

Title 456 WAC

TAX APPEALS, BOARD OF

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456-08-006	Time for appeal. [Statutory Authority: RCW 82.03.170. 88-13-021 (Order 88-2), § 456-08-006, filed 6/7/88; Order 6, § 456-08-006, filed 4/1/75; Rule 11, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	456-08-260
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456-08-010	Appearance and practice before the board—Who may appear. [Rule 3, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	456-08-280
456-08-040	Standards of ethical conduct. [Rule 4, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	456-08-290
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456-08-080	Rules relating to hearings—Setting. [Order 6, § 456-08-080, filed 4/1/75; Rule 20, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	456-08-320
456-08-090	Service of papers. [Rule 5, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	456-08-330
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456-08-150	Subpoenas—Form. [Rule 32, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	456-08-350
456-08-160	Subpoenas—Issuance to parties. [Order 6, § 456-08-160, filed 4/1/75; Rule 33, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	456-08-360
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	Subpoenas—Fees. [Rule 35, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Subpoenas—Proof of service. [Rule 36, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Subpoenas—Quashing. [Rule 37, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Subpoenas—Enforcement. [Rule 38, filed 10/4/67.] Repealed by Order 6, filed 4/1/75.	
	Subpoenas—Geographical scope. [Rule 39, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions and interrogatories—Right to take—Formal proceeding cases. [Rule 40, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions and interrogatories—Scope. [Rule 41, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions and interrogatories—Officer before whom taken. [Rule 42, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions and interrogatories—Authorization. [Rule 43, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions and interrogatories—Protection of parties and deponents. [Rule 44, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions and interrogatories—Oral examination and cross-examination. [Rule 45, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions and interrogatories—Recordation. [Rule 46, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
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	Depositions and interrogatories—Fees of officers and deponents. [Rule 49, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions upon interrogatories—Submission of interrogatories. [Rule 50, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions upon interrogatories—Interrogation. [Rule 51, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions upon interrogatories—Attestation and return. [Rule 52, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	
	Depositions upon interrogatories—Provisions of deposition rule. [Rule 53, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.	

- 456-08-365 Depositions upon interrogatories—Request for admissions. [Order 2, § 456-08-365, filed 7/2/70.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-370 Official notice—Matters of law. [Order 2, § 456-08-370, filed 7/2/70; Rule 29, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-380 Official notice—Material facts. [Rule 30, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-400 Agreed statement of facts. [Rule 22, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-401 Briefs. [Rule 23, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-405 Submission without oral argument. [Rule 24, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-408 Testimony under oath. [Order 2, § 456-08-408, filed 7/2/70; Rule 25, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-420 Joinder of issue. [Rule 19, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-430 Prehearing conference rules—Authorized. [Rule 31, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-510 Extensions of time—Continuance. [Rule 21, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-520 Rules of evidence. [Rule 28, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-532 Findings of fact, conclusions of law and order. [Rule 26, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-535 Dismissal of actions. [Order 2, § 456-08-535, filed 7/2/70; Rule 27, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-540 Petition for rehearing. [Rule 54, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-600 Informal hearings—Procedure for informal hearings. [Order 6, § 456-08-600, filed 4/1/75; Order 2, § 456-08-600, filed 7/2/70; Rule 55, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-605 Petition for rehearing—Incorporation of rules for formal hearings. [Rule 56, filed 10/4/67.] Repealed by Order 2, filed 7/2/70.
- 456-08-610 Appeals from department of revenue. [Order 6, § 456-08-610, filed 4/1/75; Rule 57, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-620 Appeals from county board of equalization. [Order 2, § 456-08-620, filed 7/2/70; Rule 58, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-630 Setting for hearing. [Rule 59, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-635 Hearing examiner for informal hearing. [Order 6, § 456-08-635, filed 4/1/75; Order 3, § 456-08-635, filed 2/23/71.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-640 Voluntary dismissal. [Rule 60, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-650 Involuntary dismissal. [Rule 61, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-660 Proposed decisions. [Order 2, § 456-08-660, filed 7/2/70; Rule 62, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-670 Petition for hearing—Subpoenas. [Rule 63, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-700 Rules relating to pleadings—Form and size of pleadings. [Rule 12, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-705 Rules relating to pleadings—Type of hearing. [Statutory Authority: RCW 82.03.170. 88-13-021 (Order 88-2), § 456-08-705, filed 6/7/88; Order 6, § 456-08-705, filed 4/1/75; Order 2, § 456-08-705, filed 7/2/70; Rule 13, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-710 Notice of appeal. [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.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-715 Notice of appeal—Amendments to pleadings. [Rule 15, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-720 Notice of appeal—Answer. [Rule 16, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-725 Intervention. [Rule 17, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-730 Participation by an intervenor. [Order 5, § 456-08-730, filed 6/8/73; Order 2, § 456-08-730, filed 7/2/70; Rule 18, filed 10/4/67.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-735 Participation by an intervenor—Amicus curiae. [Order 2, § 456-08-735, filed 7/2/70.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.
- 456-08-740 Record on appeal. [Order 6, § 456-08-740, filed 4/1/75.] Repealed by 89-10-055 (Order 89-05), filed 5/2/89. Statutory Authority: RCW 82.03.170.

Chapter 456-09 WAC

FORMAL HEARINGS—PRACTICE AND PROCEDURE

WAC

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- 456-09-735 Hearing—Standard and scope of review.
- 456-09-740 Testimony under oath—Interpreters.
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HEARING OPTIONS

WAC 456-09-010 Formal, informal hearing—Distinction. All persons appealing to the board of tax appeals may request that their appeal be heard either as a formal or informal hearing. Formal hearings are requested by parties wishing to carry the record of their appeals to court and are conducted pursuant to the Administrative Procedure Act. Judicial review of a board decision made in a formal hearing is limited to the record made of the proceedings before the board of tax appeals. All parties in formal hearings are normally represented by attorneys although taxpayers may represent themselves in such proceedings. A verbatim record is made of all formal hearings.

Informal hearings are requested by a majority of parties appearing before the board of tax appeals. Decisions entered in an informal appeal may not be appealed to court. Courts may have jurisdiction, however, to hear a timely filed action pursuant to RCW 82.32.180 or 84.68.020 (see RCW 82.03.180).

In all appeals over which the board has jurisdiction, a party taking an appeal may elect, with its notice of appeal, either a formal or informal hearing pursuant to RCW 82.03.140. Failure to elect a formal or informal hearing at the time of filing shall result in the proceeding being conducted as informal.

[Statutory Authority: RCW 82.03.170, 94-07-044, § 456-09-010, filed 3/10/94, effective 4/10/94; 89-10-056 (Order 89-02), § 456-09-010, filed 5/2/89.]

ADMINISTRATION

WAC 456-09-110 Definitions. As used in this chapter, the following terms shall have the following meaning:

(1) "Board" means the board of tax appeals as described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC. Where appropriate, the term "board" also refers to the designated hearing officers or agents of the board of tax appeals.

(2) "Presiding officer" or "hearing officer" shall mean any member of the board, tax referee, administrative law judge, or any person who is assigned to conduct a conference or hearing by the board. The presiding officer shall have authority as provided by WAC 10-08-200 and chapter 34.05 RCW.

(3) "Appellant" means a person, natural or otherwise, who appeals any order or decision to the board of tax appeals.

(4) "Respondent" means a person, natural or otherwise, who is named as a responding party in any appeal before the board of tax appeals.

(5) "Formal hearing" means a proceeding conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(6) "Informal hearing" means a proceeding governed by those rules specified in chapter 456-10 WAC.

(7) "Decision" means a written judgment or ruling, including orders, issued by the board of tax appeals or the designated hearing officers or agents of the board of tax appeals.

[Statutory Authority: RCW 82.03.170, 95-05-033 (Order 95-01), § 456-09-110, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-110, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-110, filed 5/2/89.]

WAC 456-09-120 Formal rules—Procedure governed. These rules shall govern all practice and procedure for formal hearings before the board.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-120, filed 5/2/89.]

WAC 456-09-130 Organization and office. The board consists of three members, one of whom is elected chair. Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis.

The board offices are open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and legal holidays. All submissions, requests, and communications shall be sent to the board at its principal office at 910 5th Avenue S.E., Post Office Box 40915, Olympia, Washington 98504-0915.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-130, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-130, filed 5/2/89.]

WAC 456-09-140 Quorum. Two members of the board shall constitute a quorum for making orders or decisions or for promulgating rules and regulations relating to its procedures and may act although one position on the board may be vacant. One member or designated hearing officer may hold hearings and take testimony. The findings of such member or hearing officer shall not become final until approved by a majority of the board in accordance with WAC 456-09-940 or 456-09-950.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-140, filed 5/2/89.]

WAC 456-09-150 Meetings of the board. Regular meetings of the board will be held at its principal office or such other place as the board designates at 10:00 a.m. on the second Thursday of each March, June, September, and December.

[Statutory Authority: RCW 82.03.170. 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-150, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-150, filed 5/2/89.]

WAC 456-09-160 Form and size of documents. Documents other than exhibits shall be typewritten or printed, properly captioned, shall be signed by the appropriate authorized individual or officer submitting the same, and shall include their address and telephone number. Pleadings shall be on 8-1/2 x 11 inch paper.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-160, filed 5/2/89.]

WAC 456-09-170 Docket number. The board shall assign each appeal a docket number which shall be the official reference number for purposes of identification. Docket numbers for formal hearings shall be indicated by the last two digits of the calendar year in which the appeal was filed, and a number (e.g., 89-21).

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-170, filed 5/2/89.]

PRACTICE BEFORE THE BOARD

WAC 456-09-210 Appearance and practice before the board—Who may appear. Practice before the board in formal proceedings shall be limited to the following:

- (1) Taxpayers who are natural persons representing themselves;
- (2) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;
- (3) An authorized officer, partner, or full-time employee of an individual firm, association, partnership, or corporation

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who appears for such firm, association, partnership, or corporation; and

- (4) Other persons permitted by law.

[Statutory Authority: RCW 82.03.170. 91-07-038 (Order 91-01), § 456-09-210, filed 3/15/91, effective 4/15/91. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-210, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-210, filed 5/2/89.]

WAC 456-09-220 Rules of professional conduct. All persons appearing in proceedings before the board in a representative capacity shall conform to the rules of professional conduct required of attorneys before the courts of Washington. If any such person does not conform to such rules, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board. For example, representatives must observe rules concerning conflict of interests.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-220, filed 5/2/89.]

WAC 456-09-230 Ex parte communication. (1) No one shall make or attempt to make any ex parte communications prohibited by the Administrative Procedure Act. The board, in conducting a formal proceeding governed by the Administrative Procedure Act, may not make or attempt to make ex parte communications prohibited by such act. Attempts by anyone to make such prohibited ex parte communications shall subject such person to the sanctions of WAC 456-09-220 and 456-09-750.

- (2) The requirements and procedures of RCW 34.05.455 apply to ex parte communications.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-230, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-230, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-230, filed 5/2/89.]

APPEAL PROCEDURE

WAC 456-09-310 Notice of appeal—Forms—Contents. (1) For all appeals, an appellant may file a notice of appeal using forms provided by the board.

- (2) In the alternative, an appellant may file a notice of appeal that shall substantially contain:

- (a) A caption in the following form:

BEFORE THE BOARD OF TAX APPEALS STATE OF WASHINGTON		
Appellant,	}	Name of county in which property is located (if applicable) Docket No.
v.		
Respondent.	}	NOTICE OF APPEAL Re: (Type of tax, e.g., excise, property)
.....		

In all cases the appellant shall be the party appealing to the board. The respondent shall be the government agency or the property owner, as the case may be.

(b) Numbered paragraphs stating:

(i) Appellant's name, mailing address, telephone number, and that of the representative, if any.

(ii) The date of the order or determination from which the appeal is taken together with a copy of the order, decision, or application appealed from.

(iii) The nature of the tax, and:

(A) In excise tax cases, the amount of the tax in controversy and the period covered thereby;

(B) In property tax cases, a legal description or parcel number 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 alleged by the appellant; and

(C) In property tax exemption cases, a legal description and/or parcel number of the property under appeal, the basis under which exempt status should be granted or denied, and the use of the property.

(iv) A clear, separate, and concise assignment of each error alleged and a short statement of facts upon which the appellant relies to sustain each contention, and the issue to be adjudicated in the proceeding.

(v) A notice of intention that the hearing be held pursuant to the Administrative Procedure Act.

(vi) The relief sought.

(c) A statement that the appellant has read the notice and believes the contents to be true, followed by the party's signature and/or signature of their attorney or qualified representative, if any. The signature of a party, attorney, or qualified representative constitutes a certificate that the pleading has been read and that to the best personal knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay. If determined by the board that a pleading is not signed or is signed with the intent to defeat the purpose of this section, it may be stricken and the action may proceed as though the pleading had not been served.

[Statutory Authority: RCW 82.03.170. 98-22-039, § 456-09-310, filed 10/29/98, effective 11/29/98. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-310, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-310, filed 5/2/89.]

WAC 456-09-315 Notice of appeal—Timeliness of filing. Any appeal to the board shall be filed within the time required by the statute governing the respective agency or proceeding involved including, but not limited to the following:

(1) Appeals taken pursuant to RCW 82.03.190, thirty days from the mailing of the determination.

(2) Appeals from a county board of equalization pursuant to RCW 84.08.130, thirty days from the mailing of the decision.

(3) Appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, thirty days from the mailing of the determination.

(4) Appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pur-

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suant to chapters 84.12 and 84.16 RCW, thirty days from the mailing of the order.

(5) Appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075, fifteen days after the mailing of the certification.

(6) Appeals from the decisions of sale price of second class shorelands on navigable lakes by the department of natural resources pursuant to RCW 79.94.210, thirty days from the mailing of the notification.

(7) Appeals from urban redevelopment property tax apportionment district proposals established by governmental ordinances pursuant to RCW 39.88.060, thirty days from the mailing of the ordinance.

(8) Appeals from interest rates as determined by the department of revenue for use in valuing farmland under current use assessment pursuant to RCW 84.34.065, thirty days after the publication of the rate.

(9) Appeals from revisions to stumpage value tables used to determine value by the department of revenue pursuant to RCW 84.33.091, on or before the sixtieth day after the date of final adoption.

(10) Appeals from denial of tax exemption application by the department of revenue pursuant to RCW 84.36.850, thirty days from the mailing of the determination.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-315, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-315, filed 5/2/89.]

WAC 456-09-320 Notice of appeal—Filing and service. (1) The original notice of appeal and a copy of the order or determination that is being appealed shall be filed with the board. The board shall transmit a copy of the notice of appeal and a copy of the order or determination that is being appealed to the responding party within thirty days of its receipt by the board.

(2) Appeals not timely filed as provided by statute and this regulation shall be dismissed. Appeals not properly filed may be dismissed if the appealing party fails to substantially comply with this regulation.

[Statutory Authority: RCW 82.03.170. 98-22-039, § 456-09-320, filed 10/29/98, effective 11/29/98; 95-05-033 (Order 95-01), § 456-09-320, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.160. 90-11-104, § 456-09-320, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-320, filed 5/2/89.]

WAC 456-09-325 Date of filing—Filing via facsimile machine or electronic mail transmission. (1) The date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is to be hand delivered. The board's date stamp placed thereon shall be evidence of the date of receipt. If the filing of the notice of appeal is by mail, the postmark will control and shall be evidence of the date of filing.

(2) All documents may be filed with the board via facsimile machine or electronic mail transmission. However, filing will not be deemed complete unless the following procedures are strictly observed:

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(a) A facsimile machine or electronic mail document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped "received" on the following business day. The date and time indicated by the board's facsimile machine or computer shall be evidence of the date and time of receipt of transmission.

(b) The original notice of appeal must be filed with the board within ten business days from the date of transmission.

(c) All transmissions are sent at the risk of the sender.

[Statutory Authority: RCW 82.03.170. 98-22-039, § 456-09-325, filed 10/29/98, effective 11/29/98; 95-05-033 (Order 95-01), § 456-09-325, filed 2/8/95, effective 3/11/95; 94-07-044, § 456-09-325, filed 3/10/94, effective 4/10/94; 91-07-038 (Order 91-01), § 456-09-325, filed 3/15/91, effective 4/15/91. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-325, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-325, filed 5/2/89.]

WAC 456-09-330 Acknowledgement of notice of appeal. The board will acknowledge receipt of a notice of appeal.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-330, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-330, filed 5/2/89.]

WAC 456-09-335 Computation of time. In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-335, filed 5/2/89.]

WAC 456-09-340 Jurisdiction—Issue raised by board—Procedure. (1) Any party may, by motion, challenge the jurisdiction of the board in any appeal. The board may, upon its own motion, raise such jurisdictional issues.

(2) When the board determines that an appeal has been untimely filed, an order of dismissal will be mailed to all parties. An exception to the order of dismissal may be filed within twenty calendar days after mailing of such order. The exception shall be filed with the board and a copy served upon all other parties.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-340, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-340, filed 5/2/89.]

WAC 456-09-345 Amendments to notice of appeal. Except as provided in WAC 456-09-705 a notice of appeal may be amended as a matter of right until thirty days after filing have elapsed.

Thereafter any amendments can only be made after approval of the board. Amendments shall be freely granted and may be denied only upon a showing by the adverse party of unreasonable and unavoidable hardship. The board may, upon motion of a party or upon its own motion, require a

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more complete statement of the nature of the claim or defense or any matter stated in any pleading.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-345, filed 5/2/89.]

WAC 456-09-350 Notice of appeal—Response. The respondent may file a response with the board. If filed, the respondent shall file the original with the board at least ten business days prior to hearing and serve a copy thereof upon all other parties in accordance with the provisions of this chapter. A certificate of service shall be filed with the board pursuant to WAC 456-09-440.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-350, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-350, filed 5/2/89.]

WAC 456-09-355 Parties in exemption appeals. When an appeal is filed with the board under RCW 84.36.850, appealing from an exemption ruling by the department of revenue, the department of revenue will be designated as the respondent. The department of revenue, the property owner, and the assessor may all be parties to the appeal and shall be entitled to all the rights of a party. The person filing the appeal will be designated as the appellant, and the nonappealing party will also be designated as a respondent.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-355, filed 5/2/89.]

WAC 456-09-360 Intervention. (1) Any person or agency whose interest may be substantially affected by an appeal may petition the board to be granted status as an intervenor in the appeal.

(2) In determining whether a petitioner qualifies as an intervenor, the presiding officer shall apply the rules of the superior courts of this state.

(3) If the petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest as demonstrated by the petition;

(b) Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

(4) The presiding officer may timely grant or deny each petition and specify conditions, if any.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-360, filed 5/2/89.]

WAC 456-09-365 Conversion of hearing. (1) The respondent, as a party to an appeal pursuant to RCW 84.08.130 (appeal from board of equalization) may, within twenty calendar days from the date of the board's mailing of the notice of appeal, file with the clerk of the board a notice

of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) If a direct appeal is requested pursuant to RCW 84.40.038(3), either party may state upon the direct appeal form that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) In appeals under RCW 82.03.190 and 82.03.130(5), the department of revenue may, within thirty calendar days from the date of the board's mailing of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(4) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

[Statutory Authority: RCW 82.03.170. 98-22-039, § 456-09-365, filed 10/29/98, effective 11/29/98; 95-05-033 (Order 95-01), § 456-09-365, filed 2/8/95, effective 3/11/95; 94-07-044, § 456-09-365, filed 3/10/94, effective 4/10/94; 91-07-038 (Order 91-01), § 456-09-365, filed 3/15/91, effective 4/15/91; 89-10-056 (Order 89-02), § 456-09-365, filed 5/2/89.]

SERVICE OF PAPERS

WAC 456-09-410 Service of papers. (1) Copies of all documents, exhibits, and papers filed with the board shall be served upon all counsel or representatives of record and upon parties not represented: Provided, That this shall not apply to the notice of appeal.

(2) Such service upon the representative shall be considered valid service for all purposes upon the party represented.

(3) Decisions or orders of the board shall be served upon both the party and their counsel or representative of record, if any.

[Statutory Authority: RCW 82.03.170. 98-22-039, § 456-09-410, filed 10/29/98, effective 11/29/98; 89-10-056 (Order 89-02), § 456-09-410, filed 5/2/89.]

WAC 456-09-420 Method of service. Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail, by telegraph, or by facsimile.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-420, filed 5/2/89.]

WAC 456-09-430 Service of papers—When complete. Service by mail shall be regarded as complete upon deposit in the United States mail properly stamped and addressed. Service by facsimile machine or electronic mail shall be deemed complete only when the original document is filed with the board within ten business days from the date of transmission. All facsimile machine or electronic mail transmissions are sent at the risk of the sender. This section shall not extend any applicable time for appeal to the board.

[Statutory Authority: RCW 82.03.170. 98-22-039, § 456-09-430, filed 10/29/98, effective 11/29/98. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-430, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-430, filed 5/2/89.]

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WAC 456-09-440 Proof of service—Certificate. Where proof of service is required by this chapter, by statute, or upon the board's request, filing a copy of the papers with the board together with one of the following, shall constitute proof of service:

(1) An acknowledgement of service.

(2) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names).

(3) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by:

(a) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or their attorney or authorized agent; or

(b) Telegraphing a copy thereof, properly addressed with charges prepaid, to each party to the proceeding or their attorney or authorized agent; or

(c) Transmitting a copy thereof by electronic telefacsimile device, and on the same day mailing a copy, to each party to the proceeding or their attorney or authorized agent; or

(d) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-440, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-440, filed 5/2/89.]

DISCOVERY AND SUBPOENA

WAC 456-09-510 Prehearing procedures—Discovery—Limitation. Insofar as applicable and not in conflict with this chapter, the statutes and court rules regarding pretrial procedures in civil cases in superior courts of the state of Washington shall be used. Such statutes and rules shall include but shall not be limited to those rules pertaining to discovery of evidence by parties to civil actions.

The board may limit discovery upon motion by any party.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-510, filed 5/2/89.]

WAC 456-09-520 Subpoena—Issuance. Subpoenas shall be issued and enforced, and witness fees paid, as provided in RCW 34.05.446. Every subpoena shall identify the party causing its issuance. Subpoenas may be issued by the board or by an attorney of record. The person issuing shall sign the subpoena. Parties desiring subpoenas to be signed by the board shall make a showing of relevance and reasonable scope of the testimony or evidence sought and shall prepare the subpoenas for issuance, send them to the board's Olympia office for signature and, upon return, shall make arrangements for service.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-520, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-520, filed 5/2/89.]

WAC 456-09-530 Subpoena—Form. Every subpoena shall name the board of tax appeals and the title of the proceedings and shall command the person to whom it is

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directed to attend and give testimony or produce designated books, documents, or things under that person's control at a specified time and place.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-530, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-530, filed 5/2/89.]

WAC 456-09-540 Subpoena—Service. Service of subpoenas shall be made by delivering a copy of the subpoena to such person and tendering on demand, where entitled to make a demand, the fees for one day's attendance and the mileage allowed by law. All costs, which include the cost of producing records, shall be paid by the party requesting issuance of the subpoena. A subpoena may be served by any suitable person at least eighteen years of age, by exhibiting and reading it to the witness, or by giving him or her a copy thereof, or by leaving such copy at his or her abode. Proof of service shall be made when service is made by a person other than an officer authorized to serve process.

[Statutory Authority: RCW 82.03.170, 95-05-033 (Order 95-01), § 456-09-540, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-540, filed 5/2/89.]

WAC 456-09-550 Subpoena—Proof of service. Proof of service and the required return affidavit shall be filed with the board.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-550, filed 5/2/89.]

WAC 456-09-560 Subpoena—Quash or modification. If the subpoena issued is unreasonable or requires evidence not relevant to any matter in issue, the board may quash or modify the subpoena. The person to whom the subpoena was issued must bring a motion to quash or modify at or before the time specified in the subpoena for compliance and upon notice to the party for whom the subpoena was issued.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-560, filed 5/2/89.]

WAC 456-09-570 Subpoena—Geographical scope. Attendance of witnesses and production of evidence may be required from any place in the state of Washington at any designated place of hearing.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-570, filed 5/2/89.]

CONFERENCES

WAC 456-09-610 Conferences—Two types. Conferences shall be of two types: Settlement and prehearing.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-610, filed 5/2/89.]

WAC 456-09-615 Settlement conference—Purpose. The purpose of a settlement conference shall be to determine the feasibility of a settlement of the matter being appealed. The presiding officer will be present at the opening and closing of a scheduled settlement conference. The presiding

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officer may leave the conference room from time to time if it may facilitate an agreement or settlement.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-615, filed 5/2/89.]

WAC 456-09-620 Settlement conference—When held. At any time prior to hearing, the board may, upon its own motion or upon written application, order a settlement conference. The conference shall be scheduled with not less than fourteen days notice to each party at a time and place fixed by the board.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-620, filed 5/2/89.]

WAC 456-09-625 Settlement conference—Agreements. (1) All agreements reached at settlement conferences will be set forth in the record by the presiding officer.

(2) If an agreement is reached by all the parties present or represented, an order may be issued conforming to the agreement, providing the board finds said agreement is in accordance with the law.

(3) If no agreement is reached by the parties as to final disposition of the matter before hearing, a prehearing conference may thereafter be held.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-625, filed 5/2/89.]

WAC 456-09-630 Prehearing conference—Purpose. The purpose of a prehearing conference is to:

(1) Obtain a stipulation of facts to show the board's jurisdiction in the matter;

(2) Obtain agreement as to the issues of law and fact presented and the simplification or limitation thereof;

(3) Determine the necessity of amendments to the appeal or other pleadings;

(4) Determine the possibility of obtaining admissions of facts and authenticity of documents which will avoid unnecessary proof;

(5) Determine the admissibility of exhibits;

(6) Obtain stipulation as to all or part of the facts in the case;

(7) Obtain information as to the number of expert and lay witnesses expected to be called by the parties and their names when possible;

(8) Determine the approximate time necessary for the presentation of evidence of the respective parties; and

(9) Obtain all other information which may aid in the prompt disposition of the matter.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-630, filed 5/2/89.]

WAC 456-09-635 Prehearing conference—When held. The board may at its discretion or upon application of any party hold a prehearing conference. The conference shall be held at such time as ordered by the board on not less than fourteen days notice to each party. The conference may also be held immediately at the conclusion of a settlement conference if time permits.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-635, filed 5/2/89.]

WAC 456-09-640 Prehearing conference—Documentary evidence. (1) All rulings upon objections to the admissibility of evidence shall be made in accordance with the provisions of the Administrative Procedure Act.

(2) Where practicable, the board may order:

(a) That all documentary evidence which is to be offered during the hearing be submitted to the board and to other parties sufficiently in advance to permit study and preparation of cross-examination and rebuttal evidence.

(b) That documentary evidence not submitted as required in (a) of this subsection not be received in evidence in the absence of a clear showing that the offering party had good cause for the failure to produce the evidence sooner, unless it is submitted for impeachment purposes.

(c) That the authenticity of all documents so presented and examined be deemed admitted unless written objection thereto is filed within fourteen days after receipt. A party will be permitted to challenge such authenticity at a later time only upon a clear showing of good cause for failure to have filed such written objection.

(3) The board may limit the documentary evidence to that presented at any prehearing conference. A party may submit additional documentary evidence at the time of hearing only upon a showing of good cause.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-640, filed 5/2/89.]

WAC 456-09-645 Prehearing conference—Excerpts from documentary evidence. When only portions of a document are to be relied upon, the offering party shall adequately identify and prepare the pertinent excerpts and shall supply copies of such excerpts to the presiding officer and to the other parties. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-645, filed 5/2/89.]

WAC 456-09-650 Prehearing conference—Failure to supply prehearing information. The board may suspend the setting of a hearing if any party fails to supply the information reasonably necessary to aid the board in properly scheduling hearings. The board may suspend setting of a hearing pending receipt of the required information or may refuse to grant such party a continuance of the original hearing or may otherwise restrict the time or location of hearing for receipt of such party's evidence.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-650, filed 5/2/89.]

WAC 456-09-655 Prehearing conference—Agreements. At the conclusion of a prehearing conference, the board may require the parties to submit proposed prehearing orders. Thereafter the board will issue an order reciting the action taken at the conference. The order may include provisions pertaining to:

- (1) Amendments allowed to the pleadings;
- (2) Admissions;
- (3) Witnesses;
- (4) Exhibits;

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- (5) Issues remaining;
- (6) Agreements by the parties;
- (7) Rulings; and
- (8) Any other matter that may expedite the hearing.

Any objection to such order shall be made in writing within ten days after the date the order is mailed. The order shall control subsequent proceedings unless modified for good cause.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-655, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-655, filed 5/2/89.]

HEARING PROCEDURE

WAC 456-09-705 Advance submission of evidence—Delivery to adverse party. (1) Documentary evidence which is to be introduced at hearing shall be submitted to the board at least ten business days prior to hearing. Failure to comply may be grounds for exclusion of such evidence or dismissal in accordance with WAC 456-09-750.

(2) Evidence of comparable sales, listed in the notice of appeal/response, which are subsequently changed, shall conform to this section and will be excepted from the requirements of WAC 456-09-345 (Amendments to notice of appeal).

(3) All correspondence and all documents filed with the board shall indicate that copies have been mailed or delivered to the attorney or representative of record or the adverse party if not represented.

(4) An acknowledgement of service or certificate of mailing as provided in WAC 456-09-440 shall be filed with the board together with the advance submission of documentary evidence as required in subsection (1) of this section.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-705, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-705, filed 5/2/89.]

WAC 456-09-710 Hearing—Setting of time and place. (1) The board will set a time and place for hearing. The parties shall, upon request of the board, submit written estimates of the time that will be required to hear the matter.

(2) Where the board deems appropriate or at a party's request, the board may set prehearing or settlement conference dates.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-710, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-710, filed 5/2/89.]

WAC 456-09-715 Continuance—Extensions of time. (1) Continuances and extensions of time may be ordered on timely request of any party. The request shall show good cause and shall be served upon all other parties.

(2) This section shall not extend any applicable time for appeal to this board nor extend the time for providing notice of appeal to any named party.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-715, filed 5/2/89.]

WAC 456-09-720 Teleconference proceeding. (1) At the discretion of the board, and where the rights of the parties

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will not be prejudiced thereby, all or part of the hearing, pre-hearing, or settlement conference may be conducted by telephone, television, or other electronic means. Each party in the proceeding must have an opportunity to participate effectively in, to hear, and if technically and economically feasible, to see the entire proceeding while it is taking place.

(2) The board may require documentary evidence to be submitted sufficiently in advance of the proceeding.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-720, filed 5/2/89.]

WAC 456-09-725 Briefs. The original and three copies of briefs shall be filed with the board at least ten business days prior to hearing unless otherwise provided by the board. When briefs are filed, a copy shall also be served on the other parties. The board may permit or require the filing of additional briefs.

[Statutory Authority: RCW 82.03.170, 95-05-033 (Order 95-01), § 456-09-725, filed 2/8/95, effective 3/11/95; 89-10-056 (Order 89-02), § 456-09-725, filed 5/2/89.]

WAC 456-09-730 Hearing—Notice of hearing—Time—Contents. (1) Time. Notice of a hearing will be mailed to all parties and to all persons having filed written petitions to intervene not less than twenty calendar days before the hearing date unless a different period is required by law. The notice shall include the information specified in RCW 34.05.434 and if the hearing is to be conducted by teleconference call the notice shall so state.

(2) The notice shall state that if a limited-English speaking or hearing-impaired party or witness needs an interpreter, a qualified interpreter will be appointed and that there will be no cost to the party or witness. The notice shall also state that persons with disabilities may request reasonable accommodations to allow their participation in the hearing. The notice shall include a form for a party to indicate if an interpreter is needed and identification of the primary language, or if a participant is hearing impaired; or to describe the reasonable accommodations requested.

(3) Defects in notice may be waived if the waiver is knowing and voluntary.

[Statutory Authority: RCW 82.03.170, 95-05-033 (Order 95-01), § 456-09-730, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-730, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-730, filed 5/2/89.]

WAC 456-09-732 Hearing—Notice to limited-English speaking parties. When an agency is notified or otherwise made aware that a limited-English speaking person is a party in an adjudicative proceeding, all notices concerning the hearing, including notices of hearing, continuance, and dismissal, shall either be in the primary language of the party or shall include a notice in the primary language of the party which describes the significance of the notice and how the party may receive assistance in understanding and responding to the notice, if necessary.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-732, filed 5/22/90, effective 6/22/90.]

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WAC 456-09-735 Hearing—Standard and scope of review. (1) The board will apply the specific criteria provided by law in making its decision on each case.

(2) Hearings shall be quasi-judicial in nature and shall be conducted de novo unless otherwise provided by law.

(3) All pleadings shall be liberally construed with the view of substantial justice between the parties.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-735, filed 5/2/89.]

WAC 456-09-740 Testimony under oath—Interpreters. (1) All testimony to be considered by the board shall be sworn, and each person shall swear or affirm that the testimony to be given shall be the truth, the whole truth, and nothing but the truth, or according to the provisions of RCW 5.28.020 through 5.28.060.

(2) Every interpreter shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a language or in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-740, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-740, filed 5/2/89.]

WAC 456-09-742 Hearings—Reporting—Recording—Recording devices. (1) All hearings shall be officially recorded by manual, electronic, or other type of recording device.

(2) Photographic and recording equipment of others shall be permitted at hearings; however, the presiding officer may impose such conditions upon their use as deemed necessary to prevent disruption of the hearing, or when a statute or law limits such use.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-742, filed 5/22/90, effective 6/22/90.]

WAC 456-09-745 Failure to attend—Default or dismissal—Setting aside. (1) When a party to these proceedings has, after notice, failed to attend a hearing, a motion for default or dismissal may be sought by any party to the proceedings or raised by the board upon its own motion. Any such order shall include a statement of the grounds for the order and shall be served upon all parties to the proceeding.

(2) Within ten days after service of the default order or dismissal under subsection (1) of this section, the party against whom the order was entered may file a written objection requesting that the order be vacated and stating the specific grounds relied upon. The board may, for good cause, set aside an entry of dismissal, default, or final order.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-745, filed 5/2/89.]

WAC 456-09-750 Dismissal of actions. Any action may be dismissed by the board:

(1) When all parties so stipulate;

(2) Upon motion of the appellant prior to the presentation of the respondent's case;

(3) Upon motion by the respondent alleging that the appellant has failed to prosecute the case, failed to comply with this chapter, or failed to follow any order of the board; or

(4) Upon the board's own motion for failure by the parties to comply with applicable rules or any order of the board.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-750, filed 5/2/89.]

WAC 456-09-755 Waiver of parties' appearance.

Upon stipulation by both parties that no facts are at issue, an appeal may be submitted to the board with or without oral argument. However, the board in its discretion may require appearance for argument.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-755, filed 5/2/89.]

WAC 456-09-760 Rules of evidence—Admissibility criteria. (1) All relevant evidence, including hearsay evidence, is admissible if, in the opinion of the board, the offered evidence is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The board shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The board may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) The board's experience, technical knowledge, competency, and specialized knowledge may be used in evaluation of evidence.

(3) If not inconsistent with subsection (1) of this section, the board may refer to, but shall not be bound by, the Washington rules of evidence.

(4) Documentary evidence may be submitted in the form of copies or excerpts, or by incorporation by reference.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-760, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-760, filed 5/2/89.]

WAC 456-09-762 Hearings—Interpreters. The provisions of WAC 10-08-150 are incorporated by reference herein.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-762, filed 5/22/90, effective 6/22/90.]

WAC 456-09-765 Official notice—Matters of law. The board may 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.

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(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.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-765, filed 5/2/89.]

WAC 456-09-770 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) 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 prehearing 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.

(5) 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.

(6) 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 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 non-existence of the material fact assumed or denied in the decision.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-770, filed 5/2/89.]

WAC 456-09-775 Motions—Application—Requirements. (1) Any application for an order or ruling is a motion. Every motion, unless made during hearing, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(2) All motions shall be properly captioned and signed by the party or their attorney.

(3) The board will deny or dismiss any motion unless the moving party, before motion, has made a good faith effort to confer with the other parties concerning the issues in dispute. The moving party shall include in the motion a statement of compliance with this subsection.

(4) A response to the motion shall be filed within ten days after the date of service.

(5) In the motion and response, the parties shall specify the amount of time required for argument, whether appearance by telecommunication is requested, the names and telephone numbers of all parties served with the motion or response, and whether court reporting services are requested.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-775, filed 5/2/89.]

DISPOSITION OF CASES

WAC 456-09-910 Assistance to board. (1) The board may obtain assistance concerning the appeal of any case within the scope of RCW 82.03.130(2) from the staff of the department of revenue as provided by RCW 82.03.160. The board will notify the parties of its intent to seek such assistance and the matters sought to be investigated before contacting the department of revenue. Parties may recommend an alternative to the board to achieve the same objectives without contacting the department of revenue.

(2) Any evidence from the department of revenue concerning assistance requested under this section shall only be presented in open hearing after notice to all parties.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-910, filed 5/2/89.]

WAC 456-09-915 Presentation of posthearing evidence. Unless requested by the board, no posthearing evidence will be accepted unless such evidence could not reasonably have been anticipated or discovered prior to hearing.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-915, filed 5/2/89.]

WAC 456-09-920 Proposed findings and conclusions—Submission. At the discretion of the board, parties may file proposed findings of fact and conclusions of law. Proposed findings of fact and conclusions of law shall be filed within the time period set by the board.

[Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-920, filed 5/2/89.]

WAC 456-09-925 Initial decision. An initial decision shall be prepared when:

(1) An appeal has been heard by only one member of the board;

(2) An appeal has been heard by only two members of the board and the two members cannot agree on a conclusion;

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(3) An appeal has been heard by a hearing officer; or

(4) The board shall otherwise elect to do so.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-925, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-925, filed 5/2/89.]

WAC 456-09-930 Initial or final decision. Every decision, whether initial or final, shall:

(1) Be correctly captioned as to the name of the board and name of the proceeding;

(2) Designate all parties and representatives participating in the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;

(5) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;

(6) Contain an initial or final decision disposing of all contested issues;

(7) Contain a statement describing the available post-hearing remedies.

[Statutory Authority: RCW 82.03.170, 95-05-033 (Order 95-01), § 456-09-930, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-930, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-930, filed 5/2/89.]

WAC 456-09-935 Petition for review and replies. (1) Any party to an adjudicative proceeding may make a petition for review of an initial decision.

(2) The petition for review shall be made, by mail or otherwise, with the board within twenty calendar days of the date of mailing of the initial decision unless the decision specifies otherwise. Copies of the petition shall be served upon all other parties or their representatives at the time the petition is made.

(3) The petition for review shall specify the portions of the initial decision to which exception is taken and shall refer to the evidence of record which is relied upon to support the petition. The original and four copies of the petition shall be provided to the board.

(4) Any party may make a reply to a petition for review. The reply shall be made, by mail or otherwise, with the board within ten business days of the date of service of the petition. Copies of the reply shall be served upon all other parties or their representatives at the time the reply is made. The original and four copies of the reply shall be provided to the board.

(5) The board may require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters on which exceptions were taken, within such time and on such terms as may be prescribed. The board may schedule a hearing to take additional evidence if it deems it necessary or helpful to reach a proper result.

[Statutory Authority: RCW 82.03.170, 95-05-033 (Order 95-01), § 456-09-935, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160, 90-11-105, § 456-09-935, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170, 89-10-056 (Order 89-02), § 456-09-935, filed 5/2/89.]

WAC 456-09-940 Finality of initial decision. If a petition for review is not filed, the initial decision may be adopted by the board and become the board's final decision. Such adoption of the initial decision shall be the final decision of the board.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-940, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-940, filed 5/2/89.]

WAC 456-09-945 Final decision following initial decision—Record. (1) After the filing of a petition for review and any replies, the record before the board shall be considered by at least two members of the board.

(2) The record before the board shall consist of the decision from which appeal was taken, the notice of appeal, responsive pleadings, if any, and any other notices, written applications, motions, stipulations, requests, prehearing orders, and the initial decision of the presiding officer. The record shall also include all depositions admitted at the hearing, the transcript of testimony, if any, and other proceedings at the hearing, together with all exhibits.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-945, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-945, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-945, filed 5/2/89.]

WAC 456-09-950 Final decision. When an appeal has been heard or the record considered by a majority of the board, a final decision may be adopted which shall contain findings and conclusions as to each contested issue of fact and law.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-950, filed 5/2/89.]

WAC 456-09-955 Petition for reconsideration. After a final decision has been issued, any party may file a petition for reconsideration with the board as provided by RCW 34.05.470. Such petition must be made, by mail or otherwise, within ten business days from the mailing of the final decision, and shall state the specific grounds upon which relief is requested. The petition for reconsideration shall be filed with the board and served upon all parties and representatives of record. The board may require that a response be made and served in the same manner. The board may deny the petition, modify its decision, or reopen the hearing. The petition shall be deemed denied if, within twenty calendar days from the date the petition is received by the board, the board does not either: (1) Dispose of the petition; or (2) serve the parties with a written notice specifying the date by which it will act on the petition. The disposition shall be in the form of a decision denying the petition, granting the petition and dissolving or modifying the final decision, or granting the petition and setting the matter for further hearing.

[Statutory Authority: RCW 82.03.170. 95-05-033 (Order 95-01), § 456-09-955, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-955, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-955, filed 5/2/89.]

(1999 Ed.)

WAC 456-09-960 Record on appeal. When an appeal is taken to superior court from a decision of the board rendered in a formal proceeding, the appealing party is responsible for ordering and paying for the transcript of the testimony from the court reporter.

[Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. 90-11-105, § 456-09-960, filed 5/22/90, effective 6/22/90.]

SEPA

WAC 456-09-970 Applicability of SEPA guidelines. The board has reviewed its authorized activities pursuant to WAC 197-11-800(12) and has found them all to be exempt from the provisions of chapter 197-11 WAC.

[Statutory Authority: RCW 82.03.170. 89-10-056 (Order 89-02), § 456-09-970, filed 5/2/89.]

Chapter 456-10 WAC
INFORMAL HEARINGS—PRACTICE AND PROCEDURE

WAC

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HEARING OPTIONS

WAC 456-10-010 Formal, informal hearing—Distinction. All persons appealing to the board of tax appeals may request that their appeal be heard either as a formal or informal hearing. Formal hearings are requested by parties wishing to carry the record of their appeals to court and are conducted pursuant to the Administrative Procedure Act. Judicial review of a board of tax appeals decision made in a formal hearing is limited to the record made of the proceedings before the board of tax appeals. All parties in formal hearings are normally represented by attorneys although taxpayers may represent themselves in such proceedings. A verbatim record is made of all formal hearings.

Informal hearings are requested by a majority of parties appearing before the board of tax appeals. Decisions entered in an informal appeal may not be appealed to court. Courts may have jurisdiction, however, to hear a timely filed action pursuant to RCW 82.32.180 or 84.68.020 (see RCW 82.03.180).

In all appeals over which the board has jurisdiction, a party taking an appeal may elect, with its notice of appeal, either a formal or informal hearing pursuant to RCW 82.03.140. Failure to elect a formal or informal hearing at the time of filing shall result in the proceeding being conducted as informal.

[Statutory Authority: RCW 82.03.170. 94-07-043, § 456-10-010, filed 3/10/94, effective 4/10/94; 89-10-057 (Order 89-03), § 456-10-010, filed 5/2/89.]

ADMINISTRATION

WAC 456-10-110 Definitions. As used in this chapter, the following terms shall have the following meaning:

(1) "Board" means the board of tax appeals as described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC. Where appropriate, the term "board" also refers to the designated hearing officers or agents of the board of tax appeals.

(2) "Presiding officer" or "hearing officer" shall mean any member of the board, tax referee, administrative law judge, or any person who is assigned to conduct a conference or hearing by the board. The presiding officer shall have authority as provided by WAC 10-08-200 and chapter 34.05 RCW.

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(3) "Appellant" means a person, natural or otherwise, who appeals any order or decision to the board of tax appeals.

(4) "Respondent" means a person, natural or otherwise, who is named as a responding party in any appeal before the board of tax appeals.

(5) "Formal hearing" means a proceeding conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(6) "Informal hearing" means a proceeding governed by those rules specified in chapter 456-10 WAC.

(7) "Decision" means a written judgment or ruling, including orders, issued by the board of tax appeals or the designated hearing officers or agents of the board of tax appeals.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-110, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-110, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-110, filed 5/2/89.]

WAC 456-10-120 Informal rules—Procedure governed. This chapter shall govern all practice and procedure for informal hearings before the board. Formal proceedings shall be governed by those rules specified in chapter 456-09 WAC.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-120, filed 5/2/89.]

WAC 456-10-130 Use of formal rules in informal proceedings. Where procedures are not covered by this chapter or where ambiguities exist, the board may upon its own motion or upon written application by any party, refer to and use any rule provided in chapter 456-09 WAC (formal rules).

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-130, filed 5/2/89.]

WAC 456-10-140 Organization and office. The board consists of three members, one of whom is elected chair. Members of the board are appointed by the governor with the consent of the senate and serve on a full-time basis.

The board offices are open each day for the transaction of business from 8:00 a.m. to 5:00 p.m., excluding Saturdays, Sundays, and legal holidays. All submissions, requests, and communications shall be sent to the board at its principal office at 910 5th Avenue S.E., Post Office Box 40915, Olympia, Washington 98504-0915.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-140, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-140, filed 5/2/89.]

WAC 456-10-150 Quorum. Two members of the board shall constitute a quorum for making orders or decisions or for promulgating rules and regulations relating to its procedures and may act although one position on the board may be vacant. One member or designated hearing officer may hold hearings and take testimony. The findings of such member or hearing officer shall become final in accordance with WAC 456-10-740.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-150, filed 5/2/89.]

WAC 456-10-160 Meetings of the board. Regular meetings of the board will be held at its principal office or such other place as the board designates at 10:00 a.m. on the second Thursday of each March, June, September, and December.

[Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-160, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-160, filed 5/2/89.]

WAC 456-10-170 Form and size of documents. Documents other than exhibits shall be typewritten or printed, properly captioned, shall be signed by the appropriate authorized individual or officer submitting the same, and shall include their address and telephone number. Pleadings shall be on 8-1/2 x 11 inch paper.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-170, filed 5/2/89.]

WAC 456-10-180 Docket number. The board shall assign each appeal a docket number which shall be the official reference number for purposes of identification. Docket numbers for informal hearings shall be indicated by consecutive number with no year indication (e.g., 38025).

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-180, filed 5/2/89.]

PRACTICE BEFORE THE BOARD

WAC 456-10-210 Appearance and practice before the board—Who may appear. The right to practice before the board in informal proceedings shall be limited to the following:

- (1) Taxpayers who are natural persons representing themselves;
- (2) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;
- (3) Attorneys at law 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;
- (4) Public officials in their official capacity;
- (5) Certified public accountants and licensed public accountants entitled to practice accountancy in the state of Washington;
- (6) A duly authorized director, officer, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation;
- (7) Partners, joint venturers, or trustees representing their respective partnerships, joint venturers, or trusts; and
- (8) Other persons designated by a taxpayer with approval of the board.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-210, filed 5/2/89.]

WAC 456-10-220 Rules of professional conduct. All persons appearing in proceedings before the board in a representative capacity shall conform to the rules of professional conduct required of attorneys before the courts of Washing-

ton. If any such person does not conform to such rules, the board may decline to permit such person to appear in a representative capacity in any proceeding before the board. For example, representatives must observe rules concerning conflict of interests.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-220, filed 5/2/89.]

WAC 456-10-230 Ex parte communication. No one may make or attempt to make any ex parte contact with a member of the board or presiding officer except upon notice and opportunity for all parties to be present or to the extent required for the disposition of ex parte matters as authorized by law. Attempts by anyone to make such prohibited ex parte communications shall subject such person to the sanctions of WAC 456-10-220 and 456-10-555.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-230, filed 5/2/89.]

APPEAL PROCEDURE

WAC 456-10-310 Notice of appeal—Forms—Contents. (1) For all appeals, an appellant may file a notice of appeal using forms provided by the board.

(2) In the alternative, an appellant may file a notice of appeal that shall substantially contain:

- (a) A caption in the following form:

BEFORE THE BOARD OF TAX APPEALS
STATE OF WASHINGTON

Appellant,	}	Name of county in which property is located (if applicable)
v.		Docket 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 board. The respondent shall be the government agency or the property owner, as the case may be.

- (b) Numbered paragraphs stating:
 - (i) Appellant's name, mailing address, telephone number, and that of the representative, if any.
 - (ii) The date of the order or determination from which the appeal is taken, together with a copy of the order, decision, or application appealed from.
 - (iii) The nature of the tax, and:
 - (A) In excise tax cases, the amount of the tax in controversy and the period covered thereby;
 - (B) In property tax cases, a legal description or parcel number 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 alleged by the appellant; and
 - (C) In property tax exemption cases, a legal description and/or parcel number of the property under appeal, the basis

under which exempt status should be granted or denied, and the use of the property.

(iv) A clear, separate, and concise assignment of each error alleged and a short statement of facts upon which the appellant relies to sustain each contention.

(v) The relief sought.

(c) A statement that the appellant has read the notice and believes the contents to be true, followed by the party's signature and/or signature of their attorney or qualified representative, if any. The signature of a party, attorney, or qualified representative constitutes a certificate that the pleading has been read and that to the best personal knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay. If determined by the board that a pleading is not signed or is signed with the intent to defeat the purpose of this section, it may be stricken and the action may proceed as though the pleading had not been served.

[Statutory Authority: RCW 82.03.170. 98-22-040, § 456-10-310, filed 10/29/98, effective 11/29/98. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-310, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-310, filed 5/2/89.]

WAC 456-10-315 Notice of appeal—Timeliness of filing. Any appeal to the board shall be filed within the time required by the statute governing the respective agency or proceeding involved including, but not limited to the following:

(1) Appeals taken pursuant to RCW 82.03.190, thirty days from the mailing of the determination.

(2) Appeals from a county board of equalization pursuant to RCW 84.08.130, thirty days from the mailing of the decision.

(3) Appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, thirty days from the mailing of the determination.

(4) Appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pursuant to chapters 84.12 and 84.16 RCW, thirty days from the mailing of the order.

(5) Appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075, fifteen days after the mailing of the certification.

(6) Appeals from the decisions of sale price of second class shorelands on navigable lakes by the department of natural resources pursuant to RCW 79.94.210, thirty days from the mailing of the notification.

(7) Appeals from urban redevelopment property tax apportionment district proposals established by governmental ordinances pursuant to RCW 39.88.060, thirty days from the mailing of the ordinance.

(8) Appeals from interest rates as determined by the department of revenue for use in valuing farmland under current use assessment pursuant to RCW 84.34.065, thirty days after the publication of the rate.

(9) Appeals from revisions to stumpage value tables used to determine value by the department of revenue pursuant to RCW 84.33.091, on or before the sixtieth day after the date of final adoption.

(10) Appeals from denial of tax exemption application by the department of revenue pursuant to RCW 84.36.850, thirty days from the mailing of the determination.

[Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-315, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-315, filed 5/2/89.]

WAC 456-10-320 Notice of appeal—Filing and service. (1) The original notice of appeal and a copy of the order or determination that is being appealed shall be filed with the board. The board shall transmit a copy of the notice of appeal and a copy of the order or determination that is being appealed to the responding party within thirty days of its receipt by the board.

(2) Appeals not timely filed as provided by statute and this regulation shall be dismissed. Appeals not properly filed may be dismissed if the appealing party fails to substantially comply with this regulation.

[Statutory Authority: RCW 82.03.170. 98-22-040, § 456-10-320, filed 10/29/98, effective 11/29/98; 95-05-032 (Order 95-02), § 456-10-320, filed 2/8/95, effective 3/1/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-103, § 456-10-320, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-320, filed 5/2/89.]

WAC 456-10-325 Date of filing—Filing via facsimile machine or electronic mail transmission. (1) The date of filing of a notice of appeal shall be the date of actual receipt by the board at its Olympia office if the appeal is to be hand delivered. The board's date stamp placed thereon shall be evidence of the date of receipt. If the filing of the notice of appeal is by mail, the postmark will control and shall be evidence of the date of filing.

(2) All documents may be filed with the board via facsimile machine or electronic mail transmission. However, filing will not be deemed complete unless the following procedures are strictly observed:

(a) A facsimile machine or electronic mail document will only be stamped "received" by the board between the hours of 8:00 a.m. and 5:00 p.m. excluding Saturdays, Sundays, and legal holidays. Any transmission not completed before 5:00 p.m. will be stamped "received" on the following business day. The date and time indicated by the board's facsimile machine or computer shall be evidence of the date and time of receipt of transmission.

(b) The original notice of appeal must be filed with the board within ten business days from the date of transmission.

(c) All transmissions are sent at the risk of the sender.

[Statutory Authority: RCW 82.03.170. 98-22-040, § 456-10-325, filed 10/29/98, effective 11/29/98; 95-05-032 (Order 95-02), § 456-10-325, filed 2/8/95, effective 3/1/95; 94-07-043, § 456-10-325, filed 3/10/94, effective 4/10/94. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-325, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-325, filed 5/2/89.]

WAC 456-10-330 Acknowledgement of notice of appeal. The board will acknowledge receipt of a notice of appeal.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-330, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-330, filed 5/2/89.]

WAC 456-10-335 Computation of time. In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-335, filed 5/2/89.]

WAC 456-10-340 Jurisdiction—Issue raised by board—Procedure. (1) Any party may, by motion, challenge the jurisdiction of the board in any appeal. The board may, upon its own motion, raise such jurisdictional issues.

(2) When the board determines that an appeal has been untimely filed, an order of dismissal will be mailed to all parties. An exception to the order of dismissal may be filed within twenty calendar days after mailing of such order. The exception shall be filed with the board and a copy served upon all other parties.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-340, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-340, filed 5/2/89.]

WAC 456-10-345 Amendments to notice of appeal. Except as provided in WAC 456-10-505 a notice of appeal may be amended as a matter of right until thirty days after filing have elapsed.

Thereafter any amendments can only be made after approval of the board. Amendments shall be freely granted and may be denied only upon a showing by the adverse party of unreasonable and unavoidable hardship. The board may, upon motion of a party or upon its own motion, require a more complete statement of the nature of the claim or defense or any matter stated in any pleading.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-345, filed 5/2/89.]

WAC 456-10-355 Parties in exemption appeals. When an appeal is filed with the board under RCW 84.36.850, appealing from an exemption ruling by the department of revenue, the department of revenue will be designated as the respondent. The department of revenue, the property owner, and the assessor may all be parties to the appeal and shall be entitled to all the rights of a party. The person filing the appeal will be designated as the appellant, and the nonappealing party will also be designated as a respondent.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-355, filed 5/2/89.]

WAC 456-10-360 Conversion of hearing. (1) The respondent, as a party to an appeal pursuant to RCW (1999 Ed.)

84.08.130 (appeal from board of equalization) may, within twenty calendar days from the date of the board's mailing of the notice of appeal, file with the clerk of the board a notice of intention that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(2) If a direct appeal is requested pursuant to RCW 84.40.038(3), either party may state upon the direct appeal form that the hearing be a formal hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(3) In appeals under RCW 82.03.190 and 82.03.130(5), the department of revenue may, within thirty calendar days from the date of the board's mailing of the notice of appeal, file with the board a notice of its intention that the hearing be held pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

(4) The parties may agree at any time before hearing, in writing, to convert the proceedings to either a formal or informal hearing.

[Statutory Authority: RCW 82.03.170. 98-22-040, § 456-10-360, filed 10/29/98, effective 11/29/98; 95-05-032 (Order 95-02), § 456-10-360, filed 2/8/95, effective 3/11/95; 94-07-043, § 456-10-360, filed 3/10/94, effective 4/10/94; 91-07-039 (Order 91-02), § 456-10-360, filed 3/15/91, effective 4/15/91; 89-10-057 (Order 89-03), § 456-10-360, filed 5/2/89.]

SERVICE OF PAPERS

WAC 456-10-410 Service of papers. (1) Copies of all documents, exhibits, and papers filed with the board shall be served upon all counsel or representatives of record and upon parties not represented: Provided, That this shall not apply to the notice of appeal.

(2) Such service upon the representative shall be considered valid service for all purposes upon the party represented.

(3) Decisions or orders of the board shall be served upon both the party and their counsel or representative of record, if any.

[Statutory Authority: RCW 82.03.170. 98-22-040, § 456-10-410, filed 10/29/98, effective 11/29/98; 89-10-057 (Order 89-03), § 456-10-410, filed 5/2/89.]

WAC 456-10-420 Method of service. Service of papers shall be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail, by telegraph, or by facsimile.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-420, filed 5/2/89.]

WAC 456-10-430 Service of papers—When complete. Service by mail shall be regarded as complete upon deposit in the United States mail properly stamped and addressed. Service by facsimile machine or electronic mail shall be deemed complete only when the original document is filed with the board within ten business days from the date of transmission. All facsimile machine or electronic mail transmissions are sent at the risk of the sender. This section shall not extend any applicable time for appeal to the board.

[Statutory Authority: RCW 82.03.170. 98-22-040, § 456-10-430, filed 10/29/98, effective 11/29/98. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-430, filed 5/22/90, effective

6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-430, filed 5/2/89.]

WAC 456-10-440 Proof of service—Certificate.

Where proof of service is required by this chapter, by statute, or upon the board's request, filing a copy of the papers with the board together with one of the following shall constitute proof of service:

- (1) An acknowledgement of service.
- (2) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names).
- (3) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by:
 - (a) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or their attorney or authorized agent; or
 - (b) Telegraphing a copy thereof, properly addressed with charges prepaid, to each party to the proceeding or their attorney or authorized agent; or
 - (c) Transmitting a copy thereof by electronic telefacsimile device, and on the same day mailing a copy, to each party to the proceeding or their attorney or authorized agent; or
 - (d) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company.

Certification of proof of service may also be made on forms provided by the board.

[Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-440, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-440, filed 5/2/89.]

HEARING PROCEDURE

WAC 456-10-505 Advance submission of evidence—

Delivery to adverse party. (1) Documentary evidence which is to be introduced at hearing shall be submitted to the board at least ten business days prior to hearing. Failure to comply may be grounds for exclusion of such evidence or dismissal in accordance with WAC 456-10-555.

(2) Evidence of comparable sales, listed in the notice of appeal, which are subsequently changed, shall conform to this section and will be excepted from the requirements of WAC 456-10-345 (Amendments of notice of appeal).

(3) All correspondence and all subsequent pleadings or papers filed with the board shall indicate that copies have been mailed or delivered to the attorney or representative of record or the adverse party if not represented.

(4) An acknowledgement of service or certificate of mailing as provided in WAC 456-10-440 shall be filed with the board together with the advance submission of documentary evidence as required in subsection (1) of this section.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-505, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-505, filed 5/2/89.]

WAC 456-10-510 Hearing—Setting of time and place. The board will set a time and place for hearing. The parties shall, upon request of the board, submit written estimates of the time that will be required to hear the matter.

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[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-510, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-510, filed 5/2/89.]

WAC 456-10-515 Continuance—Extensions of time.

(1) Continuances and extensions of time may be ordered on timely request of any party. The request shall show good cause and shall be served upon all other parties.

(2) This section shall not extend any applicable time for appeal to this board nor extend the time for providing notice of appeal to any named party.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-515, filed 5/2/89.]

WAC 456-10-520 Teleconference proceeding. (1) At the discretion of the board, and where the rights of the parties will not be prejudiced thereby, all or part of the hearing may be conducted by telephone, television, or other electronic means. Each party in the proceeding must have an opportunity to participate effectively in, to hear, and if technically and economically feasible, to see the entire proceeding while it is taking place.

(2) The board may require documentary evidence to be submitted sufficiently in advance of the proceeding.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-520, filed 5/2/89.]

WAC 456-10-525 Briefs. The original and one copy of briefs shall be filed with the board at least ten business days prior to hearing unless otherwise provided by the board. When briefs are filed, a copy shall also be served on the other parties. The board may permit or require the filing of additional briefs.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-525, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-525, filed 5/2/89.]

WAC 456-10-530 Hearing—Notice of hearing—Time—Contents. (1) Time. Notice of a hearing shall be mailed to all parties not less than twenty calendar days before the hearing date. The twenty-day notice provision may be waived by agreement of all parties.

(2) Contents. The notice shall contain:

- (a) The names and mailing addresses of the parties and their representatives, if any;
- (b) The docket number and name of the proceeding;
- (c) The name, official title, mailing address, and telephone number of the presiding officer, if known;
- (d) A statement of the time, place, date, and general nature of the proceeding (e.g., excise, property, etc.);
- (e) A statement that the hearing is held pursuant to this chapter and chapter 82.03 RCW;
- (f) A statement of the issues or matters asserted and the particular sections of the statutes or rules involved as stated in the notice of appeal and responsive pleading, if any;
- (g) A statement that a party who fails to attend or participate at a hearing may be held in default in accordance with WAC 456-10-550; and

(h) A statement that, if a limited-English speaking or hearing-impaired party or witness needs an interpreter, a qualified interpreter will be appointed at no cost to the party

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or witness. The notice shall also state that persons with disabilities may request reasonable accommodations to allow their participation in the hearing. The notice shall include a form for a party to indicate if an interpreter is needed and identification of the primary language, or if a participant is hearing impaired; or to describe the reasonable accommodations requested.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-530, filed 2/8/95, effective 3/11/95; 89-10-057 (Order 89-03), § 456-10-530, filed 5/2/89.]

WAC 456-10-535 Hearing—Standard and scope of review. (1) The board will apply the specific criteria provided by law in making its decision on each case.

(2) Hearings shall be quasi-judicial in nature and shall be conducted de novo unless otherwise provided by law.

(3) All pleadings shall be liberally construed with the view of substantial justice between the parties.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-535, filed 5/2/89.]

WAC 456-10-540 Hearing—Procedure. Unless otherwise ordered by the board, hearings will be conducted in accordance with the following format:

- (1) Administering of oath;
- (2) Appellant's opening statement;
- (3) Respondent's opening statement;
- (4) Appellant's case in chief:
 - (a) Direct examination of witness;
 - (b) Cross-examination by respondent;
 - (c) Questions by board or presiding officer;
 - (d) Redirect examination by appellant;
 - (e) Recross examination;
 - (f) The above procedure is followed for each witness.
- (5) Respondent's case in chief:
 - (a) Direct examination of witness;
 - (b) Cross-examination by appellant;
 - (c) Questions by board or presiding officer;
 - (d) Redirect examination by respondent;
 - (e) Recross examination;
 - (f) The above procedure is followed for each witness.
- (6) Appellant's closing argument;
- (7) Respondent's closing argument;
- (8) Appellant's closing rebuttal.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-540, filed 5/2/89.]

WAC 456-10-545 Testimony under oath—Interpreters. (1) All testimony to be considered by the board shall be sworn, and each person shall swear or affirm that the testimony to be given shall be the truth, the whole truth, and nothing but the truth.

(2) Every interpreter shall, before beginning to interpret, take an oath that a true interpretation will be made to the person being examined of all the proceedings in a language or in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

(1999 Ed.)

[Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-545, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-545, filed 5/2/89.]

WAC 456-10-547 Hearings—Reporting—Recording—Recording devices. (1) All hearings shall be recorded by manual, electronic, or other type of recording device.

(2) Photographic and recording equipment shall be permitted at hearings; however, the presiding officer may impose such conditions upon their use as deemed necessary to prevent disruption of the hearing, or when a statute or law limits such use.

[Statutory Authority: RCW 82.03.170. 91-07-039 (Order 91-02), § 456-10-547, filed 3/15/91, effective 4/15/91.]

WAC 456-10-550 Failure to attend—Default or dismissal—Setting aside. (1) When a party to these proceedings has, after notice, failed to attend a hearing, a motion for default or dismissal may be sought by any party to the proceedings, or raised by the board upon its own motion. Any such order shall include a statement of the grounds for the order and shall be served upon all parties to the proceeding.

(2) Within ten days after service of the default order or dismissal under subsection (1) of this section, the party against whom the order was entered may file a written objection requesting that the order be vacated and stating the specific grounds relied upon. The board may, for good cause, set aside an entry of dismissal, default, or final order.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-550, filed 5/2/89.]

WAC 456-10-555 Dismissal of actions. Any action may be dismissed by the board:

- (1) When all parties so stipulate;
- (2) Upon motion of the appellant prior to the presentation of the respondent's case;
- (3) Upon motion by the respondent alleging that the appellant has failed to prosecute the case, failed to comply with this chapter, or failed to follow any order of the board; or
- (4) Upon the board's own motion for failure by the parties to comply with applicable rules or any order of the board.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-555, filed 5/2/89.]

WAC 456-10-560 Waiver of parties' appearance. Upon stipulation by both parties that no facts are at issue, an appeal may be submitted to the board with or without oral argument. However, the board in its discretion may require appearance for argument.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-560, filed 5/2/89.]

WAC 456-10-565 Rules of evidence—Admissibility criteria. (1) All relevant evidence, including hearsay evidence, is admissible if, in the opinion of the board, the offered evidence is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The board shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The board may

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exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) The board's experience, technical knowledge, competency, and specialized knowledge may be used in evaluation of evidence.

(3) Documentary evidence may be submitted in the form of copies or excerpts.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-565, filed 5/2/89.]

WAC 456-10-570 Motions—Application—Requirements. (1) Any application for an order or ruling is a motion. Every motion, unless made during hearing, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(2) All motions shall be properly captioned and signed by the party or their attorney.

(3) The board will deny or dismiss any motion unless the moving party, before motion, has made a good faith effort to confer with the other parties concerning the issues in dispute. The moving party shall include in the motion a statement of compliance with this subsection.

(4) A response to the motion shall be filed within ten days after the date of service.

(5) In the motion and response, the parties shall specify the amount of time required for argument, whether appearance by telecommunication is requested, the names and telephone numbers of all parties served with the motion or response, and whether court reporting services are requested.

(6) Notwithstanding above, the clerk may grant an oral motion of the appellant to dismiss the appeal made prior to the hearing date. An exception to the order of dismissal may be filed within twenty calendar days after mailing of such order. The exception shall be filed with the board and a copy served upon all other parties.

[Statutory Authority: RCW 82.03.170. 98-22-040, § 456-10-570, filed 10/29/98, effective 11/29/98; 89-10-057 (Order 89-03), § 456-10-570, filed 5/2/89.]

DISPOSITION OF CASES

WAC 456-10-710 Assistance to board. The board may obtain assistance concerning the appeal of any case within the scope of RCW 82.03.130(2) from the staff of the department of revenue as provided by RCW 82.03.150. The board will notify the parties of its intent to seek such assistance and the matters sought to be investigated before contacting the department of revenue. Parties may recommend an alternative to the board to achieve the same objectives without contacting the department of revenue. If the department of revenue supplies the requested assistance, the parties will be apprised of any information provided by the department of revenue and will be given an opportunity to respond.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-710, filed 5/2/89.]

WAC 456-10-715 Presentation of posthearing evidence. No posthearing evidence will be accepted unless requested by the board. All parties shall have an opportunity to respond to such evidence.

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[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-715, filed 5/2/89.]

WAC 456-10-720 Proposed findings and conclusions—Submission. At the discretion of the board, parties may file proposed findings of fact and conclusions of law. Proposed findings of fact and conclusions of law shall be filed within the time period set by the board.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-720, filed 5/2/89.]

WAC 456-10-725 Proposed decision. A proposed decision shall be prepared when:

(1) An appeal has been heard by only one member of the board;

(2) An appeal has been heard by only two members of the board and the two members cannot agree on a conclusion;

(3) An appeal has been heard by a hearing officer; or

(4) The board shall otherwise elect to do so.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-725, filed 5/2/89.]

WAC 456-10-730 Exceptions to proposed decision.

(1) Time for filing. Any party may make, by mail or otherwise, a written exception with the board within twenty calendar days from the date of mailing of the proposed decision or, upon timely application, within such further time as the board may allow. The statement of exceptions shall be filed with the board, and a copy shall be served on all other parties.

(2) Contents. Exceptions shall contain the specific factual and legal grounds upon which the exception is based. The party or parties making the exception shall be deemed to have waived all objections or irregularities not specifically set forth. The statement of exceptions may contain the exceptor's proposed findings of fact and/or conclusions of law addressing the factual and legal issues to which exceptions are being taken.

(3) Failure of a party to comply with the requirements for exceptions may result in the board issuing a decision adopting the proposed decision as the final decision of the board on the ground that no legally sufficient statement of exceptions had been made.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-730, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-730, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-730, filed 5/2/89.]

WAC 456-10-735 Reply to exceptions. Any party may, within ten days or such further time as the board may allow, submit a reply to exceptions or a written brief or statement of position regarding the matters on which exceptions were taken. The board may require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters on which exceptions were taken, within such time and on such terms as may be prescribed. The board may schedule a hearing to take additional evidence if it deems it necessary or helpful to reach a proper result.

[Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-735, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-735, filed 5/2/89.]

WAC 456-10-740 Finality of proposed decision. If exceptions are not timely made, the proposed decision shall become the board's final decision.

[Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-740, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-740, filed 5/2/89.]

WAC 456-10-745 Final decision following proposed decision. After the filing of exceptions and any responses, the record before the board shall be considered by at least two members of the board.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-745, filed 5/2/89.]

WAC 456-10-750 Final decision. When an appeal has been heard or the record considered by a majority of the board, a final decision may be adopted which shall contain findings and conclusions as to each contested issue of fact and law.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-750, filed 5/2/89.]

WAC 456-10-755 Petition for reconsideration. After a final decision has been issued, any party may file a petition for reconsideration with the board. Such petition must be made, by mail or otherwise, within ten business days from the mailing of the final decision. The petition for reconsideration shall be filed with the board and served upon all parties and representatives of record. The board may require that a response be made and served in the same manner. The filing of a petition for reconsideration shall suspend the final decision until action by the board. The board may deny the petition, modify its decision, or reopen the hearing. A petition for reconsideration is not available where a proposed decision was first issued.

[Statutory Authority: RCW 82.03.170. 95-05-032 (Order 95-02), § 456-10-755, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.150. 90-11-106, § 456-10-755, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-755, filed 5/2/89.]

SEPA

WAC 456-10-970 Applicability of SEPA guidelines. The board has reviewed its authorized activities pursuant to WAC 197-11-800(12) and has found them all to be exempt from the provisions of chapter 197-11 WAC.

[Statutory Authority: RCW 82.03.170. 89-10-057 (Order 89-03), § 456-10-970, filed 5/2/89.]

Chapter 456-12 WAC PUBLIC RECORDS

WAC

456-12-010	Purpose.
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WAC 456-12-010 Purpose. The purpose of this chapter shall be to ensure compliance by the board of tax appeals with the provisions of chapter 42.17 RCW, and in particular with RCW 42.17.250 through 42.17.340, dealing with public records.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-010, filed 5/2/89.]

WAC 456-12-020 Definitions. (1) Public records. "Public record" includes any writing containing information relating to the performance of any governmental or proprietary function which is prepared, owned, used or retained by the board of tax appeals 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) Board of tax appeals. The board of tax appeals (hereinafter "board") is a quasi-judicial body created pursuant to chapter 82.03 RCW and is hereinafter referred to as the "board." Where appropriate, the term "board" also refers to the staff and employees of the board.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-020, filed 5/2/89.]

WAC 456-12-030 Description of organization and public meeting. (1) The board of tax appeals is an independent agency of the state of Washington, composed of three members appointed by the governor, with the advice and consent of the senate for a term of six years. The members are to be qualified by experience or training in the field of state and local taxation. The board elects a chairman from among its members at least biennially.

(2) The executive director is the board's chief executive officer and is responsible for implementing board directions and for directing the board's staff.

(3) The board holds regular meetings at its office or such other place as the board designates on the second Thursday of each March, June, September, and December commencing at 10:00 a.m.

[Statutory Authority: RCW 82.03.170 and 42.17.250 through 42.17.320. 90-11-107, § 456-12-030, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-030, filed 5/2/89.]

WAC 456-12-040 Public records available. All public records of the board, as defined in WAC 456-12-020, are deemed to be available for public inspection and copying

pursuant to these rules, except as otherwise provided by RCW 42.17.310 and other laws.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-040, filed 5/2/89.]

WAC 456-12-050 Communications with the board.

All communications with the board, including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.17 RCW and these rules, requests for copies of the board's decisions and other matters, shall be addressed to the board's office as follows: Board of Tax Appeals, 910 5th Avenue S.E., MS: EW-12, Olympia, Washington 98504.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-050, filed 5/2/89.]

WAC 456-12-060 Public records officer. The chief executive officer shall be in charge of the public records. Such person shall be responsible for implementation of these rules and regulations regarding release of public records, and generally assuring compliance with the public records disclosure requirements of chapter 42.17 RCW, and RCW 42.17.250 through 42.17.340.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-060, filed 5/2/89.]

WAC 456-12-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the board. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-070, filed 5/2/89.]

WAC 456-12-080 Requests for public records. In accordance with the provisions of chapter 42.17 RCW, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the board which shall be available at its office. The form shall be presented to the board or to any member of the board's staff at the office of the board during customary office hours. The request shall include the following information:

(a) The name of the person requesting the record and the organization represented;

(b) The time of day and calendar date on which the request was made;

(c) A description of the material requested;

(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 board's current index, an appropriate identification of the record requested.

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(2) In all cases in which a member of the public is making a request, it shall be the obligation of the staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-080, filed 5/2/89.]

WAC 456-12-090 Copying. No fee shall be charged for the inspection of public records. For printed, typed and written materials, maximum size 8 1/2" x 14", and other writings as defined by WAC 456-12-020(2), the board will charge a reasonable fee for providing copies of public records and for use of the board's copy equipment. The charge is the amount necessary to reimburse the board for its actual costs incident to such copying.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-090, filed 5/2/89.]

WAC 456-12-100 Exemptions. (1) The board reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 456-12-110 is exempt under the provisions of RCW 42.17.310.

(2) Pursuant to RCW 42.17.260, the board reserves the right to delete identifying details when it makes available or publishes any public records, in all cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The board will fully justify such deletion in writing.

(3) All public records otherwise exempt by law shall be considered exempt under the provision of these rules.

(4) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denials, 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.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-100, filed 5/2/89.]

WAC 456-12-110 Review of denials of public records requests. (1) Any person who objects to denials 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 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 staff member denying the request shall refer it to the public records officer. The public records officer shall immediately consider the matter and, if appropriate, call a special meeting of the board as soon as possible to review the denial. In any case, the request shall be returned with a final written decision of the board within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the board or its acting member shall have returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

(4) With regard to review of denial or requests hereunder, the provisions of WAC 456-09-140 and 456-10-150 shall not apply.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-110, filed 5/2/89.]

WAC 456-12-120 Protection of public records. In order to protect the public records in the custody of the board, the following guidelines shall be followed by any person inspecting such public records:

- (1) No public records shall be removed from the office;
- (2) Inspection of any public record shall be conducted in the presence of a designated employee;
- (3) No public record may be marked or defaced in any manner during inspection;
- (4) Public records which are maintained in the file jacket, or in chronological order, may not be dismantled except for purpose of copying, and then only by a designated employee;
- (5) Access to file cabinets, shelves, vaults, etc., is restricted to board employees.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-120, filed 5/2/89.]

WAC 456-12-130 Records index. (1) Index. The board has available to all persons a current index which shall provide identifying information as to those records applicable to the board, which have been issued, adopted, or promulgated since June 30, 1967, described in RCW 42.17.260(2) as follows:

- "(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;
- (b) Those statements of policy and interpretations of policy, statute, and the Constitution which have been adopted by the agency;
- (c) Administrative staff manuals and instructions to staff that affect a member of the public;
- (d) Planning policies and goals, and interim and final planning decisions;
- (e) Factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports, or surveys, whether conducted by public employees or others; and
- (f) Correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory, or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party."

(2) Availability. The current index promulgated by the board shall be available for inspection by all persons under the same rules and on the same conditions as are applied to public records available for inspection.

[Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-130, filed 5/2/89.]

WAC 456-12-140 Adoption of form. The board hereby adopts the use by all persons requesting inspection and/or copies of records the form set out below, entitled "Request for Public Records":

(1999 Ed.)

REQUEST FOR PUBLIC RECORDS

We have received your request for copies of our public records. Please complete this form and return it with the total amount indicated below to:

Board of Tax Appeals
910 5th Avenue S.E.
Mailstop: EW-12
Olympia, WA 98504

We will forward the requested copies to you as soon as this form and your payment are received. Thank you.

REQUEST FOR PUBLIC RECORDS: DESCRIPTION OF RECORDS:

Name _____

Address _____

I certify that the information obtained through this request for public records will be used in compliance with chapter 42.17 RCW.

Signature _____ Date _____

Number of Copies _____ Per Page Charge \$ _____

Number of Pages _____ Postage \$ _____

Total Charge \$ _____

[Statutory Authority: RCW 82.03.170 and 42.17.250 through 42.17.320. 90-11-107, § 456-12-140, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170 and 47.17.250. 89-10-058 (Order 89-04), § 456-12-140, filed 5/2/89.]