funds. In those cases where the insurance is claimed to be the separate property of the surviving spouse a copy of the application for the policy of life insurance must be provided.

(4) The $60,000 insurance exemption is applicable to the decedent's interest in the insurance on his life. Where the insurance is community property, the total shall be divided in half before application of the special exemption.

Example: If there is $120,000 life insurance on the life of the decedent and all of the property is community property, the $120,000 life insurance is not taxable.

(5) Loans against insurance on decedent's life are debts and are deductible in arriving at the net estate for inheritance tax purposes. The loans are treated the same as any other debt, and are deductible. The total face value, less the insurance exemption, is taxable.

Example: The decedent was married and had $200,000 in community life insurance; a loan of $20,000 exists against the insurance policies. The tax is computed on the amount in excess of $120,000 ($60,000 x 2); e.g., $80,000. The $20,000 loan is then included in the deductible items as a debt.

(6) The community one–half of the cash surrender value of insurance on the life of the surviving member of the community is a cash asset and is subject to inheritance tax.

(7) A decedent's ownership interest in insurance on the life of a third party is a cash asset to the extent of its cash surrender value. If the insurance in such an instance is encumbered by a loan, said loan shall be deducted as a debt along with the other debts of the decedent.

(8) Accumulated, post–mortem and terminal dividends, interest accumulated prior to death, and premium refunds included in the proceeds paid in settlement of an insurance policy on decedent's life are not subject to the insurance exemption but are cash assets subject to inheritance tax. Such amounts are taxable items and must be reported on Internal Revenue Service form 712, which may be obtained from the respective insurance company issuing the policy.

(9) If the decedent carried mortgage insurance and it is payable to other than the executor, administrator or representative of the estate, it comes within the life insurance exemption; otherwise, it becomes an asset of the estate and shall be reported as such. The insurance which pays the mortgage on decedent's death shall not affect the amount of the mortgage existing on the date of death which shall be allowed as a deduction for inheritance purposes.

(10) Funeral insurance is treated like any other life insurance and only that portion thereof in excess of the exemption shall be considered as a part of the taxable estate.

(11) Death benefits operate as an offset against funeral and burial costs and are includable in the reported assets. See WAC 458–57–500(4), Social Security Death Benefits.

(12) If the decedent was the owner of an endowment policy or supplemental contract with life insurance features and it was subject to surrender and withdrawal at the option of the deceased, it is a liquid investment and not a life insurance policy and therefore the proceeds are includable for inheritance tax purposes.

(13) Any original war risk insurance policy or a National Service Life Insurance policy shall be treated as war risk insurance and is a separate special insurance exemption apart from the normal insurance exemption.

(14) If life insurance proceeds are payable to more than one class of beneficiary, the exemption shall be prorated as follows:

$$\frac{\text{Amount of insurance to the class}}{\text{Total amount of insurance}} \times \$60{,}000 = \text{Prorated exemption to the class}$$

[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.]

WAC 458–57–270 Prorating of exemptions. (1) When a decedent's estate includes property located in another state not subject to Washington tax, the exemptions to be allowed in Classes A and B shall be prorated. Complete information and valuation of the out–of–state property shall be furnished by a certified copy of the inventory, a copy of the Internal Revenue Service form 706, or an affidavit describing and valuing the property.

(2) When the estate passes entirely to Class C, the out–of–state inventory is not required. However, if Internal Revenue Service form 706 is filed, a copy thereof, as well as a copy of the Internal Revenue Service audit and closing letter, shall be filed with the inheritance tax division.

(3) The formula to be used in prorating the exemption is:

$$\frac{\text{Gross Washington estate (less mortgages)}}{\text{Gross total estate (less all mortgages)}} \times \text{Exemptions} = \text{Exemptions allowed}$$

Example: If a Washington estate consists of $300,000 worth of community property plus $25,000 worth of separate property, and $50,000 worth of separate out–of–state property, the exemption shall be computed as follows (assume two adult surviving children receive the separate property which would entitle the estate to a $120,000 exemption if all property were located in Washington).

$$\frac{1/2 \text{ of } \$300{,}000 + 25{,}000}{1/2 \text{ of } \$300{,}000 + 25{,}000 + 50{,}000} \times \$120{,}000 = \$93{,}333.34 \text{ Prorated exemption}$$

[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.]

WAC 458–57–280 Prorating costs and fees. The debts of the community are community obligations and are allowed as deductions from the community estate. When the estate is partially separate, the probate fees and costs must be prorated between the two estates. The formula for prorating, using the figures from the example in subsection (3) of WAC 458–57–270, is:

$$\frac{\text{Gross Washington community estate}}{\text{Gross Wash. comm. + gross separate estate}} \times \text{Costs \& fees} = \text{Comm. share for deduction}$$

$$\frac{\$300{,}000}{\$325{,}000} \times \$4{,}999.58 = \$4{,}615.00 \text{ Prorated comm. costs and fees}$$

$384.58 Separate costs and fees

The community deductions are then totaled with burial expense and prorated administrative fees, and then deducted from the community estate. The prorated separate deductions are taken from the separate estate.

The computation of tax in the foregoing example is as follows:

	Community	Separate	
Gross Washington	$300,000.00	$25,000.00	
General debts	(1,600.00)		
Prorated costs & fees	(4,615.00)	(384.58)	
Net	$293,785.00	$24,615.42	
	$146,892.50		Decedent's 1/2 net community
	24,615.42		Decedent's net separate
	$171,507.92		Total net for Washington tax
	93,333.34		Prorated exemption (see above)
	6,666.66	@ 4% =	$ 266.67
	71,507.92	@ 7% =	5,005.56
	Total tax		$5,272.23

NOTE: The expenses of probating property in another state are chargeable against that state's portion of the total estate and they shall not be allowed in this state. A decedent's debts are chargeable against his domiciliary estate. When a nonresident has Washington property, the only debts which are deductible are those directly connected with the Washington estate, such as a real estate mortgage or taxes due. Only the expense of probating a nonresident's property may be deducted in the Washington estate. Funeral expenses, etc., are a deduction only in the domiciliary 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), § 458-57-280, filed 2/21/80.]

WAC 458-57-290 Credit for property previously taxed. (1) Credit for property previously taxed is allowable when (a) property in the present estate can be identified with property transferred to a Class A heir (the present decedent) in a prior estate, and (b) the property so identified is passing to a Class A heir in the present estate, and (c) the deaths of the prior decedent and the instant decedent occurred within a five-year period.

(2) No credit shall be allowable unless an inheritance tax was paid to this state on the transfer to the present decedent. When credit for property previously taxed is allowable under the criteria in subsection (1), it is then necessary to trace the property from the first estate into the second, identifying each item of property, giving the gross value of each item as reported in each estate, and setting out the low value for each item. Real estate will be treated as net of mortgage.

(3) Bank accounts shall be reported at the low balance to which a traceable bank account was reduced at any time during the interval between the first death and the death of the present decedent. Where the property traced was community property at the time of the first death, the total of property traced must be reduced to decedent's one-half interest therein before the exemption for property previously taxed is computed.

(4) The credit allowed is applied to reduce the amount of the net second estate, before application of the exemptions.

(5) In computing the credit for property previously taxed, if the basic credit exceeds the amount actually taxed in the first estate, the amount actually taxed in the first estate shall be used as the basic credit in the remainder of the computation of the credit for property previously taxed.

(6) If credit for property previously taxed is desired, a list of the assets appearing in the present estate which were taxed in the first estate must be furnished to the department. The list shall show the values appearing in each estate and shall show the lower value of the two. In the case of bank accounts, the lowest value on or between the dates of death shall be shown. [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.]

WAC 458-57-300 Computation formula--Property previously taxed--Class A.

The formula for computing the credit is expressed as follows where the estate passes entirely to Class A following each death:

(Net first estate less exemptions = Amount actually taxed)

(1) $\frac{\text{Amount actually taxed, 1st estate}}{\text{Net estate, 1st estate}} \times \text{Property traced} = \text{Basic credit}$

(2) $\frac{\text{Basic credit}}{\text{Gross 2nd estate}} \times \text{Deductions in 2nd estate} = \text{Proportion of deductions in 2nd estate chargeable against property traced}$

(3) Subtract line 2 from line 1 = Credit for property previously taxed

$\frac{\text{Basic credit}}{\text{Gross separate 2nd estate}} \times \text{Separate deductions} = \text{Proportion of deductions in 2nd estate chargeable against property traced}$

NOTE: If the present decedent's estate consists of separate and community property and only the separate property is traceable, (2) of the above formula is expressed as (3) above.

Example:	1st Estate	2nd Estate	Lowest
Real estate-home (net of mort.)	$30,000.00	$40,250.00	$30,000.00
Seattle Trust checking a/c	7,911.69	4,000.00	4,000.00
Washington Mutual savings a/c (low balance 3/23/78)	35,125.31	48,344.81	35,125.31
Household furnishings	2,000.00	2,345.00	2,000.00
Organ	1,000.00	900.00	900.00
1966 Ford Thunderbird	700.00	300.00	300.00
North Coast Life Ins. policy	*811.14	**1,273.00	811.14
			$73,136.45
Community one-half traced			36,568.23

* Cash surrender value 1st estate
** Taxable dividends 2nd estate

Computation of credit for the foregoing example with the noted assumptions:

(Assuming the first estate had a net value of $40,072.66 with $15,000 in Class A exemptions and the second estate had a gross value $142,571.51.)

(1) $\frac{\$25,072.66}{\$40,072.66} \times \$36,568.23 = \$22,880.01$ Basic credit

(2) $\frac{\$22,880.01}{\$142,571.51} \times \$10,131.86 = (\$1,625.97)$ Proportion of deductions

(3) $21,254.04 Credit allowed

[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.]

WAC 458-57-310 Computation formula--Property previously taxed--Portion of net second estate to class other than A.

Where a portion of the net second estate passes to a class other than A:

(1) Amount actually taxed 1st estate / Net estate, 1st estate x Property traced = Basic credit

(2) Basic credit / Gross 2nd estate x Deductions of 2nd estate = Proportion of deductions of 2nd estate chargeable against property traced

(3) Subtract line 2 from line 1 = Gross credit to be proportioned

(4) Net 2nd estate to Class A / Total net 2nd estate x Gross credit = Credit for property previously taxed allowed

[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.]

WAC 458-57-320 Computation formula--Property previously taxed--Specific bequest second estate to class other than A.

Where a specific bequest passes from second estate to a class other than A:

(1) Amount actually taxed 1st estate / Net estate, 1st estate x Property traced = Basic credit

(2) Less specific bequest to class other than A / Gross estate to Class A = Gross present estate

(3) Gross estate to Class A (2) / Gross present estate x Basic credit (1) = Proportion of traced property passing to Class A and subject to deductions of 2nd estate

(4) Proportion of traced property (3) / Gross estate to Class A x Deductions of 2nd estate = Proportion of deductions of 2nd estate attributable to property traced

(5) Subtract line 4 from line 3 = 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), § 458-57-320, filed 2/21/80.]

WAC 458-57-330 Computation formula--Property previously taxed--Specific bequest and portion of net second estate to class other than A.

Where a specific bequest and a portion of the net second estate passes to a class other than A:

(1) Amount actually taxed 1st estate / Net estate, 1st estate x Property traced = Basic credit

(2) Less specific bequest to class other than A / Balance of gross estate = Gross present estate

(3) Balance of gross estate (2) / Gross present estate (2) x Basic credit (1) = Proportion of traced property subject to debts and residual proportionment

(4) Proportion of traced property (3) / Balance of gross estate (2) x Deductions of 2nd estate = Proportion of deductions of second estate attributable to property traced

(5) Subtract line 4 from line 3 = Gross credit to be proportioned

(6) Net second estate to Class A / Net second estate less specifics to class other than A x Gross credit = Allowable 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), § 458-57-330, filed 2/21/80.]

WAC 458-57-340 Federal credit for death taxes. (1) In estates where there is allowed a credit for state death taxes by the Internal Revenue Code, and the total state tax paid is less than the credit available, the state tax shall be increased to the allowed credit. In those instances where the estate has property and has paid death taxes in more than one state, the credit shall be apportioned on the basis of each state's respective share of the gross value of the estate reported for Federal purposes.

(2) When there is a deferred tax as a result of a life estate and the Federal credit for state death tax exceeds the Washington tax presently due, payment must be made to the Federal credit amount, otherwise a loss of this credit may result.

(3) The term "gross estate" means the total of all assets less any mortgages outstanding against the real property.

(4) Example: Washington assets total $320,000, out-of-state assets total $140,000, Federal credit of $8,720.

Washington assets / Total assets x Federal credit = Washington's share of Federal credit

$320,000 / 460,000 x $8,720 = $6,066.09

Therefore, if Washington's normal tax due, because of exemptions, is below $6,066.09, the difference shall be remitted to bring the total to the prorated share of the credit.

(5) For purposes of this administrative rule, the values as finally determined by the Internal Revenue Service shall be controlling. [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.]

WAC 458-57-350 Payment of tax. (1) It is the duty of the personal representative to see that all of the inheritance tax is paid. All tax imposed by the inheritance tax law shall be paid to the Department of Revenue by the person or fiduciary liable for the tax. When such person or fiduciary fails to make the payment required, all heirs, legatees, devisees, executors, trustees, grantees, donees, or joint tenants, are respectively liable for any and all taxes and interest due to the extent of the value of the property received by such persons.

(2) Upon payment in full of the tax found to be due, together with any interest that is charged, the department will issue a release, the original of which should be

forwarded to the Clerk of the Court in the county wherein the estate is being probated. In those cases wherein the tax is determined without probate, the original and one copy of the release and consent to transfer shall be forwarded by the department to the taxpayer or his attorney. The original should be recorded in the office of the County Auditor wherein the property is located and the other copy should be retained by the taxpayer. The Department of Revenue shall furnish only two copies of the release in nonprobated estates. When additional copies of a release in a nonprobate estate are desired, copies of such release can be provided by the County Auditor and may be obtained from the County Auditor's office where the original was recorded.

(3) If the inheritance tax is not paid in full by the legatee or the personal representative of the decedent, it shall be a lien upon the gross estate of the decedent for ten, or in the case of qualified use fifteen, years commencing from the date of the decedent's death. The inheritance tax is imposed against, and may be collected from, property of every kind which was owned by any decedent domiciled within the state of Washington at the time of his death, even though the property of said decedent so domiciled may be situated outside of the state of Washington. There is excepted from the lien that portion of the expenses and charges of the estate which are necessary for administration and which have been allowed by the court.

(4) In those cases where there is litigation pending and as a consequence the final tax cannot be determined, the ten-year period referred to in the immediately preceding subsection shall be extended for the period during which litigation is pending.

(5) The inheritance tax lien attaches immediately upon the death of the decedent, and a personal representative shall not be discharged from his liability, nor may a decree of distribution be entered until a receipt showing that the inheritance tax has been paid in full has been filed with the court, or a consent to distribution has been issued by the department.

(6) If an estate is not probated and the heirs or personal representative do not pay the inheritance tax when due and the department subsequently files findings in Superior Court indicating the amount of tax due and the heirs or personal representative fail to respond to the department, they thereby waive their right to appeal the valuation to the Board of Tax Appeals. [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.]

WAC 458-57-360 Payment of tax from residue--Tax on tax. (1) When the inheritance tax on a specific bequest is to be paid from the residue of an estate, it shall be treated as a bequest in the amount of the specific bequest plus a bequest in an amount sufficient to pay the tax properly chargeable to the entire bequest when so calculated. When the tax is computed upon the sum so arrived at and deducted therefrom, the remainder is the amount of the legacy which, by the terms of the Will, is to be received by the legatee free from tax.

(2) Application of the above can be illustrated by the following examples and with reference to the tax on tax tables provided in this rule.

(a) Where a specific bequest to Class B – Residue to C

$25,000.00 Bequest			
806.45 Increase for tax (table M, line 2)		$25,000 – 19,600 = Factor	$5,400.00 x .075268
$25,806.45 Total to B			$ 406.45
10,000.00 Exempt		Plus base tax	400.00
10,000.00 @ 4% =	$400.00	Increase	$ 806.45
5,806.45 @ 7% =	406.45		
	$806.45	Class B tax	

(b) Where a specific bequest to Class C – Residue to another class

$45,000.00 Bequest			
6,875.00 Increase for tax (table N, line 3)		$45,000 – 43,500 = Factor	$1,500.00 x .25000
$51,875.00 Total to C			$ 375.00
20,000.00 @ 10% =	$2,000	Plus base tax	6,500.00
30,000.00 @ 15% =	4,500		
1,875.00 @ 20% =	375	Increase	$6,875.00
	$6,875	Class C tax	

(3) TAX ON TAX FOR DEATHS OCCURRING AFTER MAY 29, 1979

Table A
Class A – Tax On Tax – $10,000 Exemption

From	To	Base Tax	Factor
exempt	24,850	-0-	plus .010101 of all over exemption
24,850	49,350	150	plus .020408 of all over 24,850
49,350	73,600	650	plus .030928 of all over 49,350
73,600	97,600	1,400	plus .041667 of all over 73,600
97,600	190,600	2,400	plus .075268 of all over 97,600
190,600	463,600	9,400	plus .098901 of all over 190,600
463,600	up	36,400	plus .111111 of all over 463,600

Table B
Class A – Tax On Tax – $20,000 Exemption

From	To	Base Tax	Factor
20,000	24,950	-0-	plus .010101 of all over 20,000
24,950	49,450	50	plus .020408 of all over 24,950
49,450	73,700	550	plus .030928 of all over 49,450
73,700	97,700	1,300	plus .041667 of all over 73,700
97,700	190,700	2,300	plus .075268 of all over 97,700
190,700	463,700	9,300	plus .098901 of all over 190,700
463,700	up	36,300	plus .111111 of all over 463,700

Table C
Class A – Tax On Tax – $30,000 Exemption

From	To	Base Tax	Factor
30,000	49,600	-0-	plus .020408 of all over 30,000
49,600	73,850	400	plus .030928 of all over 49,600
73,850	97,850	1,150	plus .041667 of all over 73,850
97,850	190,850	2,150	plus .075268 of all over 97,850
190,850	463,850	9,150	plus .098901 of all over 190,850
463,850	up	36,150	plus .111111 of all over 463,850

Table D
Class A – Tax On Tax – $40,000 Exemption

From	To	Base Tax	Factor
40,000	49,800	–0–	plus .020408 of all over 40,000
49,800	74,050	200	plus .030928 of all over 49,800
74,050	98,050	950	plus .041667 of all over 74,050
98,050	191,050	1,950	plus .075268 of all over 98,050
191,050	464,050	8,950	plus .098901 of all over 191,050
464,050	up	35,950	plus .111111 of all over 464,050

Table E
Class A – Tax On Tax – $50,000 Exemption

From	To	Base Tax	Factor
50,000	74,250	–0–	plus .030928 of all over 50,000
74,250	98,250	750	plus .041667 of all over 74,250
98,250	191,250	1,750	plus .075268 of all over 98,250
191,250	464,250	8,750	plus .098901 of all over 191,250
464,250	up	35,750	plus .111111 of all over 464,250

Table F
Class F – Tax On Tax – $60,000 Exemption

From	To	Base Tax	Factor
60,000	74,550	–0–	plus .030928 of all over 60,000
74,550	98,550	450	plus .041667 of all over 74,550
98,550	191,550	1,450	plus .075268 of all over 98,550
191,550	464,550	8,450	plus .098901 of all over 191,550
464,550	up	35,450	plus .111111 of all over 464,550

Table G
Class A – Tax On Tax – $70,000 Exemption

From	To	Base Tax	Factor
70,000	74,850	–0–	plus .030928 of all over 70,000
74,850	98,850	150	plus .041667 of all over 74,850
98,850	191,850	1,150	plus .075268 of all over 98,850
191,850	464,850	8,150	plus .098901 of all over 191,850
464,850	up	35,150	plus .111111 of all over 464,850

Table H
Class A – Tax On Tax – $100,000 Exemption

From	To	Base Tax	Factor
100,000	193,000	–0–	plus .075268 of all over 100,000
193,000	466,000	7,000	plus .098901 of all over 193,000
466,000	up	34,000	plus .111111 of all over 466,000

Table I
Class A – Tax On Tax – $110,000 Exemption

From	To	Base Tax	Factor
110,000	193,700	–0–	plus .075268 of all over 110,000
193,700	466,700	6,300	plus .098901 of all over 193,700
466,700	up	33,300	plus .111111 of all over 466,700

Table J
Class A – Tax On Tax – $120,000 Exemption

From	To	Base Tax	Factor
120,000	194,400	–0–	plus .075268 of all over 120,000
194,400	467,400	5,600	plus .098901 of all over 194,400
467,400	up	32,600	plus .111111 of all over 467,400

Table K
Class A – Tax On Tax – $130,000 Exemption

From	To	Base Tax	Factor
130,000	195,100	–0–	plus .075268 of all over 130,000
195,100	468,100	4,900	plus .098901 of all over 195,100
468,100	up	31,900	plus .111111 of all over 468,100

Table L
Class B – Tax On Tax

From	To	Base Tax	Factor
$ –0–	9,700	–0–	plus .030928 of all over –0–
9,700	19,300	300	plus .041667 of all over 9,700
19,300	56,500	700	plus .075268 of all over 19,300
56,500	92,500	3,500	plus .111111 of all over 56,500
92,500	177,500	7,500	plus .176471 of all over 92,500
177,500	up	22,500	plus .250000 of all over 177,500

Table M
Class B – Tax On Tax
(When Class B Entitled to $10,000 Exemption)

From	To	Base Tax	Factor
$ 10,000	19,600	–0–	plus .041667 of all over 10,000
19,600	56,800	400	plus .075268 of all over 19,600
56,800	92,800	3,200	plus .111111 of all over 56,800
92,800	177,800	7,200	plus .176471 of all over 92,800
177,800	up	22,200	plus .250000 of all over 177,800

Table N
Class C – Tax On Tax

From	To	Base Tax	Factor
$ –0–	18,000	–0–	plus .111111 of all over –0–
18,000	43,500	2,000	plus .176471 of all over 18,000
43,500	83,500	6,500	plus .250000 of all over 43,500
83,500	up	16,500	plus .333333 of all over 83,500

[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.]

WAC 458–57–370 Deferral of tax--Power of appointment--Minimum and maximum tax--Secured tax. (1) Under the statutes permitting powers of appointment, two computations of the tax are necessary. A minimum tax shall be computed based on the probability of devolution of the appointive property. The maximum, or the greatest possible tax, is computed on the possibility that the property will be appointed to Class C. The difference shall then be secured: *Provided, however,* That if a written agreement is entered into pursuant to RCW 83.05.050 limiting the power to someone other than Class C, the tax shall be recomputed and may be deferred and secured as in other cases. Once the written agreement is entered into, it shall not affect the deferral of the tax otherwise available to the estate.

NOTE: See RCW 64.24.010 et seq. relating to releases of powers of appointment.

(2) The written agreement referred to in subsection (1) above must be acknowledged under oath by the remaindermen and the donee of the power in substantially the following form with a duplicate original thereof being filed with the department:

We, ----------, ----------, ----------, ----------, being the remaindermen named in the foregoing agreement as a result of ---------- desiring to exercise and limit (his) (her) power of appointment under the terms of the Will of ---------- do hereby agree to the terms thereof and do agree to be bound thereby.

State of Washington)
) ss
County of ----------)

On this day personally appeared ----------, ----------, ----------, ----------, ----------, to me known to be the individual(s) described in and who executed the within and foregoing instrument and acknowledged that (he) (she) (they) signed the same as (his) (her) (their) free and voluntary act and deed for the uses and purposes therein mentioned.

Given under my hand and official seal this ----- day of ----------, 19--.

Notary Public in and for the state of Washington residing at ----------

(3) Any personal representative desiring to defer inheritance tax must make the election before the tax due date and file a copy of his election with the department by the tax due date. A protective election may be filed.

(4) Any tax deferred draws interest at the rate of four percent per annum and shall be paid to the department annually. The interest is computed from the date the tax is due, that is, nine months after the date of death. In the event that an audit of the Estate Tax Return (Internal Revenue Service form 706) by the Internal Revenue Service results in an increased valuation of the assets of the estate, the resulting increase in inheritance tax due shall be computed and the increase in deferrable tax shall draw interest from the initial due date of the tax.

In the event any interest is not paid within thirty days after notice by the department, the total tax and interest immediately becomes due and payable.

(5) When a remainderman's tax is to be deferred under RCW 83.16.020 or the tax is to be secured under RCW 83.05.050, a copy of the Internal Revenue Service audit and of the Estate Tax Closing Letter shall be forwarded to the inheritance tax division within thirty days of their receipt by the personal representative. The inheritance tax division shall then notify the estate of its final inheritance tax computation, which shall include a statement of the amount to be secured.

(6) Security for the payment of the deferred tax must be posted with the inheritance tax division within thirty days of the receipt of the final inheritance tax computation or receipt of the Internal Revenue Service Estate Tax Closing Letter, whichever is later. Acceptable security for the deferred or secured tax is limited to:

(a) A surety company bond;

(b) A Washington bank's corporate guarantee;

(c) A blocked account in a Federally insured financial institution, confirmed by said institution in writing.

(7) In those cases where the entire amount of tax is paid even though a portion could have been deferred, refunds will not be allowed as the tax has not actually been overpaid; deferral is a privilege which must be requested prior to the payment of the 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.]

WAC 458-57-380 Interest--Penalties. (1) Inheritance tax accrues as of the date of death, and is payable without interest until nine months after the date of death. Interest at eight percent per annum attaches to any tax due and unpaid nine months after the date of death. If the payment of the tax is received by the inheritance tax division after the due date, interest will be computed from the due date to date of receipt of the tax and a statement forwarded for said amount. The inheritance tax release will not be issued in such cases until the total amount of tax and interest has been paid.

(2) The pendency of litigation involving the amount of tax due, either directly or indirectly, shall toll the interest during the time necessarily consumed by such litigation, to a maximum of three years: *Provided, however,* That a lis pendens has been filed by one of the parties with the County Auditor and the department provided with a photocopy of said lis pendens reflecting the County Auditor's receiving number. The minimum tax due in any event shall be paid within nine months from the date of death. The interest shall be tolled only as to that portion of the tax which depends upon the outcome of the litigation. [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.]

WAC 458-57-390 Interest on unpaid tax. The interest on any unpaid tax is computed on the basis of the following table:

8% INTEREST TABLE

DAY OF MONTH	1-30 DAYS	31-60 DAYS	61-90 DAYS	91-120 DAYS	121-150 DAYS	151-180 DAYS	181-210 DAYS	211-240 DAYS	241-270 DAYS	271-300 DAYS	301-330 DAYS	331-360 DAYS
1	.00022	.00689	.01356	.02022	.02689	.03356	.04022	.04689	.05356	.06022	.06689	.07356
2	.00044	.00711	.01378	.02044	.02711	.03378	.04044	.04711	.05378	.06044	.06711	.07378
3	.00067	.00733	.01400	.02067	.02733	.03400	.04067	.04733	.05400	.06067	.06733	.07400
4	.00089	.00756	.01422	.02089	.02756	.03422	.04089	.04756	.05422	.06089	.06756	.07422
5	.00111	.00778	.01444	.02111	.02778	.03444	.04111	.04778	.05444	.06111	.06778	.07444
6	.00133	.00800	.01467	.02133	.02800	.03467	.04133	.04800	.05467	.06133	.06800	.07467
7	.00156	.00822	.01489	.02156	.02822	.03489	.04156	.04822	.05489	.06156	.06822	.07489
8	.00178	.00844	.01511	.02178	.02844	.03511	.04178	.04844	.05511	.06178	.06844	.07511
9	.00200	.00867	.01533	.02200	.02867	.03533	.04200	.04867	.05533	.06200	.06867	.07533
10	.00222	.00889	.01556	.02222	.02889	.03556	.04222	.04889	.05556	.06222	.06889	.07556
11	.00244	.00911	.01578	.02244	.02911	.03578	.04244	.04911	.05578	.06244	.06911	.07578
12	.00267	.00933	.01600	.02267	.02933	.03600	.04267	.04933	.05600	.06267	.06933	.07600
13	.00289	.00956	.01622	.02289	.02956	.03622	.04289	.04956	.05622	.06289	.06956	.07622
14	.00311	.00978	.01644	.02311	.02978	.03644	.04311	.04978	.05644	.06311	.06978	.07644
15	.00333	.01000	.01667	.02333	.03000	.03667	.04333	.05000	.05667	.06333	.07000	.07667
16	.00356	.01022	.01689	.02356	.03022	.03689	.04356	.06022	.05689	.06356	.07022	.07689
17	.00378	.01044	.01711	.02378	.03044	.03711	.04378	.05044	.05711	.06378	.07044	.07711
18	.00400	.01067	.01733	.02400	.03067	.03733	.04400	.05067	.05733	.06400	.07067	.07733
19	.00422	.01089	.01756	.02422	.03089	.03756	.04422	.05089	.05756	.06422	.07089	.07756
20	.00444	.01111	.01778	.02444	.03111	.03778	.04444	.05111	.05778	.06444	.07111	.07778
21	.00467	.01133	.01800	.02467	.03133	.03800	.04467	.05133	.05800	.06467	.07133	.07800
22	.00489	.01156	.01822	.02489	.03156	.03822	.04489	.05156	.05822	.06489	.07156	.07822
23	.00511	.01178	.01844	.02511	.03178	.03844	.04511	.05178	.05844	.06511	.07178	.07844
24	.00533	.01200	.01867	.02533	.03200	.03867	.04533	.05200	.05867	.06533	.07200	.07867
25	.00556	.01222	.01889	.02556	.03222	.03889	.04556	.05222	.05889	.06556	.07222	.07889
26	.00578	.01244	.01911	.02578	.03244	.03911	.04578	.05244	.05911	.06578	.07244	.07911
27	.00600	.01267	.01933	.02600	.03267	.03933	.04600	.05267	.05933	.06600	.07267	.07933
28	.00622	.01289	.01956	.02622	.03289	.03956	.04622	.05289	.04956	.06622	.07289	.07956
29	.00644	.01311	.01978	.02644	.03311	.03978	.04644	.05311	.05978	.06644	.07311	.07978
30	.00667	.01333	.02000	.02667	.03333	.04000	.04667	.05333	.06000	.06667	.07333	.08000

[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.]

WAC 458-57-400 Refunds. (1) Interest. When it is determined that any refund is due as a result of overpayment of inheritance tax, the refund shall draw interest commencing thirty days from receipt thereof by the State Treasurer.

(2) Time limitation. No refund will be paid unless the demand therefor is made upon the department before or within two years from the date of the inheritance tax release. [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.]

WAC 458-57-410 Escheat estates--Heirs--How located and proof. (1) In those cases where it is apparent that the estate will escheat to the state of Washington and heirs are subsequently located, the personal representative shall provide the department with all evidence of which he has knowledge or of which he has possession showing that the purported heirs are actually heirs. All documents in support of heirship must be in the English language when submitted to the department. The translation into English from any foreign document shall be authenticated by the nearest local consulate of the country in question.

(2) In all cases where there is a court hearing or the taking of a deposition on the question of heirship, the personal representative shall give the department twenty days' written notice of such hearing or matter.

(3) The personal representative must give the department at least twenty days' written notice of the hearing on the final account and petition for distribution. [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.]

WAC 458-57-420 Preliminary statement. A Preliminary Statement, on forms prescribed by the Department of Revenue, shall be filed with the Clerk of the Court for transmittal to the inheritance tax division with the first papers filed in every estate presented to the probate court. This is the case even though the estate is being converted from a guardianship proceeding and retains the guardianship number. [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.]

WAC 458-57-430 Inventory and appraisement--Inventory of assets. (1) A conformed copy of the inventory and appraisement of assets shall be filed with the department. The inheritance tax release shall not issue until the inventory and appraisement of assets has been filed. The copy filed shall be legible and complete and show all of the assets of the estate together with their respective values as determined by the appraiser or by the personal representative. In addition, the assessed value and the County Assessor's identifying parcel number of all real estate shall be shown. If the personal representative elects to have assets of the estate taxed under qualified use, he should so indicate and complete Revenue form REV 50-2032.

(2) The separate and community property shall be segregated and both shall be listed at their full market values. Fractional interests shall be shown at their values in the decedent's estate together with a statement as to the source of the interest.

(3) When it is subsequently discovered that property has been improperly included, or inadvertently omitted, a copy of the amended inventory shall be furnished to the department. Reappraisals made only because the property cannot be sold shall not be recognized for inheritance tax purposes. The department will not consent to a reduction in the valuation of assets unless the same has been submitted to and considered by a probate court and subsequently reduced with a conformed copy of all pleadings in connection therewith provided to the department. Amounts received from sales following the death do not affect value for inheritance tax purposes, although they may be considered together with all other relevant factors in fixing the fair market value as of the date of death.

(4) When certain assets are specifically devised or bequeathed, such items shall be separately listed and valued.

(5) In those cases where the decedent was not a domiciliary of the state of Washington, a schedule or inventory plus an evaluation of the assets shall be provided the department whether the assets pass as a result of probate or outside of probate. If the assets of the deceased nonresident are not to be probated, an affidavit signed by someone familiar with the decedent's affairs shall be provided listing all assets, together with an appraisal by an individual competent to appraise the items in question. [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.]

WAC 458-57-440 Inheritance Tax Returns--Duty to keep records and render statements--Filing of returns--Contents of returns. (1) Inheritance Tax Returns—Estates where no tax due. If after a copy of the inventory and appraisement, showing all of decedent's assets including those that pass by right of survivorship and the last Will and Testament are filed with the department, it is apparent that no inheritance tax is due, the director may without further action issue the inheritance tax release.

(2) Inheritance Tax Returns—Filing. An Inheritance Tax Return shall be filed, subject to subsection (1) above on a form provided by the department for every estate which owns or has an interest therein for all property as delineated in RCW 83.04.010.

(3) Tax Returns—Duty to file—Full disclosure. It is the duty of the personal representative to complete said return and file it with the department on or before nine months after the date of death of the decedent. Interest at the rate of eight percent per annum shall accrue against any inheritance tax unpaid after said time. If there is more than one personal representative, the return shall be made jointly by all. If the personal representative is unable to make a complete return as to any part of the gross estate, he is required to give all the information he has as to such property, including a full description, and the name of every person holding a legal or beneficial interest in the property. If the personal representative is unable to make a return as to any property, every person holding a legal or beneficial interest therein shall, upon notice from the director, make a return as to that part of the gross estate.

(4) Tax Returns—Inventory.

(a) The Inheritance Tax Return shall have attached thereto an itemized inventory of all of the property constituting the gross estate and shall be keyed to the estate asset section of the Inheritance Tax Return. There must also be attached to the return an itemized list of the deductions which shall be keyed to the deduction section of the Inheritance Tax Return.

(b) In the case of no [non] probate filings, three copies of the inventory must be filed with the Inheritance Tax Return. No inheritance tax release in a no probate estate will issue until all required copies of the inventory are received by the department.

(5) Real estate. The correct legal description and assessor's parcel number shall be given for each parcel of real estate, and, if located in an incorporated area, the name of the street and number, its area, and, if improved, a short statement of the character of the improvements shall also be provided.

(6) (a) Bonds—Corporate. A description of bonds should include the number held, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number if there is more than one issue, and the principal exchange upon which listed. A description of stock shall include the number of shares, whether common or preferred, and, if preferred, what issue, par value, quotation at which returned, exact name of corporation, and, if the stock is unlisted, the location of the principal business office and state in which incorporated and the date of incorporation, or if the stock is listed, the principal exchange upon which sold.

(b) United States savings bonds. The series, face value and date of issue shall be shown for each bond. The bond listings shall be segregated according to denomination and series, and then listed chronologically in the order in which they were issued.

If the bonds are jointly held or payable to a survivor, this fact shall be shown, with the relationship of the survivor. The bonds passing to a particular individual shall be grouped under the name of that person.

United States savings bonds G, H and K are redeemable at face upon a death, and are so valued.

United States treasury bonds bear interest from date of issue until maturity, and interest accrued to date of death shall be included for tax purposes. When such bonds are redeemed at par for the purpose of paying the Federal estate tax, they shall be valued at par plus accrued interest for inheritance tax purposes.

(7) Notes. Include in a description of all notes the name of the maker, the relationship, if any, to decedent, date on which given, date of maturity, amount of principal, amount of principal unpaid, rate of interest and whether simple or compound, date to which interest has been paid and amount of unpaid interest.

(8) Real estate contracts. A description of the seller's interest in land contracts shall include the name of the buyer, the relationship, if any, to decedent, date of contract, description of property, sale price, initial payment, amounts of installment payments, unpaid balance of principal and accrued interest, interest rate and date prior to decedent's death to which interest had been paid.

(9) (a) Bank accounts. A description of bank accounts shall disclose the name and address of depository, amount on deposit, whether a checking, savings, or a time–deposit account, rate of interest, if any payable, amount of interest accrued and payable, and account number.

(b) Joint bank accounts and deposits with right of survivorship are includable in the decedent's estate. Where decedent was not the actual owner of the deposit, the facts as to true ownership must be shown by affidavit showing the source of the funds.

(c) The funds on deposit in a survivorship account will be taxed as passing to the surviving joint tenant, unless the survivor by disclaimer properly executed waives all interest in such account as survivor.

(d) If a joint account is not a survivorship account, it shall be so stated.

(e) The relationship of the decedent to the joint tenant shall be shown.

(f) Bank accounts in the name of the surviving spouse are presumed to be community property and shall be reported. If it is claimed that they are actually the separate property of the surviving spouse, such fact must be established to the satisfaction of the director by affidavit. Supporting affidavits from persons other than the survivor shall be provided, if available. All claims of contributions shall be clearly traced to the source of the funds and it must be shown that the funds were those of the survivor and not of the decedent.

(10) Life insurance. The description of life insurance should give the name of the insurer, number of policy, name of the beneficiary, owner of the policy, and the amount of the proceeds. This information is to be provided on all insurance policies in which the decedent had an interest. All insurance companies doing business within the state of Washington shall provide the personal representative with Internal Revenue Service form 712 on all insurance policies in which the decedent had an interest and the personal representative shall provide a copy of same to the department.

(11) Judgments. All judgments shall be described giving the title of the cause and the name of the court in which rendered, date of the judgment, name and address of the judgment debtor, amount of judgment, and rate of interest to which subject, and by stating whether any payments have been made thereon, and, if so, when and in what amounts.

(12) Transfers prior to death. All transfers in excess of $1,000 per donee per calendar year made by the decedent during the three–year period ending on the date of the decedent's death, irrespective of the date of death, except bona fide sales for an adequate and full consideration in money or money's worth, shall be disclosed in the return whether or not the personal representative regards the transfers subject to the tax. If the personal representative believes that such a transfer is not subject to the tax, a brief statement of the pertinent facts is required. Include in the explanation the fair market value of the asset as of the date of death and the date of transfer.

(13) Fractional interests. If the estate owns a fractional interest in any property, by reason of inheritance, or otherwise, only the value of the estate's interest need be shown, and the source of the fractional interest should be indicated.

(14) Adoption. When the relationship of an heir to the decedent rests upon an adoption, supporting evidence of legal adoption must be submitted as proof to the inheritance tax division; without such proof Class A taxation rates and exemptions will not apply.

(15) Annuities other than qualified retirement plans.

(a) Annuities are treated as investments, rather than insurance, and are taxable to the surviving beneficiary upon the death of the principal. A lump sum payment to the beneficiary is taxable.

(b) When monthly or other periodic payments are to be made to the surviving beneficiary, the annuity shall be taxable at its commuted value as of the date of death of the decedent.

(c) A description of all annuities should be provided. Show the name, address, the relationship of the surviving beneficiary, and of the grantor. If the annuity is payable out of the trust or other funds, such a description as will fully identify it must be provided. If the annuity is payable for a term of years, the duration of the term and the date on which it began shall be given, and if payable for the life of a person other than the decedent, the date of birth of such person should be provided. If the personal representative has not included in the gross estate the full value of an annuity, he shall, nevertheless, fully describe the annuity and state its total purchase price and the amount of the contribution made by each and every person toward the purchase price. If the personal representative believes that any part of the

annuity is excludable from the gross estate for any reason, he should state in the return or an attachment thereto the reason for his belief.

(d) Annuities carried by a surviving spouse are presumed to be investments of the marital community and must be reported for inheritance tax purposes. If a claim is made that they are not community property, data in support of such claim shall be provided. [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.]

WAC 458-57-450 Payment of inheritance tax--Extension of time--Basis for--Reasonable cause--Undue hardship. (1) Definitions. The following definitions shall apply to the terms used herein and in Title 83 RCW:

(a) Reasonable cause. Those facts of a character calculated to induce a belief in the mind of an ordinary and prudent business person.

(b) Reasonable time. Such length of time as may fairly, properly, and justly be allowed or required, having regard to the nature of the subject matter.

(c) Undue hardship. More than a necessary burden in a particular case, more than an inconvenience.

(d) Due diligence. Such measure of prudence or activity as is properly to be expected from and ordinarily exercised by a reasonable and prudent person under the particular circumstances, depending on the relative facts of the special case.

(e) Reasonable prudent person. A careful person, a person exercising that degree of care required by the circumstances of the particular case.

(f) Personal representative. Any person or institution in possession of the property owned by the decedent.

(2) Extensions—Basis for—Time. In any case in which the director finds that payment of the inheritance tax or any part thereof would impose undue hardship upon the estate, he may extend the time for payment for reasonable periods of time not to exceed ten years from the date the tax is due.

(3) Extensions—Basis—More than general statement. The extension will not be granted upon a general statement of hardship. 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 the payment of the tax, a portion thereof, or a deficiency at the date prescribed therefor. If a market exists, a sale of property at the current market price shall not ordinarily be considered as resulting in an undue hardship, or constituting "reasonable cause." No extension will be granted for the payment of any tax, a portion thereof or of any deficiency if the delay sought is due to negligence, intentional disregard of the rules and regulations of the department, or fraud with intent to evade the tax.

(4) Extensions—Applications—Granting—Discretionary—Time. All applications for an extension shall be in writing and must contain, or be supported by, information in affidavit form showing the hardship that would result to the estate if the extension were refused. The application, with the supporting information and supporting affidavit, must be filed with the director at least sixty days before the date prescribed for the payment. When received, it will be examined, and, within thirty days shall be denied, granted, or tentatively granted subject to certain conditions of which the personal representative will be notified. The director will not consider an application for such an extension unless it is applied for on or before the date prescribed. 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. The granting of an extension of time for paying the tax, a portion thereof, or any deficiency is discretionary with the director.

(5) Payment—After extension granted. The payment of an amount for which an extension is granted, with interest thereon, must be paid on or before the expiration of the period of the extension without the necessity of notice and demand from the director.

(6) Extension—Payment of interest. The granting of an extension of time for the payment of the tax, any portion thereof, or any deficiency does not operate to prevent the running of interest. Interest on any unpaid amount will be at the annual rate of eight percent.

(7) Examples. The following examples illustrate cases involving reasonable cause for granting an extension of time pursuant to RCW 83.44.025:

Example 1. An estate includes sufficient liquid assets to pay the inheritance tax when otherwise due. But for reasons beyond the control of the personal representative the assets cannot be readily marshalled for payment of the tax even with the exercise of due diligence.

Example 2. An estate is comprised in substantial part of assets consisting of rights to receive payments in the future (e.g., annuities, copyright royalties, contingent fees, or accounts receivable). These assets provide insufficient present cash with which to pay the inheritance tax when otherwise due and the estate cannot borrow against these assets except upon terms which would inflict loss upon the estate.

Example 3. An estate does not have sufficient funds (without borrowing at a rate of interest higher than that generally available) with which to pay the entire inheritance tax when due, to provide a reasonable allowance during the remaining period of administration of the estate for the decedent's surviving spouse and dependent children, and to satisfy claims against the estate that are due and payable. Furthermore, the personal representative has used due diligence in an effort to convert assets in his possession (other than an interest in a closely held business) into cash.

Example 4. A farm (or other closely held business) comprises a significant portion of the estate. Sufficient funds for the payment of the inheritance tax when due are not readily available. The farm (or closely held business) could be sold to unrelated persons at a price equal to its fair market value, but the personal representative seeks an extension of time to facilitate the raising

of funds from other sources for the payment of the 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), § 458-57-450, filed 2/21/80.]

WAC 458-57-460 Inheritance tax--Extension of time for payment--Failure to pay on time. If, after an agreement is entered into with the director for the extension of time for payment of inheritance tax, any installment is not paid on or before the date fixed for payment, the balance of the tax plus interest shall be paid upon notice and demand. [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.]

WAC 458-57-470 Inheritance tax--Extension of time for payment--Security. In the event an extension of time is granted for the payment of inheritance tax, any portion thereof, or any deficiency, a bond or such other security as the director deems necessary to fully provide for payment of the tax in accordance with the terms of the extension agreement shall be provided. [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.]

WAC 458-57-480 Closely held businesses--What constitutes. (1) (a) Requirements. An estate may be deemed to own an interest in a closely held business if at the time of the decedent's death, the value of the interest in the closely held business exceeded thirty-five percent or more of the gross value of the decedent's estate or fifty percent or more of his taxable estate. For the purposes of this section a farm used as a farm for farming purposes shall be deemed to be a closely held business if it otherwise qualifies as a closely held business, providing that there was material participation by the decedent at the time of his death in the operation of the farm.

(b) The terms "farm," "farming purposes" and "material participation" as used in these regulations shall be as defined in RCW 83.16.120.

(2) Definition. The term "interest in a closely held business" shall mean:

(a) An interest as a proprietor in a trade or business carried on as a sole proprietorship.

(b) An interest as a partner in a partnership carrying on a trade or business if twenty percent or more of the total capital interest in the partnership is included in determining the decedent's gross estate or if the partnership had ten or less partners.

(c) Stock in a corporation carrying on a trade or business if twenty percent or more in value of the voting stock of the corporation is included in determining the decedent's gross estate or if the corporation had ten or less shareholders.

(3) Number of partners or shareholders. The number of partners of the partnership or shareholders of the corporation is determined as of the time immediately before the decedent's death. Where an interest in a partnership, or stock in a corporation, is the community property of husband and wife, the husband and the wife are counted as one in arriving at the number of partners or shareholders.

(4) Carrying on a trade or business.

(a) In order for the interest in a partnership or the stock of a corporation to qualify as an interest in a closely held business it is necessary that the partnership or the corporation be engaged in carrying on a trade or business at the time of the decedent's death. However, it is not necessary that all the assets of the partnership or the corporation be utilized in the carrying on of the trade or business.

(b) In the case of a trade or business carried on as a sole proprietorship, the interest in the closely held business includes only those assets of the decedent which were actually utilized by him in the trade or business. Thus, if a building was used by the decedent in part as a personal residence and in part for the carrying on of a mercantile business, the part of the building used as a residence does not form any part of the interest in the closely held business. Whether an asset will be considered as used in the trade or business will depend on the facts and circumstances of the particular case. For example, if a bank account was held by the decedent in his individual name (as distinguished from the trade or business name) and it can be clearly shown that the amount on deposit represents working capital of the business as well as nonbusiness funds (e.g., receipt from investments, such as dividends and interest), then that part of the amount on deposit which represents working capital of the business will constitute a part of the interest in the closely held business. On the other hand, if a bank account is held by the decedent in the trade or business name and it can be shown that the amount represents nonbusiness funds as well as working capital, then only that part of the amount on deposit which represents working capital of the business will constitute a part of the interest in the closely held business. In a case where an interest in a partnership or stock of a corporation qualifies as an interest in a closely held business, the decedent's entire interest in the partnership, or the decedent's entire holding of stock in the corporation, constitutes an interest in a closely held business even though a portion of the partnership or corporate assets is used for a purpose other than the carrying on of a trade or business.

(5) Interests in two or more closely held businesses. Interests in two or more closely held businesses shall be treated as an interest in a single closely held business if more than fifty percent of the total value of each such business is included in determining the value of the decedent's gross estate. For the purpose of the fifty percent requirement set forth in the preceding sentence, an interest in a closely held business which represents the surviving spouse's interest in community property will be considered as having been included in determining the value of the decedent's gross 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), § 458-57-480, filed 2/21/80.]

WAC 458-57-490 Qualified or special use--Application of statutory and regulatory provisions. (1) In general. The regulations and rules relating to qualified or special use under RCW 83.16.100 through 83.16.140 shall be those rules and regulations adopted and in use by the Internal Revenue Service of the United States for estate tax purposes wherever applicable and insofar as they do not conflict with RCW 83.04.024, 83.16.010, 83.16.100 through 83.16.145 and chapter 458-57 WAC.

(2) Election—Notification. If the personal representative elects to have any of the assets of the estate taxed at the qualified or special use value, he shall make such election and notify the department on or before the due date of the inheritance tax to avail the estate of said election.

(3) Lien—Form—Recording. The lien prescribed by RCW 83.04.024 shall be substantially in form of the mortgage set forth in RCW 61.12.020, be recorded with the County Auditor and a photocopy thereof with the County Auditor's receiving number thereon must be provided to the director.

(4) Lien—Security in lieu of. The security in lieu of the lien as referred to in RCW 83.04.024(5) shall be in accordance with WAC 458-57-370(6).

(5) Lien—Subordination. The subordination of any lien under RCW 83.04.024(6) will be considered only if the equity in the real property equals or exceeds five times the amount of the tax lien after subordination (e.g., the tax lien equals twenty percent of the equity after subordination).

(6) Qualified use—Election—Filing for. The election for qualified use shall be made on Department of Revenue form REV 50-2032 and filed with the director in accordance with RCW 83.16.115. [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.]

WAC 458-57-500 Miscellaneous provisions. (1) Award in lieu of homestead. Property which is the subject of an award in lieu of homestead passes to the person who receives it by reason of the statutes of inheritance. Such an award does not remove the property from the estate for inheritance tax purposes, and does not increase the exemptions. The awards will increase the amount going to Class A in some instances, and that amount is then taxed as in any other estate. Amounts passing to other classes are reduced by the amounts transferred to Class A. The other classes are then taxed in their reduced amount.

This is illustrated by the following example:

The Will leaves decedent's entire estate to his nephew. The estate is separate property, and his new wife files for an award in lieu of homestead.

$50,000.00	Decedent's net estate	
20,000.00	Awarded to wife in lieu of homestead	
20,000.00	Class A exemption (no tax)	
30,000.00	Remainder to Class B	
10,000.00	@ 3% =	300.00
10,000.00	@ 4% =	400.00
10,000.00	@ 7% =	700.00
		$1,400.00 Total tax due

In the above example there is no exemption accorded Class B heirs as there is an amount passing to a Class A heir.

(2) Partnerships. The interest of a deceased partner in a partnership, among whose assets are buildings and land, is an interest in the surplus of assets with a right to an accounting. This is an intangible asset (a chose in action) and is subject to inheritance tax at the domicile of the decedent.

(3) Life estate with power to invade. One who takes a life estate with full power to exhaust the entire estate during his life, with the remainder at his death to persons named by the decedent, takes a life estate, and the remainder is a vested rather than a contingent remainder for purposes of the inheritance tax statutes.

(4) Social security death benefits. The social security death benefit is payable to a surviving spouse as a right, without regard to payment of funeral expenses. When it is paid to a surviving spouse, it need not be reported as an asset or used to reduce the funeral expense deduction.

In all other cases, the death benefit is payable to reimburse funeral expenses, and shall be offset against the deduction claimed, or reported as a cash asset.

(5) Survivorship and wrongful death actions. The proceeds of a wrongful death action are not taxable and shall not be included in the assets of the estate of the decedent. The proceeds of a survivorship action are taxable and shall be included in the listing of the assets of the deceased. In those cases where the litigation is a combination of the two, the portion of the recovery or settlement attributable to the survival of action portion of the litigation shall be included as an asset in the inventory of the decedent's estate.

(6) Alien estates. When the decedent was not a resident of a territory or state in the United States, the property of such decedent shall be taxable whether tangible or intangible property, including certificates of stock, bonds, bills, notes, bank deposits, or other written evidences of tangible property which are physically situated within the state of Washington or where the domicile of the debtor is in the state of Washington.

(7) Stock transfer.

(a) Probate. If an estate is probated, no consent from the department shall be necessary for the transfer of stock in which the decedent had an interest, nor will the department issue such consent. Proof to a transfer agent of the qualification of the personal representative shall be sufficient. The rule is likewise in those cases where assets pass by right of survivorship.

(b) No probate. A survivor or trustee may secure an inheritance tax release of a deceased domiciliary's estate if it is not probated in Washington by reporting the estate directly to the department. Should such a return be

made, the department shall issue an inheritance tax release. Attached thereto shall be a schedule of all assets as reported. The certificate with the attached schedule constitutes the release of the department and authorizes the transfer of all assets including the stock described therein.

(8) Federal Estate Tax Closing Letter. In those cases wherein a Federal Estate Tax Return is filed, the department shall not issue its inheritance tax release until such time as a copy of the Federal Estate Tax Closing Letter has been received and the final inheritance tax determination made and any subsequent tax due paid.

(9) Correspondence—Failure to respond to department.

(a) In those cases wherein the department addresses correspondence to an attorney or accountant for an estate and the attorney or accountant does not respond to the department within thirty days, the matter shall be referred to the attention of the personal representative and/or the probate judge or committee or both for appropriate action. If said action is ineffective, the matter shall then be referred for action as in subsection (b) of this section.

(b) Where there is no attorney or accountant and the personal representative fails to respond to the department within thirty days, the matter shall be referred for a court appointed personal representative or for removal of the personal representative. [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.]

Chapter 458-60 WAC
REAL ESTATE EXCISE TAX

WAC

458-60-002	Real estate excise tax—Definitions.
458-60-010	Leases with options to purchase—General policy.
458-60-020	Leases with options to purchase—Tax payable only when option exercised.
458-60-030	Leases with options to purchase—Special procedures for lease-option agreements.
458-60-040	Leases with options to purchase—Determination of purchase price.
458-60-045	Payment of the excise tax on real estate sales—Recording instrument of conveyance.
458-60-046	Real estate excise tax affidavit—Contents—Oath requirement—Signatures—Affidavit.
458-60-048	Real estate excise tax affidavit—When required—When not required.

WAC 458-60-002 Real estate excise tax--Definitions. (1) Sale price, gross sale price, or selling price, as used in this chapter, shall mean the consideration, including money or anything of value, paid or delivered or contracted to be paid or delivered in return for the transfer of the real property or estate or interest therein, and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price of any part thereof, or remaining unpaid on such property at time of sale, but shall not include the amount of any lien or encumbrance for taxes, special benefits or improvements owing to the United States, the state or a municipal corporation thereof.

(2) Convey shall mean and be used interchangeably with sale, transfer, grant, assign, quitclaim, or warrant.

(3) Grantor shall mean and be used interchangeably with seller, transferor, or assignor.

(4) Grantee shall mean and be used interchangeably with purchaser, transferee, or assignee. [Statutory Authority: RCW 82.45.120 and 28A.45.120. 80-15-033 (Order PT 80-2), § 458-60-002, filed 10/9/80.]

WAC 458-60-010 Leases with options to purchase--General policy. RCW 28.45.035 [RCW 28A.45-.035], as amended by section 1, chapter 149, Laws of 1967 ex. sess., provides in pertinent part as follows:

> "The state department of revenue shall provide by rule for the determination of the selling price in the case of leases with option to purchase, and shall further provide that the tax shall not be payable, where inequity will otherwise result, until and unless the option is exercised and accepted. * * *"

The effect of this statute is that the tax shall be imposed in all cases, when the option portion of the lease is exercised, unless it is otherwise equitable, under the surrounding circumstances, to impose the tax or require suitable security for the tax at an earlier stage in the transaction, *i.e.*, at a time prior to the actual exercise of the option. The statute thus recognizes that certain lease-option agreements may be closer in nature to a lease than to a contract for the sale of real estate, while other lease-option agreements may be closer in nature to a contract for sale than to a lease. The purpose of this rule is to provide uniform standards for applying the general policies embodied in RCW 28.45.035, and to distinguish between these two general types of lease-option agreements. [Order PT 68-7, § 458-60-010, filed 5/1/68.]

WAC 458-60-020 Leases with options to purchase--Tax payable only when option exercised. (1) If the option by its terms must be exercised, if at all, within a period no longer than two years after the original commencement of the lease, the tax shall not be payable unless and until the option is exercised.

(2) If by the terms of the lease-option agreement, none of the lease payments apply on the ultimate sales price, the tax shall not be payable unless and until the option is exercised.

(3) If, under the terms of the lease-option agreement, the option must be exercised, if at all, within a period of time within which the amount of the lease payments applicable to the purchase price will not exceed half of the purchase price, then the tax shall not be payable unless and until the option is exercised. The phrase "lease payments applicable to the purchase price" shall include only those lease payments, or portions thereof, applicable to the principal component, rather than the interest component of the purchase price. [Order PT 68-7, § 458-60-010, filed 5/1/68.]

WAC 458-60-030 Leases with options to purchase--Special procedures for lease-option agreements. (1) In cases of lease-options falling exclusively under the provisions of WAC 458-60-020(3), the treasurer may require the grantor of the option to file, within a reasonable time after the expiration of the period within which the option must be exercised, if at all, an affidavit, on a form to be prescribed by the department of revenue, stating whether or not the option has in fact been exercised. In the event that the affidavit is not filed with the county treasurer within a reasonable time after the expiration of such period, the county shall commence to collect the tax in accordance with applicable collection procedures as set forth in chapter 28.45 RCW, unless the tax has been previously paid.

(2) In all cases other than those enumerated in WAC 458-60-020, the tax shall be imposed at the time of the granting of the option, and the sales price shall be considered to be the purchase price stated in the lease-option agreement. If the selling price is not stated in the instrument, the grantor, grantee or the agent of either shall, by affidavit, state the option price intended and the tax levied hereunder shall be on such stated option price: *Provided,* That upon execution and delivery of the instrument of conveyance or transfer pursuant to such option a second affidavit stating the actual consideration shall be filed with the county treasurer. If the actual consideration passing is greater than the option price stated in the affidavit filed at the time the lease-option was executed, there shall be collected the tax on such additional amounts prior to the time the deed is accepted for recording. If the actual consideration is the same as the option price originally stated, no additional tax will be collected. If the actual consideration is less than the option price stated, refund of excess tax may be made if the county ordinance provides a refund procedure. [Order PT 68-7, § 458-60-030, filed 5/1/68.]

WAC 458-60-040 Leases with options to purchase--Determination of purchase price. In all cases where the tax is payable only when the option is exercised, the sales price shall be the total purchase price, including that amount of the prior lease payments applicable to the purchase price. [Order PT 68-7, § 458-60-040, filed 5/1/68.]

WAC 458-60-045 Payment of the excise tax on real estate sales--Recording instrument of conveyance. The tax imposed under the provisions of chapter 28A.45 RCW and chapter 458-60 WAC shall be paid to the county in which the property being conveyed is located and shall be collected by the county treasurer or similar county official charged with this responsibility, who shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of conveyance. If no tax is due on the conveyance, the treasurer or similar official shall cause a stamp to be affixed to the instrument of conveyance stating the conveyance is not subject to the excise tax.

To determine if the conveyance is subject to the excise tax, a real estate excise tax affidavit, as defined by WAC 458-60-046, shall be filed with the county treasurer or other similar county official for each conveyance, except as provided otherwise in WAC 458-60-048.

The county auditor or recorder, as the case may be, shall not accept any instrument of conveyance for filing or recording until the instrument is stamped evidencing that the excise tax has been paid or that the conveyance is not subject to the excise tax.

In addition, no instrument of conveyance shall be filed or recorded by the county auditor or recorder if such property is classified or designated as forest land under chapter 84.33 RCW or classified as open space land, farm and agricultural land, or timber land under chapter 84.34 RCW unless the compensating or additional tax has been paid, or the new owner shall have signed a notice of continuance which shall either be on the excise tax affidavit or attached thereto. [Statutory Authority: RCW 82.45.120 and 28A.45.120. 80-15-033 (Order PT 80-2), § 458-60-045, filed 10/9/80.]

WAC 458-60-046 Real estate excise tax affidavit--Contents--Oath requirement--Signatures--Affidavit. The real estate excise tax affidavit, as required by WAC 458-60-045, shall contain, (1) under oath and signature of the grantor, the following:

(a) the full name and address of the grantor;

(b) the legal description of the real property being conveyed;

(c) the tax parcel or account numbers of said real property as assigned by the county assessor;

(d) date of closing;

(e) type of instrument conveying said property;

(f) nature of conveyance;

(g) if exemption from the 1% excise tax is claimed, a full explanation thereof;

(h) gross conveyance or sales price as defined in WAC 458-60-002(1), RCW 28A.45.030 and 82.45.030;

(i) an estimate of the value of any personal property involved in conveyance as agreed to by both parties;

(j) whether or not the land is classified or designated as forest land under chapter 84.33 RCW;

(k) whether or not the land is classified as open space land, farm or agricultural land, or timber land under chapter 84.34 RCW.

(2) under oath and signature of the grantee, the following:

(a) the full name and address of the grantee;

(b) the date of closing;

(c) type of instrument conveying said property;

(d) nature of conveyance;

(e) gross conveyance or sales price as defined in WAC 458-60-002(1), RCW 28A.45.030 and 82.45.030;

(f) an estimate of the value of any personal property involved in the conveyance as agreed to by both parties;

(g) whether or not the grantee is acting as a nominee for a third party.

(3) a notice of continuance, signed by all new owners, for classified forest land (RCW 84.33.120), designated forest land (RCW 84.33.180) or classified open space land, farm and agricultural land or timber land (RCW

84.34.108) shall be attached to those affidavits conveying land subject to the provisions of chapters 84.33 and 84.34 RCW, if the new owner(s) desire(s) to continue said classification or designation. The notice of continuance shall be on a form prescribed by the department of revenue.

(4) the following optional questions which are not under oath of either the grantee or grantor, but are requested pursuant to the authority granted in RCW 84.41.041:

(a) Is this property at the time of sale exempt from property tax under RCW 84.36.___ (church, hospital, etc.)?

(b) Is this property at the time of sale subject to elderly, disability, or physical improvement exemption?

(c) Does building, if any, have a heat pump or solar heating or cooling system?

(d) Does this conveyance divide a current parcel of land?

(e) Does sale include current crop or merchantable timber?

(f) Does conveyance involve a trade, partial interest, corporate affiliates, related parties, trust, receivership, or an estate?

(g) Is this property land only, land with new building (new construction), or land with a previously used building?

(h) Is the principal use either agricultural, apartments (four or more units), commercial, condominium, industrial, mobile home site, recreational, residential, growing timber?

(5) the following two statements:

(a) If transfer is a gift, gift taxes are due and payable to the state of Washington by April 15th of the following year;

(b) If this land is classified or designated as forest land or current use land, a notice of continuance must be attached to this affidavit or the additional or compensating tax must be paid by the seller at the time of sale. See the notice of continuance for a definition of forest land and current use land.

(6) an affidavit of the grantor and grantee subscribed and sworn to before any state authorized notary public, except as provided otherwise in WAC 458-60-048. Said affidavit shall be worded as follows:

"The (Grantee) (Grantor) being first sworn on oath, says that the foregoing information, to the best of my knowledge, is a true and correct statement of the facts pertaining to the transfer of the above described real estate. Any person willfully giving false information in this affidavit shall be subject to the perjury laws of the state of Washington."

(7) a properly executed power of attorney granted by the grantee or grantor which will suffice for the signature of either, but the grantor of said power of attorney shall be liable for any penalties as if he had signed the affidavit himself. [Statutory Authority: RCW 82.45.120 and 28A.45.120. 80-15-033 (Order PT 80-2), § 458-60-046, filed 10/9/80.]

WAC 458-60-048 Real estate excise tax affidavit--When required--When not required. (1) The real estate excise tax affidavit shall be required for the following, but the signature, under oath, will be required of either the grantee or grantor, but not both:

(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 property settlement agreement incident thereto;

(b) conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding;

(c) conveyance made pursuant to the provisions of a deed of trust;

(d) conveyance of an easement in which consideration passes;

(e) a seller's assignment of deed and contract;

(f) a fulfillment deed;

(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, except as provided for in subsection 2 of this section.

(2) The real estate excise tax affidavit shall not be required for the following:

(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) satisfaction of a debt

(v) for collateral purposes only

(vi) release of collateral

(vii) to release security

(c) conveyance to or from the United States, the state of Washington, or any political subdivision or municipal corporation of this state provided the following information regarding the conveyance is furnished to the appropriate county assessor and treasurer:

(i) the name of the grantor;

(ii) the name and address of the grantee;

(iii) the sales price;

(iv) the legal description of the property.

(d) a lease of real property that does not contain an option to purchase;

(e) a mortgage or satisfaction of a mortgage;

(f) conveyance of an easement in which no consideration passes or an easement to the United States, the state of Washington, or any political subdivision or municipal corporation of this state.

(g) a recording of a contract that changes only the contract terms and not the legal description, purchaser, or sales price, if the affidavit number of the previous transaction is reported. [Statutory Authority: RCW 82-.45.120 and 28A.45.120. 80-15-033 (Order PT 80-2), § 458-60-048, filed 10/9/80.]

Chapter 458-65 WAC
ABANDONED PROPERTY

WAC
458-65-010 Time limitations.

WAC 458-65-010 Time limitations. The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property shall not prevent the money or property from being presumed abandoned property under chapter 63.28 RCW, nor affect any duty to file a report required by that chapter or to pay or deliver abandoned property to the department of revenue. This rule shall not apply to property presumed abandoned prior to June 9, 1955. [Rule UCP 1, § 458-65-010, filed 1/17/68.]

Reviser's note: WAC 458-65-010 Declared invalid: Pacific Northwest Bell Telephone Co. vs. Department of Revenue 78 W.D. 2d 986.

Chapter 458-276 WAC
ACCESS TO PUBLIC RECORDS

WAC
458-276-010 Declaration of purpose.
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458-276-030 Description of central and field organization of the department.
458-276-040 Operations and procedures.
458-276-050 Public records available.
458-276-060 Public records officer.
458-276-070 Hours for records inspection and copying.
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458-276-090 Copying.
458-276-100 Exemptions.
458-276-110 Review of denials of public records requests.
458-276-120 Limitations on disclosure.
458-276-130 Records index.
458-276-140 Administrative offices.
458-276-150 Adoption of form.

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 of revenue 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.]

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 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.]