

# Title 456 WAC

## TAX APPEALS, BOARD OF

**Chapter  
456-08**

**Practice and procedure.**

**Chapter 456-08 WAC**

**PRACTICE AND PROCEDURE**

**WAC**

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**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS  
CHAPTER**

- 456-08-210 Subpoenas—Enforcement. [Rule 38, filed 10/4/67.]  
Repealed by Order 6, filed 4/1/75.
- 456-08-605 Petition for rehearing—Incorporation of rules for for-  
mal hearings. [Rule 56, filed 10/4/67.] Repealed by  
Order 2, filed 7/2/70.

**WAC 456-08-001 Procedure governed.** These rules shall govern all practice and procedure before the board of tax appeals of the state of Washington, hereinafter referred to in these rules as the board. Formal proceedings pursuant to chapter 34.04 RCW shall be governed by the following rules:

- WAC 456-08-002 Organization and office.
- WAC 456-08-003 Time from which appeal period is  
computed.
- WAC 456-08-004 Notice of appeal.
- WAC 456-08-005 Filing—Docket numbers.
- WAC 456-08-006 Time for appeal.
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- WAC 456-08-040 Standards of ethical conduct.
- WAC 456-08-045 Ex parte communications.
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- WAC 456-08-150 Subpoenas—Form.
- WAC 456-08-160 Subpoenas—Issuance to parties.
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- WAC 456-08-350 Depositions upon interrogatories—  
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- WAC 456-08-430 Prehearing conference rules—  
Authorized.
- WAC 456-08-510 Extensions of time—Continuance.
- WAC 456-08-520 Rules of evidence.
- WAC 456-08-532 Findings of fact, conclusions of law and order.
- WAC 456-08-535 Dismissal of actions.
- WAC 456-08-540 Petition for rehearing.
- WAC 456-08-700 Rules relating to pleadings—Form and size of pleadings.
- WAC 456-08-705 Rules relating to pleadings—Type of hearing.
- WAC 456-08-710 Notice of appeal.
- WAC 456-08-715 Notice of appeal—Amendments to pleadings.
- WAC 456-08-720 Notice of appeal—Answer.
- WAC 456-08-725 Intervention.
- WAC 456-08-730 Participation by an intervenor.
- WAC 456-08-735 Amicus curiae.
- WAC 456-07-740 Record on appeal.

Informal proceedings shall be governed by those rules specified in WAC 456-08-600.

[Permanent Order 7 and Emergency Order 8, § 456-08-001, filed 5/1/75; Order 6, § 456-08-001, filed 4/1/75; Order 2, § 456-08-001, filed 7/2/70; Rule 1, filed 10/4/67.]

**WAC 456-08-002 Organization and office.** (1) The board consists of three members, one of whom is elected chairman. Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis. The principal office of the board shall be at Olympia, Washington, and shall be open each day for the transaction of business from 8 o'clock a.m. to 5 o'clock p.m., Saturdays, Sundays and legal holidays excepted. All submissions, requests and communications shall be sent to the board at 1010 Cherry Street, Olympia, Washington 98504.

(2) A majority of the board constitutes a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position on the board be vacant. One or more members may hold hearings and take testimony to be reported for action by the board as authorized in these rules. The board shall perform all the powers and duties specified in chapter 82.03 RCW or as otherwise provided by law.

(3) The board may sit or hold hearings at any place within the state as it may determine.

[Order 6, § 456-08-002, filed 4/1/75; Rule 2, filed 10/4/67.]

**WAC 456-08-003 Time from which appeal period is computed.** In determining if an appeal is timely taken to the board, the commencement of the period for giving notice of appeal shall be the later of (1) the date the decision was rendered, or (2) if the appellant was a party in the proceeding from which the appeal is being filed, then the date that the decision was communicated to the appellant. If such communication was by mail then the appeal period shall commence on the third day following the day upon which the notice was placed in the mail.

[Order 6, § 456-08-003, filed 4/1/75; Rule 7, filed 10/4/67.]

**WAC 456-08-004 Notice of appeal.** Notice of appeal, if filed by mail, and postmarked at least three days prior to the termination of the period in which notice of appeal can be filed, or actually received by the end of the period in which an appeal can be filed is timely filed.

[Order 6, § 456-08-004, filed 4/1/75; Rule 8, filed 10/4/67.]

**WAC 456-08-005 Filing—Docket numbers.** Papers, including notice of appeal, required to be filed with the board shall be deemed filed upon actual receipt by the clerk of the board at the Olympia office of the board, accompanied by proof of service upon parties required to be served. Every matter coming within the purview of these rules shall be assigned a docket number by the clerk of the board which shall be the official number for the purposes of identification. Docket numbers for formal hearings shall be indicated by the last two digits of the year in which the appeal was filed, a hyphen, and

the number (e.g., 75-21). Informal hearings will be docketed simply by consecutive number, with no year indication (e.g., 21).

[Order 6, § 456-08-005, filed 4/1/75; Rule 10, filed 10/4/67.]

**WAC 456-08-006 Time for appeal.** (1) A notice of appeal for an appeal authorized under RCW 82.03.130 (1), (3) and (4), 84.36.850, and 84.34.065, shall be filed in the office of the board and a copy thereof served upon the department of revenue within thirty days of the date of the order or determination from which the appeal is taken. In appeals authorized by RCW 84.36.850 a copy of the notice of appeal shall also be served on the property owner when the assessor is the appellant and on the assessor when the property owner is the appellant. Proof of such service shall accompany notice of appeal filed with the board.

(2) Notice of appeal pursuant to RCW 82.04.291(4) shall be filed with the board and a copy served on the department of revenue on or before the sixtieth day after the final adoption by the department of revenue of any stumpage value tables.

(3) Notice of appeal for an appeal authorized under RCW 82.03.130(2), shall be filed and served in duplicate with the county auditor pursuant to RCW 84.08-.130 within ten days of the action being appealed, and in accordance with such forms and requirements as may be designated by the board of tax appeals. The county auditor shall forthwith transmit one copy of the notice of appeal to the board of tax appeals.

[Order 6, § 456-08-006, filed 4/1/75; Rule 11, filed 10/4/67.]

**Reviser's note:** See WAC 456-08-700 et seq. for rules relating to pleadings.

**WAC 456-08-007 Parties in exemption appeals.** When an appeal is filed with the board under RCW 84.36.850, appealing an exemption ruling by the department of revenue, the department of revenue shall be designated as the respondent. The property owner or assessor filing the appeal shall be the appellant, and the nonappealing party (property owner or assessor) shall be an additional respondent. The department of revenue, the property owner and the assessor shall all be parties to the appeal and entitled to all the rights of parties.

[Order 6, § 456-08-007, filed 4/1/75.]

**WAC 456-08-010 Appearance and practice before the board--Who may appear.** (1) Formal proceedings. The right to practice before the board in connection with formal proceedings shall be limited to the following classes of persons:

(a) Taxpayers who are natural persons representing themselves;

(b) Attorneys duly qualified and entitled to practice in the courts of the state of Washington;

(c) Attorneys entitled to practice before the highest court of record of any other state, if attorneys licensed in the state of Washington are permitted to appear before the courts of such other state in a representative capacity, and if not otherwise prohibited by state law.

(1986 Ed.)

(2) Informal proceedings. The right to appear before the board in connection with informal proceedings shall be limited to the following classes of persons:

(a) All persons entitled to practice before the board in connection with formal proceedings;

(b) Public officials in their official capacity;

(c) Certified public accountants and licensed public accountants entitled to practice accountancy in the state of Washington;

(d) Duly authorized directors, officers or employees of corporations representing the corporation of which they are, respectively, directors, officers or employees;

(e) Partners, joint venturers or trustees representing their respective partnerships, joint ventures or trusts; and

(f) Any other person designated by a taxpayer with approval of the board.

[Rule 3, filed 10/4/67.]

**WAC 456-08-040 Standards of ethical conduct.** All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to such standards, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board.

[Rule 4, filed 10/4/67.]

**WAC 456-08-045 Ex parte communications.** No party to a formal proceeding governed by the Administrative Procedure Act, and no attorney appearing in such a proceeding, shall make or attempt to make any ex parte communications prohibited by RCW 34.04.115. Neither the board of tax appeals nor any of its members or hearing examiners, in conducting or presiding in a formal proceeding governed by the Administrative Procedure Act shall make or attempt to make ex parte communications prohibited by RCW 34.04.115. Attempts by parties in formal proceedings or their attorneys to make such prohibited ex parte communications shall subject such parties or attorneys to the sanctions of WAC 456-08-040 and 456-08-535(b).

[Order 6, § 456-08-045, filed 4/1/75; Order 2, § 456-08-045, filed 7/2/70.]

**WAC 456-08-070 Computation of time.** In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. Legal holidays are prescribed in RCW 1.16.050. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded from the computation. Hearings may be held on the first day after the last included day.

[Rule 9, filed 10/4/67.]

**WAC 456-08-080 Rules relating to hearings—Setting.** When the proceeding is at issue, either party may demand a hearing by filing a written request therefor. The demand shall include an estimate of time that will be required to hear the matter. The board shall thereupon fix the time and place for hearing and at least twenty days prior to the date set therefor shall serve notice on all parties of the date, hour and place fixed for the hearing.

[Order 6, § 456-08-080, filed 4/1/75; Rule 20, filed 10/4/67.]

**WAC 456-08-090 Service of papers.** (1) All notices, pleadings, orders and decisions shall be served upon such attorneys or others acting in a representative capacity, and such service shall be considered valid service for all purposes upon the party represented. Whenever any rule or statute heretofore or hereafter enacted requires papers or other documents to be filed and served or served and filed, the serving and filing shall be equally valid and effective whether the paper or document shall be filed or served first.

[Rule 5, filed 10/4/67.]

**WAC 456-08-092 Service by mail.** (1) How made. If service is made by mail, the papers shall be deposited in the post office addressed to the person on whom they are being served, with the postage prepaid. The service shall be deemed complete upon the third day following the day upon which they are placed in the mail, unless the third day falls on a Saturday, Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday or legal holiday following the third day.

(2) Additional time after service by mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him, and the notice or paper is served upon him by mail, three days shall be added to the prescribed period.

[Rule 6, filed 10/4/67.]

**WAC 456-08-150 Subpoenas—Form.** Every subpoena shall state the name of the board and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specified time and place. The time specified shall be a date not less than five days from the date of service.

[Rule 32, filed 10/4/67.]

**WAC 456-08-160 Subpoenas—Issuance to parties.** Upon application of attorneys or other representative authorized to practice before the board for any party in a formal proceeding, there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The board may issue subpoenas to parties not so represented upon request or upon a showing of general

relevance and reasonable scope of the testimony or evidence sought. The party requesting the subpoena, not the board, has the responsibility of serving the subpoena.

[Order 6, § 456-08-160, filed 4/1/75; Rule 33, filed 10/4/67.]

**WAC 456-08-170 Subpoenas—Service.** Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering him on demand the fees for one day's attendance and the mileage allowed by law for witnesses in superior court proceedings.

[Rule 34, filed 10/4/67.]

**WAC 456-08-180 Subpoenas—Fees.** Witnesses summoned pursuant to subpoena shall be paid by the party at whose instance they appear the same fees and mileage that are paid to witnesses in the superior courts of the state of Washington.

[Rule 35, filed 10/4/67.]

**WAC 456-08-190 Subpoenas—Proof of service.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit or acknowledgment of service with the board or the officer before whom the witness(es) is required to testify or produce evidence. If service is made by a person other than an officer of the board and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

[Rule 36, filed 10/4/67.]

**WAC 456-08-200 Subpoenas—Quashing.** Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed and upon notice to the party to whom the subpoena was issued, the board may (1) quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or (2) condition denial of the motion upon just and reasonable conditions.

[Rule 37, filed 10/4/67.]

**WAC 456-08-220 Subpoenas—Geographical scope.** Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington at any designated place of hearing.

[Rule 39, filed 10/4/67.]

**WAC 456-08-230 Depositions and interrogatories—Right to take—Formal proceeding cases.** The testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding may be taken by the parties provided herein, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of an appeal. The attendance of witnesses may be compelled by the use of a subpoena.

Depositions shall be taken only in accordance with this rule and the rule on subpoenas.

[Rule 40, filed 10/4/67.]

**WAC 456-08-240 Depositions and interrogatories—Scope.** Unless otherwise ordered, the deponent may be examined regarding any matter not privileged which is relevant to the subject matter involved in the proceeding.

[Rule 41, filed 10/4/67.]

**WAC 456-08-250 Depositions and interrogatories—Officer before whom taken.** Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the state of Washington or of the place where the examination is held; within a foreign country, depositions shall be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or a person designated by the board or agreed upon by the parties by stipulation in writing filed with the board. Except by stipulation, no deposition shall be taken before a person who is a party or the privy of a party or a privy of any counsel of a party, or who is financially interested in the proceeding.

[Rule 42, filed 10/4/67.]

**WAC 456-08-260 Depositions and interrogatories—Authorization.** A party desiring to take the deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to the board and all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. On motion of a party upon whom the notice is served, the board may for cause shown enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner, and when so taken may be used as other depositions.

[Rule 43, filed 10/4/67.]

**WAC 456-08-270 Depositions and interrogatories—Protection of parties and deponents.** After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the board or its designated officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or that the examination shall be held with no one present except the parties to the action and their officers or attorneys, or that after being sealed, the deposition shall be opened

only by order of the board, or that business secrets or secret processes, developments or research need not be disclosed, or that the parties shall simultaneously file specified documents, or information enclosed in sealed envelopes to be opened as directed by the board, or the board may make any other order which justice requires to protect the party or witness from annoyance, embarrassment or oppression. At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass or oppress the deponent or party, the board or its designated officer may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as above provided. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the board. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order.

[Rule 44, filed 10/4/67.]

**WAC 456-08-280 Depositions and interrogatories—Oral examination and cross-examination.** Examination and cross-examination shall proceed as at an oral hearing. In lieu of participating in the oral examination, any party served with notice of taking a deposition may transmit written cross-interrogatories to the officer who, without first disclosing them to any person, and after the direct testimony is complete, shall propound them seriatim to the deponent and record or cause the answers to be recorded verbatim.

[Rule 45, filed 10/4/67.]

**WAC 456-08-290 Depositions and interrogatories—Recordation.** The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under his direction and in his presence record the testimony by typewriter directly or by transcription from stenographic notes, wire or record recorders, which record shall separately and consecutively number each interrogatory. Objections to the notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

[Rule 46, filed 10/4/67.]

**WAC 456-08-300 Depositions and interrogatories—Signing, attestation and return.** (1) When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be

signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress, the board holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(2) The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. He shall then securely seal the deposition in an envelope indorsed with the title of the proceeding and marked "Deposition of [here insert the name of witness]" and shall promptly send it by registered or certified mail to the board for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

[Rule 47, filed 10/4/67.]

**WAC 456-08-310 Depositions and interrogatories—Use and effect.** Subject to rulings by the board upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the board upon its own motion or the motion of any party. Except by agreement of the parties or ruling of the board, a deposition will be received only in its entirety. A party does not make a party, or the privy of a party, or any hostile witness, his witness by taking his deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by him or any other party.

[Rule 48, filed 10/4/67.]

**WAC 456-08-320 Depositions and interrogatories—Fees of officers and deponents.** Deponents whose depositions are taken and the officers taking the same shall be entitled to the same fees as are paid for like services in the superior courts of the state of Washington, which fees shall be paid by the party at whose instance the depositions are taken

[Rule 49, filed 10/4/67.]

**WAC 456-08-330 Depositions upon interrogatories—Submission of interrogatories.** Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and the address of the officer before whom they are to be taken. Within ten days thereafter a party so served may serve cross-interrogatories upon the party proposing to

take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

[Rule 50, filed 10/4/67.]

**WAC 456-08-340 Depositions upon interrogatories—Interrogation.** Where the interrogatories are forwarded to an officer authorized to administer oaths as provided in WAC 456-08-250, the officer taking the same after duly swearing the deponent shall read to him seriatim, one interrogatory at a time and cause the same and the answer thereto to be recorded before the succeeding interrogatory is asked.

[Rule 51, filed 10/4/67.]

**WAC 456-08-350 Depositions upon interrogatories—Attestation and return.** The officer before whom interrogatories are verified or answered shall (1) certify under his official signature and seal that the deponent was duly sworn by him, that the interrogatories and answers are a true record of the deponent's testimony, and that neither he nor the stenographer, to his knowledge, is a party, privy to a party, or interested in the event of the proceedings, and (2) promptly send by registered or certified mail the original copy of the deposition and exhibits with his attestation to the board, one copy to the attorney who submitted the interrogatories and another copy to the deponent.

[Rule 52, filed 10/4/67.]

**WAC 456-08-360 Depositions upon interrogatories—Provisions of deposition rule.** In all other respects, depositions upon interrogatories shall be governed by the previous deposition rule.

[Rule 53, filed 10/4/67.]

**WAC 456-08-365 Depositions upon interrogatories—Request for admissions.** After commencement of an appeal a party may serve upon any other party, a written request for the admission by the latter of the genuineness of any relevant documents described in, and exhibited with the request, or of the truth of any relevant matters of fact set forth in the request. If an appellant desires to serve a request within ten days after commencement of the appeal, leave of the board or chairman of the board, granted with or without notice, must be obtained. Copies of the documents shall be served with the request unless the copies have already been furnished. Each of the matters of which an admission is requested shall be deemed admitted unless, within a period designated in the request, not less than ten days after service thereof or within such shorter or longer time as the board may allow on motion and notice, the party to whom the request is directed serves upon the party requesting the admission either (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or

that the request is otherwise improper in whole or in part, together with a notice of hearing on the objections at the earliest practicable time. If written objections to a part of the request are made, the remainder of the request shall be answered within the period designated in the request. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party deny only a part of a qualification of a matter of which an admission is requested, he shall specify so much of it as is true and deny only the remainder.

Any admission made by a party pursuant to such request is for the purpose of the pending action only and neither constitutes an admission by him for any other purpose nor may be used against him in any other proceeding.

[Order 2, § 456-08-365, filed 7/2/70.]

**WAC 456-08-370 Official notice—Matters of law.** The board, upon request made before or during a hearing, will officially notice:

(1) Federal law. The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and notices published in the Federal Register.

(2) State law. The Constitution of the state of Washington; decisions of the state courts; acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and notices filed with the code reviser.

(3) Counties and cities. Ordinances and resolutions enacted by cities, counties or other municipal subdivisions of the state of Washington.

(4) Governmental organization. Organization, territorial limitations, officers, departments and general administration of the government of the state of Washington, the United States, the several states and foreign nations.

(5) Agency organization. The department, commission or board organization, administration, officers, personnel, official publications and practitioners before its bar.

[Order 2, § 456-08-370, filed 7/2/70; Rule 29, filed 10/4/67.]

**WAC 456-08-380 Official notice—Material facts.** In the absence of controverting evidence, the board, upon request made before or during a hearing, may officially notice:

(1) Board proceedings. The pendency of the issues and position of the parties therein, and the disposition of any proceeding then pending before or theretofore concluded by the board.

(2) Business customs. General customs and practices followed in the transaction of business.

(3) Notorious facts. Facts so generally and widely known to all well-informed persons as not to be subject to reasonable dispute or specific facts which are capable

of immediate and accurate demonstration by resort to accessible sources of generally accepted authority, including, but not exclusively, facts stated in any publication authorized or permitted by law to be made by any federal or state officer, department or agency.

(4) Technical knowledge. Matters within the technical knowledge of the board involved as a body of experts, within the scope or pertaining to the subject matter of its statutory duties, responsibilities or jurisdiction.

(5) Request or suggestion. Any party may request, or the board may suggest, that official notice be taken of a material fact, which shall be clearly and precisely stated, orally on the record, at any pre-hearing conference or oral hearing or argument, or may make such request or suggestion by written notice, any pleading, motion, memorandum or brief served upon all parties, at any time prior to a final decision.

(6) Statement. Where an initial or final decision of the board rests in whole or in part upon official notice of a material fact, such fact shall be clearly and precisely stated in such decision. In determining whether to take official notice of material facts, the board may consult any source of pertinent information, whether or not furnished as it may be, by any party and whether or not admissible under the rules of evidence.

(7) Controversion. Any party may controvert a request or a suggestion that official notice of a material fact be taken at the time the same is made if it be made orally, or by a pleading, reply or brief in response to the pleading or brief or notice in which the same is made or suggested. If any decision is stated to rest in whole or in part upon official notice of a material fact which the parties have not had a prior opportunity to controvert, any party may controvert such fact by a appropriate exceptions if such notice be taken in an initial or intermediate decision or by a petition for reconsideration if notice of such fact be taken in a final report. Such controversion shall concisely and clearly set forth the sources, authority and other data relied upon to show the existence or nonexistence of the material fact assumed or denied in the decision.

(8) Evaluation of evidence. Nothing herein shall be construed to preclude the board from utilizing its experience, technical competence and specialized knowledge in the evaluation of the evidence presented to it.

[Rule 30, filed 10/4/67.]

**WAC 456-08-400 Agreed statement of facts.** The parties may, by written stipulation, agree upon any or all facts involved in the appeal.

[Rule 22, filed 10/4/67.]

**WAC 456-08-401 Briefs.** Four copies of written briefs shall be filed with the board at least three days before the time of hearing. When briefs are filed, a copy shall also be served on the other parties or their attorneys. The board may permit or require the filing of additional briefs.

[Rule 23, filed 10/4/67.]



**WAC 456-08-405 Submission without oral argument.** An appeal in which an issue has been joined, but in which there is no issue of fact, may be submitted to the board for decision by either or both parties upon written briefs without oral argument, but the board may, in its discretion, require appearance for argument.

[Rule 24, filed 10/4/67.]

**WAC 456-08-408 Testimony under oath.** All testimony to be considered by the board shall be sworn, and each person shall swear (or affirm) that the testimony he is about to give in hearing before the board shall be the truth, the whole truth, and nothing but the truth.

[Order 2, § 456-08-408, filed 7/2/70; Rule 25, filed 10/4/67.]

**WAC 456-08-420 Joinder of issue.** A proceeding shall be deemed at issue upon the filing of the answer or, in the absence thereof, thirty days after service of the notice of appeal.

[Rule 19, filed 10/4/67.]

**WAC 456-08-430 Prehearing conference rules—Authorized.** The board, upon its own motion or upon the motion of one of the parties, may, in its discretion, direct the parties to appear at a specified time and place to appear before one or more members of the board for a conference to consider:

- (1) The simplification of the issues;
- (2) The necessity of amendments to pleadings;
- (3) The possibility of obtaining stipulations, admissions of fact or document;
- (4) The limitation of the number of expert witnesses;
- (5) Such other matters as may aid in the disposition of the proceeding.

The board or the member conducting the conference shall make an order which recites the action taken at the conference which order shall control the subsequent course of action, unless modified for cause at the hearing.

[Rule 31, filed 10/4/67.]

**WAC 456-08-510 Extensions of time—Continuance.** Extensions of time, continuances and adjournments may be ordered by the board on its own motion or may be granted by it, in its discretion, on motion of either party filed in writing and showing good and sufficient cause therefor.

[Rule 21, filed 10/4/67.]

**WAC 456-08-520 Rules of evidence.** The board may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. It shall give effect to the rules of privilege recognized by law. It may exclude incompetent, irrelevant material and unduly repetitious evidence. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. Every party shall have the right to cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence.

[Title 456 WAC—p 8]

[Rule 28, filed 10/4/67.]

**WAC 456-08-532 Findings of fact, conclusions of law and order.** When a hearing is conducted before only one member of the board, or when it is conducted before two members of the board who cannot agree as to the disposition of a hearing, proposed findings of fact, conclusions of law and order must be prepared and served upon the parties to the proceeding. Those parties may file objections and arguments within fifteen days of being served with the proposed findings. The full board will then consider proposals and the objections, if any, prior to making a final order.

[Rule 26, filed 10/4/67.]

**WAC 456-08-535 Dismissal of actions.** (1) Voluntary dismissal.

(a) Mandatory. Any action shall be dismissed by the board:

(i) By stipulation: When all parties who have appeared so stipulate in writing, or

(ii) By appellant before resting: Upon motion of the appellant at any time before appellant rests at the conclusion of his opening case.

(b) Permissive. After appellant rests after his opening case, appellant may move for a voluntary dismissal without prejudice upon good cause shown and upon such terms and conditions as the board deems proper.

(2) Involuntary dismissal; Effect. For failure of the appellant to prosecute or to comply with these rules or any order of the board, a respondent may move for dismissal of an action or of any claim against him.

(a) Want of prosecution on motion of party. Any action shall be dismissed for want of prosecution whenever the appellant neglects to note the action for hearing within one year after any issue of law or fact has been joined, unless the failure to bring the same on for hearing was caused by the party who makes the motion to dismiss. Such motion to dismiss shall come on for hearing only after ten days' notice to the adverse party. If the case is noted for hearing before the hearing upon the motion, the action shall not be dismissed.

(b) Dismissal on clerk's motion. In all proceedings wherein there has been no action of record during the nine months just past, the clerk of the board shall mail notice to the attorneys of record that such proceeding will be dismissed by the board for want of prosecution unless within thirty days following said mailing action of record is made or an application in writing is made to the board and good cause shown why it should be continued as a pending proceeding. If such application is not made or good cause is not shown, the board shall dismiss each such proceeding.

[Order 2, § 456-08-535, filed 7/2/70; Rule 27, filed 10/4/67.]

**WAC 456-08-540 Petition for rehearing.** (1) Any party may after a final decision of the board file a petition for rehearing. A petition for rehearing must be filed within fifteen days of service of notice of final decision



in the hearing. The petition for rehearing, and an answer, if called for, must be served on the other parties in the hearing, and three copies filed with the board.

(2) The filing of a petition for rehearing shall suspend the final decision of the board until it is denied by the board or a modified decision is entered by the board.

(3) In response to a petition for rehearing, the board may (a) deny, (b) call for an answer, (c) modify its decision, or (d) permit a rehearing.

[Rule 54, filed 10/4/67.]

**WAC 456-08-600 Informal hearings--Procedure for informal hearings.** The following rules shall govern practice and procedure before the board of tax appeals in all hearings not held pursuant to the Administrative Procedure Act (chapter 34.04 RCW) as a formal hearing:

- WAC 456-08-001 Procedure governed.
- WAC 456-08-002 Organization and office.
- WAC 456-08-003 Time from which appeal period is computed.
- WAC 456-08-004 Notice of appeal.
- WAC 456-08-005 Filing—Docket numbers.
- WAC 456-08-006 Time for appeal.
- WAC 456-08-007 Parties in exemption appeals.
- WAC 456-08-010 Appearance and practice before the board.
- WAC 456-08-040 Standards of ethical conduct.
- WAC 456-08-070 Computation of time.
- WAC 456-08-090 Service of papers.
- WAC 456-08-092 Service by mail.
- WAC 456-08-370 Official notice—Matters of law.
- WAC 456-08-380 Official notice—Material facts.
- WAC 456-08-408 Testimony under oath.
- WAC 456-08-510 Extensions of time—Continuance.
- WAC 456-08-520 Rules of evidence.
- WAC 456-08-535 Dismissal of actions.
- WAC 456-08-540 Petition for rehearing.
- WAC 456-08-610 Appeals from department of revenue.
- WAC 456-08-620 Appeals from county board of equalization.
- WAC 456-08-630 Setting for hearing.
- WAC 456-08-635 Hearing examiner for informal hearing.
- WAC 456-08-640 Voluntary dismissal.
- WAC 456-08-650 Involuntary dismissal.
- WAC 456-08-660 Proposed decisions.
- WAC 456-08-670 Petition for hearing—Subpoenas.
- WAC 456-08-700 Form and size of pleadings.
- WAC 456-08-710 Notice of appeal (except appeals under RCW 82.03.130(2)).
- WAC 456-08-715 Amendments to pleadings.

[Order 6, § 456-08-600, filed 4/1/75; Order 2, § 456-08-600, filed 7/2/70; Rule 55, filed 10/4/67.]

**WAC 456-08-610 Appeals from department of revenue.** Appeals pursuant to RCW 82.03.130 (1), (3) and

(4), 84.34.065, 84.36.850 and 82.04.291 from determinations of the department of revenue must comply with WAC 456-08-710, Notice of appeal.

[Order 6, § 456-08-610, filed 4/1/75; Rule 57, filed 10/4/67.]

**WAC 456-08-620 Appeals from county board of equalization.** Appellants from a county board of equalization pursuant to RCW 82.03.130(2) shall be required to supply in writing to the board of tax appeals on the petition form any information called for on the appeal notice to the county board of equalization and not included on that appeal form. The appellant must supply the following information:

- (1) The legal description of the property under appeal.
- (2) The year for which the valuation has been determined.
- (3) The full value as determined by the local board of equalization; and
- (4) A declaration of true and fair value of the property as determined by the appellant.

Failure to supply in writing to the board of tax appeals any of the information enumerated above within sixty days from the date that the appeal petition is sent by the board to the appellant constitutes grounds for the dismissal of the appeal by the board.

[Order 2, § 456-08-620, filed 7/2/70; Rule 58, filed 10/4/67.]

**WAC 456-08-630 Setting for hearing.** The board shall set the date for the hearing and inform all parties as to the date, time and place at least seven days prior to the hearing.

[Rule 59, filed 10/4/67.]

**WAC 456-08-635 Hearing examiner for informal hearing.** Informal hearings of appeals pursuant to RCW 82.03.130(2), when directed by the board, shall be heard by a hearing officer appointed by the board. Said hearings shall be conducted in accordance with the rules of procedure for informal hearings, and the hearing officer is empowered to act on behalf of the board. After an informal hearing is concluded, the hearing officer shall prepare and distribute to the parties a proposed decision determining the appeal. The parties shall have twenty days from the date the proposed decision is mailed to file with the board specific written objections to the hearing officer's decision. If no written objections are so filed, then the decision shall be final. When written objections are timely filed, the board shall review the hearing officer's decision and the written objections. The board may also request or permit oral arguments before entering a final order.

[Order 6, § 456-08-635, filed 4/1/75; Order 3, § 456-08-635, filed 2/23/71.]

**WAC 456-08-640 Voluntary dismissal.** An appellant can at any time prior to the hearing dismiss his appeal by notice to the board in writing.

[Rule 60, filed 10/4/67.]

**WAC 456-08-650 Involuntary dismissal.** The board may on its own motion dismiss an appeal if appellant or someone on his behalf fails to appear at the hearing without having secured a continuance in advance.

[Rule 61, filed 10/4/67.]

**WAC 456-08-660 Proposed decisions.** When a hearing is conducted before only one member of the board, or when it is conducted before two members who cannot agree as to the disposition of the hearing, then a proposed decision shall be prepared and served on the parties to the proceeding. The parties may file written objections within fifteen days. The board shall consider the proposed decision and objections, if any, prior to entering a final order.

[Order 2, § 456-08-660, filed 7/2/70; Rule 62, filed 10/4/67.]

**WAC 456-08-670 Petition for hearing--Subpoenas.** Subpoenas may be issued pursuant to the rules for formal hearings at the discretion of the board.

[Rule 63, filed 10/4/67.]

**WAC 456-08-700 Rules relating to pleadings--Form and size of pleadings.** Pleadings submitted under these rules shall be typewritten or printed, properly captioned, and shall be signed by the appropriate authorized individual or officer submitting the same, and bear his or her address and telephone number. Pleadings shall be on white paper approximately 8-1/2 X 13 inches or 8-1/2 X 11 inches in size.

[Rule 12, filed 10/4/67.]

**WAC 456-08-705 Rules relating to pleadings--Type of hearing.** (1) If the appellant in its notice of appeal does not request a formal hearing under the Administrative Procedure Act (chapter 34.04 RCW), the department of revenue in those cases appealed under RCW 82.03.190 may within ten days of service of the notice of appeal upon it file with the clerk of the board written notice of its intention that the hearing be held pursuant to the Administrative Procedure Act.

(2) In appeals taken under RCW 82.03.130(2), the appellant may elect, within thirty days after the date of the filing with the county auditor of the notice of appeal required by RCW 84.08.130, to have the case determined by a formal hearing under the Administrative Procedure Act (chapter 34.04 RCW). Such election shall be made by service of a written notice upon the board. The board shall thereupon notify the appellant and respondent that such election has been made: *Provided, however,* That no such election can be made less than five days prior to the scheduled date of the informal hearing.

(3) When appeals are taken from the same decision, order or determination by different parties, a timely request by any party permitted to elect a formal hearing will result in the appeal being conducted as a formal hearing.

(4) The failure to file with the board of tax appeals, without having obtained a continuance, of the notice of

appeal in the form required by WAC 456-08-710 within thirty days of having elected a formal hearing shall constitute a withdrawal of the request for a formal hearing and the hearing shall proceed as an informal proceeding.

[Order 6, § 456-08-705, filed 4/1/75; Order 2, § 456-08-705, filed 7/2/70; Rule 13, filed 10/4/67.]

**WAC 456-08-710 Notice of appeal.** A notice of appeal of which the board has jurisdiction under RCW 82.03.130, 84.34.065, 84.36.850 and 82.04.291, shall contain:

- (1) A caption in the following form:

STATE OF WASHINGTON  
Board of Tax Appeals

Appellant,	}	Name of County which property is located
-vs-		NO.....
Respondent.		NOTICE OF APPEAL  RE: [Type of tax, E.g. excise, property]

In all cases the appellant shall be the party appealing to the Washington state board of tax appeals. The respondent shall be the "department of revenue," county assessor, or the property owner, as the case may be.

- (2) Numbered paragraphs stating:

(a) Appellant's name and principal office or residence.  
(b) The date of the order or determination from which the appeal is taken.

(c) The nature of the tax and: (i) In excise tax cases, the amount of the tax in controversy and the period covered thereby; (ii) in property tax cases, a legal description of the property under appeal, the year for which the valuation has been determined, the full value as determined by the local board of equalization, and a declaration of true and fair value as determined by the appellant;

(iii) In property tax exemption cases, a legal description of the property under appeal, the basis under which exempt status should be granted or denied, and the use of the property;

(iv) In pollution control tax exemption and credit certificate cases (chapter 82.34 RCW), the amount to which the credit or exemption should apply, and the grounds for such contention.

(d) Clear, separate and concise assignments of each and every error which the appellant alleges to have been committed by the department of revenue or the county board of equalization.

(e) Clear and concise statements of facts upon which the appellant relies to sustain the assignments of error.

(f) Except as provided in WAC 456-08-705, if the appellant intends that the hearing before the board be held pursuant to the Administrative Procedure Act

(chapter 34.04 RCW), the notice of appeal shall so state.

(g) A prayer setting forth the relief sought by the appellant.

(3) The signature of the appellant or that of his attorney.

(4) Every pleading including the notice of appeal of a party represented by an attorney or other qualified representative shall be signed by at least one attorney of record in his individual name or qualified representative whose address shall be stated. A party who is not represented by an attorney or qualified representative shall sign his pleading and state his address. Pleadings need not, but may be, verified or accompanied by affidavit. The signature of a party or of an attorney or qualified representative constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed, or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false and the action may proceed as though the pleading had not been served.

[Order 9, § 456-08-710, filed 7/28/75; Order 6, § 456-08-710, filed 4/1/75; Order 2, § 456-08-710, filed 7/2/70; Rule 14, filed 10/4/67.]

**WAC 456-08-715 Notice of appeal--Amendments to pleadings.** A pleading may be amended as a matter of right until the earlier in time of the following has occurred:

(1) A responsive pleading has been filed, or (2) thirty days have elapsed. Any amendments of pleadings after that time can only be by leave of the board or by agreement of the parties. The board may with or without a motion require a more complete statement of the nature of the claim or defense or any matter stated in any pleadings.

[Rule 15, filed 10/4/67.]

**WAC 456-08-720 Notice of appeal--Answer.** The respondent may file an answer with the clerk of the board and serve a copy thereof on the appellant within thirty days of the service of the notice of appeal. If the respondent asserts any affirmative defenses in the proceedings, then an answer must be filed and served upon the appellant within thirty days of the service of the notice of appeal setting forth such defenses. Answers shall be verified in the same manner as the notice of appeal.

[Rule 16, filed 10/4/67.]

**WAC 456-08-725 Intervention.** (1) Intervention of right. Upon timely application, anyone shall be permitted to intervene in an action: (a) When a statute confers an unconditional right to intervene, or (b) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

(1986 Ed.)

(2) Permissive intervention. Upon timely application, anyone may be permitted to intervene in an action: (a) When a statute confers a conditional right to intervene, or (b) when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement, or agreement issued or made pursuant to the statute or executive order, the officer or agency, upon timely application, may be permitted to intervene in the action. In exercising its discretion, the board shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

[Rule 17, filed 10/4/67.]

**WAC 456-08-730 Participation by an intervenor.** Any person qualifying as an intervenor pursuant to WAC 456-08-725 will have the following limited procedural rights: (1) He shall be served with pleadings filed by other parties; (2) he shall be permitted to submit briefs to the board; (3) he shall receive notices given by the board to the parties; (4) he will be permitted to present oral arguments to the board subject to limitations imposed by the board; and (5) he shall be served with all orders and decisions entered by the board in the action, and shall have right to file a petition for rehearing. An intervenor pursuant to WAC 456-08-725(2) shall not be granted any affirmative relief in the proceeding: *Provided, however,* Notwithstanding the limitations expressed in this rule, the board may in appropriate circumstances grant an intervenor the status of a party with all or, if so specified by the board, less than all, of the rights of a party in the proceedings.

[Order 5, § 456-08-730, filed 6/8/73; Order 2, § 456-08-730, filed 7/2/70; Rule 18, filed 10/4/67.]

**WAC 456-08-735 Participation by an intervenor--Amicus curiae.** The chairman of the board may grant to any attorney authorized to practice in this state authority to file a brief amicus curiae. Ordinarily such authority will not be granted unless the brief of amicus curiae will be served in time to permit the party opposing the position of the amicus curiae an opportunity to respond. Four copies of such briefs must be filed with the board and a copy must be served on each of the parties or their attorneys.

[Order 2, § 456-08-735, filed 7/2/70.]

**WAC 456-08-740 Record on appeal.** When an appeal is taken to superior court from a decision of the board of tax appeals rendered in a formal proceeding pursuant to RCW 82.03.160, the appellant has the responsibility of ordering at his expense, from the court reporter, a transcript of the testimony or such parts as may be necessary for the appeal.

[Order 6, § 456-08-740, filed 4/1/75.]