

WAC 458-30-295 Removal of classification. (1) Introduction.

This rule discusses the circumstances that may cause land to be removed from classification and the actions an assessor takes to remove the land, in whole or in part, from classification under chapter 84.34 RCW.

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

(a) WAC 458-30-300 Additional tax—Withdrawal or removal from classification.

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

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

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

(4) **Examples.** This rule includes examples that identify a set of facts and then state a conclusion. These examples are only a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

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

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

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

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

(c) Sale or transfer of classified land to a new owner who is required to pay property tax and who does not sign the notice of classification continuance, except a transfer by a transfer on death deed or a transfer to an owner who is an heir or devisee of a deceased owner. Land may also be removed if a new owner signs the notice of continuance but the assessor determines the land does not qualify to continue in its classified status;

(d) Failure of an owner to respond to a request from the assessor for information regarding the use of the land, productivity of typical crops, and similar information pertinent to continued classification and assessment of the land. RCW 84.34.121;

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

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

(g) The assessor discovers that the land was classified under chapter 84.34 RCW in error.

(7) **Removal examples.**

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

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

(8) **Procedure when an assessor discovers a change in use.** If the assessor determines that the land is not being used for a qualifying use, the assessor must send the owner, by certified mail, return receipt requested, a written notice regarding this determination; e.g., the Notice of Intent to Remove Current Use Classification form.

(a) The owner must respond, in writing, to the assessor's inquiry about the use of the classified land within thirty calendar days of the postmark date of the notice.

(b) If the land in question is classified open space land or timber land, the assessor may ask the granting authority to provide reasonable assistance in determining whether the classified land continues to meet the criteria for classification. The granting authority must provide this assistance within thirty days of receiving the assessor's request for assistance. RCW 84.34.108(1).

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

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

(a) The assessor may ask the owner of the land that will remain classified to submit information relevant to its continuing eligibility under chapter 84.34 RCW.

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

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

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

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

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

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

(11) **Notice to owner.** Within thirty days of the removal of land from classification, the assessor must notify the owner in writing of the reason(s) for removal; e.g., the Notice of Removal of Current Use Classification and Additional Tax Calculation form. The removal notice must explain the steps an owner needs to follow if he or she wants to appeal the removal decision, including when a notice of appeal must be filed, where an appeal petition may be obtained, and how to contact the county board of equalization.

(12) **Right of appeal.** The seller, transferor, or owner of classified land may appeal the removal from classification to the board of equalization of the county in which the land is located. The appeal must be filed within thirty days (or up to sixty days if such a time limit has been adopted by the county legislative authority) of the postmark date the notice of removal was mailed by the assessor, electronically transmitted by the assessor, the assessor electronically notified the owner or person responsible for payment of taxes that the notice was available to be accessed by the owner or other person, or on or before July 1st of the year of removal, whichever is later. RCW 84.40.038.

(13) **Assessor's duty after removal.** Unless the removal is reversed on appeal, the assessor revalues the affected land with reference to its true and fair value as of January 1st of the year of removal from classification and places the value on the assessment roll. The assessment roll lists both the assessed value of the land before and after the removal from classification. Taxes for the current tax year are prorated according to the portion of the year to which each assessed value applies.

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

(15) **Additional tax, interest, and penalty are due when land is removed.** The additional tax, interest, and penalty imposed by RCW 84.34.080 and 84.34.108 are due and payable to the treasurer thirty days after the owner is notified of the amount due, unless the removal is the result of one of the exempt circumstances or transactions listed in RCW 84.34.108(6).

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.34.141. WSR 18-02-109, § 458-30-295, filed 1/3/18, effective 2/3/18. Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.34.141, 84.34.360. WSR 15-03-017, § 458-30-295, filed 1/8/15, effective 2/8/15. Statutory Authority: RCW 84.08.070, 84.34.141, 84.36.865, 84.52.0502. WSR 09-19-010, § 458-30-295, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 84.34.141. WSR 01-24-030, § 458-30-295, filed 11/27/01, effective 12/28/01. Statutory Authority: RCW 84.08.110, 84.08.070, 84.34.141 and 84.34.360. WSR 95-21-002, § 458-30-295, filed 10/4/95, effective 11/4/95. Statutory Authority: RCW 84.08.010 and 84.08.070. WSR 90-24-087, § 458-30-295, filed 12/5/90, effective 1/5/91. Statutory Authority: RCW 84.08.010(2), 84.34.141 and chapter 84.34 RCW. WSR 88-23-062 (Order PT 88-12), § 458-30-295, filed 11/15/88.]