

WSR 15-20-095
EXPEDITED RULES
DEPARTMENT OF REVENUE

[Filed October 6, 2015, 9:28 a.m.]

October 6, 2015
 Kevin Dixon
 Rules Coordinator

Title of Rule and Other Identifying Information: WAC 458-18-220 Refunds—Rate of interest, 458-30-262 Agricultural land valuation—Interest rate—Property tax component, and 458-30-590 Rate of inflation—Publication—Interest rate—Calculation.

AMENDATORY SECTION (Amending WSR 15-01-166, filed 12/23/14, effective 1/1/15)

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Gayle Carlson, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail GayleC@dor.wa.gov, AND RECEIVED BY December 7, 2015.

WAC 458-18-220 Refunds—Rate of interest. The following rates of interest shall apply on refunds of taxes made pursuant to RCW 84.69.010 through 84.69.090 in accordance with RCW 84.69.100. The following rates shall also apply to judgments entered in favor of the plaintiff pursuant to RCW 84.68.030. The interest rate is derived from the equivalent coupon issue yield of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted after June 30th of the calendar year preceding the date the taxes were paid. The rate thus determined shall be applied to the amount of the judgment or the amount of the refund, until paid:

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department proposes to amend:

- WAC 458-18-220 to provide the rate of interest for treasury bill auction year 2015, which is to be used when refunding property taxes paid in 2016, as required by RCW 84.69.100.
- WAC 458-30-262 to provide the interest rate and property tax component to be used when valuing classified farm and agricultural land during the 2016 assessment year, as required by RCW 84.34.065.
- WAC 458-30-590 to provide the rate of inflation used in calculating interest for deferred special benefit assessments of land removed or withdrawn during 2016, as required by RCW 84.34.310.

Year tax paid	Auction Year	Rate
1984	1983	9.29%
1985	1984	11.27%
1986	1985	7.36%
1987	1986	6.11%
1988	1987	5.95%
1989	1988	7.04%
1990	1989	8.05%
1991	1990	8.01%
1992	1991	5.98%
1993	1992	3.42%
1994	1993	3.19%
1995	1994	4.92%
1996	1995	5.71%
1997	1996	5.22%
1998	1997	5.14%
1999	1998	5.06%
2000	1999	4.96%
2001	2000	5.98%
2002	2001	3.50%
2003	2002	1.73%
2004	2003	0.95%
2005	2004	1.73%
2006	2005	3.33%
2007	2006	5.09%
2008	2007	4.81%
2009	2008	2.14%
2010	2009	0.29%
2011	2010	0.21%

Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

Reasons Supporting Proposal: The department is required by statute to annually adopt these rules to provide the information identified above.

Statutory Authority for Adoption: RCW 84.34.360, 84.34.065, 84.34.141, and 84.69.100.

Statute Being Implemented: RCW 84.34.055, 84.34.065, 84.34.141, 84.34.310, 84.34.360, 84.68.030, and 84.69.100.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Gayle Carlson, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1576; Implementation and Enforcement: Marcus Glasper, 1025 Union Avenue S.E., Suite #500, Olympia, WA, (360) 534-1615.

Year tax paid	Auction Year	Rate
2012	2011	0.08%
2013	2012	0.15%
2014	2013	0.085%
2015	2014	0.060%
<u>2016</u>	<u>2015</u>	<u>0.085%</u>

COUNTY	PERCENT	COUNTY	PERCENT
King	((1.16)) <u>1.06</u>	Whatcom	((1.16)) <u>1.14</u>
Kitsap	((1.24)) <u>1.20</u>	Whitman	1.42
Kittitas	((0.98)) <u>0.99</u>	Yakima	((1.26)) <u>1.22</u>
Klickitat	((0.95)) <u>0.98</u>		

AMENDATORY SECTION (Amending WSR 15-01-166, filed 12/23/14, effective 1/1/15)

WAC 458-30-262 Agricultural land valuation—Interest rate—Property tax component. For assessment year (~~((2015))~~) 2016, the interest rate and the property tax component that are to be used to value classified farm and agricultural lands are as follows:

- (1) The interest rate is (~~((4.45))~~) 4.46 percent; and
- (2) The property tax component for each county is:

COUNTY	PERCENT	COUNTY	PERCENT
Adams	((1.26)) <u>1.27</u>	Lewis	((1.11)) <u>1.13</u>
Asotin	((1.24)) <u>1.18</u>	Lincoln	((1.17)) <u>1.19</u>
Benton	1.17	Mason	1.15
Chelan	((1.10)) <u>1.11</u>	Okanogan	((1.04)) <u>1.06</u>
Clallam	((1.12)) <u>1.08</u>	Pacific	((1.32)) <u>1.38</u>
Clark	((1.38)) <u>1.29</u>	Pend Oreille	((0.90)) <u>0.91</u>
Columbia	((1.11)) <u>1.13</u>	Pierce	1.52
Cowlitz	((1.24)) <u>1.23</u>	San Juan	((0.68)) <u>0.69</u>
Douglas	((1.15)) <u>1.14</u>	Skagit	((1.21)) <u>1.23</u>
Ferry	((0.95)) <u>0.97</u>	Skamania	((1.03)) <u>1.07</u>
Franklin	((1.29)) <u>1.26</u>	Snohomish	((1.24)) <u>1.21</u>
Garfield	((0.93)) <u>0.99</u>	Spokane	1.38
Grant	((1.33)) <u>1.29</u>	Stevens	((0.98)) <u>0.97</u>
Grays Harbor	((1.27)) <u>1.31</u>	Thurston	((1.31)) <u>1.30</u>
Island	((0.95)) <u>0.93</u>	Wahkiakum	((0.94)) <u>0.98</u>
Jefferson	((1.02)) <u>1.01</u>	Walla Walla	((1.33)) <u>1.32</u>

AMENDATORY SECTION (Amending WSR 15-01-166, filed 12/23/14, effective 1/1/15)

WAC 458-30-590 Rate of inflation—Publication—Interest rate—Calculation. (1) **Introduction.** This (~~((section))~~) rule sets forth the rates of inflation discussed in WAC 458-30-550. It also explains the department of revenue's obligation to annually publish a rate of inflation and the manner in which this rate is determined.

(2) **General duty of department—Basis for inflation rate.** Each year the department determines and publishes a rule establishing an annual rate of inflation. This rate of inflation is used in computing the interest that is assessed when farm and agricultural or timber land, which are exempt from special benefit assessments, is withdrawn or removed from current use classification.

(a) The rate of inflation is based upon the implicit price deflator for personal consumption expenditures calculated by the United States Department of Commerce. This rate is used to calculate the rate of interest collected on exempt special benefit assessments.

(b) The rate is published by December 31st of each year and applies to all withdrawals or removals from farm and agricultural or timber land classification that occur the following year.

(3) **Assessment of rate of interest.** An owner of classified farm and agricultural or timber land is liable for interest on the exempt special benefit assessment. Interest accrues from the date the local improvement district is created until the land is withdrawn or removed from classification. Interest accrues and is assessed in accordance with WAC 458-30-550.

(a) Interest is assessed only for the time (years and months) the land remains classified under RCW 84.34.020 (2) or (3).

(b) If the classified land is exempt from the special benefit assessment for more than one year, the annual inflation rates are used to calculate an average rate of interest. This average is determined by adding the inflation rate for each year the classified land was exempt from the special benefit assessment after the local improvement district was created. The sum of the inflation rates is then divided by the number of years involved to determine the applicable rate of interest.

(c) Example. A local improvement district for a domestic water supply system was created in January 1990 and the owner used the statutory exemption provided in RCW 84.34.-320. On July 1, 1997, the land was removed from the farm and agricultural classification. An average interest rate was

calculated using the inflation rates for 1990 through 1997. The owner was then notified of the amount of previously exempt special benefit assessment, plus the average interest rate.

(4) **Rates of inflation.** The rates of inflation used to calculate the interest as required by WAC 458-30-550 are as follows:

YEAR	PERCENT	YEAR	PERCENT
1976	5.6	1977	6.5
1978	7.6	1979	11.3
1980	13.5	1981	10.3
1982	6.2	1983	3.2
1984	4.3	1985	3.5
1986	1.9	1987	3.7
1988	4.1	1989	4.8
1990	5.4	1991	4.2
1992	3.3	1993	2.7
1994	2.2	1995	2.3
1996	2.2	1997	2.1
1998	0.85	1999	1.42
2000	2.61	2001	1.89
2002	1.16	2003	1.84
2004	2.39	2005	2.54
2006	3.42	2007	2.08
2008	4.527	2009	-0.85 (negative)
2010	1.539	2011	2.755
2012	1.295	2013	1.314
2014	1.591	<u>2015</u>	<u>0.251</u>

WSR 15-20-098
EXPEDITED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
 [Filed October 6, 2015, 9:55 a.m.]

Title of Rule and Other Identifying Information: Chapter 392-204 WAC, School library information and technology programs.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Dennis Small, Office of Superintendent of Public Instruction (OSPI), Educational

Technology, P.O. Box 47200, Olympia, WA 98504-7200, AND RECEIVED BY December 8, 2015.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Make changes to chapter 392-204 WAC to reflect new legislative language from SSB 5294. For WAC 392-204-005, 392-204-009, 392-204-020 and 392-204-025, replace the word "media" with "information and technology." For WAC 392-204-009, replace the word "certified" with "certificated." For WAC 392-204-025, add a new subsection:

(2) The teacher-librarian's duties may include, but are not limited to, collaborating with his or her schools to:

(a) Integrate information and technology into curriculum and instruction including, but not limited to, instructing other certificated staff about using and integrating information and technology literacy into instruction through workshops, modeling lessons, and individual peer coaching;

(b) Provide information management instruction to students and staff about how to effectively use emerging learning technologies for school and lifelong learning, as well as in the appropriate use of computers and mobile devices in an educational setting;

(c) Help teachers and students efficiently and effectively access the highest quality information available while using information ethically;

(d) Instruct students in digital citizenship, including how to be critical consumers of information and provide guidance about thoughtful and strategic use of online resources; and

(e) Create a culture of reading in the school community, by developing a diverse, student-focused collection of materials that ensures all students can find something of quality to read and by facilitating school-wide reading initiatives along with providing individual support and guidance for students.

Reasons Supporting Proposal: Changes reflect new legislative language in SSB 5294, passed by the 2015 Washington state legislature.

Statutory Authority for Adoption: RCW 28A.320.240.

Statute Being Implemented: Chapter 392-204 WAC.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting and Implementation: Dennis Small, OSPI, Educational Technology, (360) 725-6384; and Enforcement: Gayle Pauley, OSPI, Special Programs and Federal Accountability, (360) 725-6170.

October 6, 2015
 Randy Dorn
 Superintendent of
 Public Instruction

AMENDATORY SECTION (Amending WSR 06-14-009, filed 6/22/06, effective 6/22/06)

WAC 392-204-005 Purpose and authority. (1) The purpose of this chapter is to identify quality criteria for school library (~~media~~) information and technology programs, as may be established locally, that support the attainment of the state's learning goals.

(2) The authority for this chapter is RCW 28A.320.240.

AMENDATORY SECTION (Amending WSR 07-04-050, filed 1/31/07, effective 3/3/07)

WAC 392-204-009 Definitions. (1) "Teacher-librarian" means a ((certified)) certificated teacher with a library media endorsement under WAC 181-82A-202 (1)(i), 181-82-344, or 181-82-346.

(2) "School library ((media)) information and technology program" means a school-based program that is staffed by a certificated teacher-librarian.

AMENDATORY SECTION (Amending WSR 06-14-009, filed 6/22/06, effective 6/22/06)

WAC 392-204-020 School library ((media)) information and technology program. The school library ((media)) information and technology program is to include resources that promote a positive impact on student learning, such as a variety of resources for reading advocacy, student communication skills, electronic and print information, and resources that support student mastery of the essential academic learning requirements in all subject areas and the implementation of the district's school improvement plan, consistent with the goals for Washington common schools, as adopted by the state board of education.

AMENDATORY SECTION (Amending WSR 06-14-009, filed 6/22/06, effective 6/22/06)

WAC 392-204-025 Services. (1) The teacher-librarian, through the school library ((media)) information and technology program, shall collaborate as an instructional partner and informational specialist with classroom teachers to develop students' information and technology skills, help all students meet the content goals in all subject areas, and assist high school students completing the culminating project and high school and beyond plans required for graduation under WAC 180-51-061.

(2) The teacher-librarian's duties may include, but are not limited to, collaborating with his or her schools to:

(a) Integrate information and technology into curriculum and instruction including, but not limited to, instructing other certificated staff about using and integrating information and technology literacy into instruction through workshops, modeling lessons, and individual peer coaching;

(b) Provide information management instruction to students and staff about how to effectively use emerging learning technologies for school and lifelong learning, as well as in the appropriate use of computers and mobile devices in an educational setting;

(c) Help teachers and students efficiently and effectively access the highest quality information available while using information ethically;

(d) Instruct students in digital citizenship, including how to be critical consumers of information and provide guidance about thoughtful and strategic use of online resources; and

(e) Create a culture of reading in the school community, by developing a diverse, student-focused collection of materials that ensures all students can find something of quality to read and by facilitating school-wide reading initiatives along with providing individual support and guidance for students.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 392-204-055 Other sources.

WSR 15-20-099 EXPEDITED RULES DEPARTMENT OF REVENUE

[Filed October 6, 2015, 9:55 a.m.]

Title of Rule and Other Identifying Information: WAC 458-20-179 (Rule 179) Public utility tax, this rule explains the public utility tax imposed by chapter 82.16 RCW.

WAC 458-20-180 (Rule 180) Motor carriers, this rule explains the tax reporting responsibilities of persons engaged in the business of transporting by motor vehicle persons or property for hire.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Gayle Carlson, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail GayleC@dor.wa.gov, AND RECEIVED BY December 7, 2015.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing revisions to:

- Rule 179 to include in the list of rules in the introduction a reference to WAC 458-20-13501 Timber harvest operations and the words "log transportation" in Part I (101).
- Rule 180 to add a new subsection (3) "What is a log transportation business?" and remove outdated information.

Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

Reasons Supporting Proposal: Chapter 6, Laws of 2015 3rd sp. sess. (ESSB 6057 Part VII).

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Gayle Carlson, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1576; Implementation and Enforcement: Marcus Glasper, 1025 Union Avenue S.E., Suite #500, Olympia, WA, (360) 534-1615.

October 6, 2015
Kevin Dixon
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-04-047, filed 1/29/15, effective 3/1/15)

WAC 458-20-179 Public utility tax. Introduction.

This rule explains the public utility tax (PUT) imposed by chapter 82.16 RCW. The PUT is a tax for engaging in certain public service and transportation businesses within this state.

The department of revenue (department) has adopted other rules that relate to the application of PUT. Readers may want to refer to rules in the following list (~~(of rules)~~):

(1) WAC 458-20-104(~~(:)~~) Small business tax relief based on income of business;

(2) WAC 458-20-121(~~(:)~~) Sales of heat or steam—Including production by cogeneration;

(3) WAC 458-20-13501 Timber harvest operations;

(4) WAC 458-20-175(~~(:)~~) Persons engaged in the business of operating as a private or common carrier by air, rail or water in interstate or foreign commerce;

~~((4))~~ (5) WAC 458-20-180(~~(:)~~) Motor carriers;

~~((5))~~ (6) WAC 458-20-192(~~(:)~~) Indians—Indian country;

~~((6))~~ (7) WAC 458-20-193D(~~(:)~~) Transportation, communication, public utility activities, or other services in interstate or foreign commerce; and

~~((7))~~ (8) WAC 458-20-251(~~(:)~~) Sewerage collection and other related activities.

This rule contains examples (~~(which)~~) that identify a number of facts and then state a conclusion. The examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

Part I - General Information

(101) **Persons subject to the public utility tax.** The PUT is imposed by RCW 82.16.020 on certain public service and transportation businesses including railroad, express, railroad car, water distribution, sewerage collection, light and power, telegraph, gas distribution, motor transportation, urban transportation, log transportation, vessels under sixty-five feet in length operating upon the waters within the state of Washington, and tugboat businesses.

(a) **Hauling by watercraft.** Income from hauling persons or property for hire by watercraft between points in Washington is subject to one of two PUT classifications, depending on the nature of the service. Income from:

- Operating tugboats of any size, and the sale of transportation services by vessels sixty-five feet and over, is subject to tax under the "other public service business" PUT classification.

- The sale of transportation services using vessels under sixty-five feet, other than tugboats, is subject to tax under the "vessels under sixty-five feet" public utility tax classification.

These classifications do not include sightseeing tours, fishing charters, or activities (~~(which)~~) that are in the nature of guided tours where the tour may include some water trans-

portation. Persons engaged in providing tours should refer to WAC 458-20-258, Travel agents and tour operators.

(b) **Other businesses subject to the public utility tax.** The PUT also applies to any other public service business subject to control by the state, or having the powers of eminent domain, or any business declared by the legislature to be of a public service nature, unless the activity is subject to tax under chapter 82.04 RCW, Business and occupation (B&O) tax.

(i) The phrase "subject to control by the state" means control by the utilities and transportation commission or any other state agency required by law to exercise control of a business of a public service nature regarding rates charged or services rendered. Examples of other public service businesses include, but are not limited to: Airplane transportation, boom, dock, ferry, pipeline, toll bridge, water transportation, and wharf businesses. RCW 82.16.010.

(ii) Persons engaged in the same business activities as the businesses described above are subject to the PUT even if they are not publicly recognized as providing that type of service or the amount of income from these activities is not substantial. For example, an industrial manufacturing company that owns and operates a well, and that sells a relatively small amount of water to its wholly owned subsidiary, is subject to the PUT as a water distribution business on its sales of water.

(c) **Are amounts derived from interest and penalties taxable?** Amounts charged to customers as interest or penalties are generally subject to the service and other activities B&O tax. This includes interest charged for failure to timely pay for utility services or for incidental services. Incidental services include for example meter installation or other activities which are performed prior to the customer receiving utility services. Any interest or penalty resulting from the failure to timely pay a local improvement district or utility local improvement district assessment is not subject to public utility or B&O taxes.

(102) **Tax rates and measure of tax.** The rates of tax for each business activity subject to the PUT are imposed under RCW 82.16.020 and set forth on appropriate lines of the state public utility tax addendum for the excise tax return. The measure of the PUT is the gross income of the business. The term "gross income" means the value proceeding or accruing from the performance of the particular public service or transportation business involved, including operations incidental to that business. No deduction may be taken on account of the cost of the commodity furnished or sold, the cost of materials used, labor costs, interest, discounts, delivery costs, taxes, or any other expense whatsoever paid or accrued, nor on account of losses. RCW 82.16.010(3).

(103) **Persons subject to public utility tax may also be subject to B&O tax.** The B&O tax does not apply to any business activities for which PUT is specifically imposed, including amounts derived from activities for which a deduction from the PUT is available under RCW 82.16.050. RCW 82.04.310(1). However, many persons engaged in business activities subject to the PUT are also engaged in other business activities subject to B&O tax.

For example, a gas distribution company operating a system for the distribution of natural gas for sale may also make retail sales of gas appliances. The gas distribution company is

subject to the PUT on its distribution of natural gas to consumers. ~~((However,))~~ It is also subject to retailing B&O tax and must collect and remit retail sales tax on its retail sales of gas appliances. Repairs of customer owned appliances ~~((would))~~ are also ~~((be considered))~~ a retailing activity ~~((and))~~ subject to retail sales tax.

In distinguishing gross income taxable under the PUT from gross income taxable under the B&O tax, the department is guided by the uniform system of accounts established for the specific type of utility concerned. Because of differences in the uniform systems of accounts established for various types of utility businesses, such guides are not controlling for the purposes of classifying revenue under the Revenue Act.

(104) Charges for service connections, line extensions, and other similar services.

(a) For existing customers, amounts derived from services that are incidental to a public utility activity are subject to PUT. Thus, amounts received for the following are subject to PUT:

- (i) Service connection, start-up, and testing fees;
- (ii) Charges for line extensions, repairs, raisings, and/or drops;
- (iii) Meter or pole replacement;
- (iv) Meter reading or load factor charges; and
- (v) Connecting or disconnecting.

(b) For new customers, amounts received for any of the services noted above in Part (104)(a) of this rule are subject to service and other activities B&O tax.

A "new customer" is a customer who previously has not received the utility service at the location. For example, a customer of a water distribution company who currently receives water at a residence and constructs a new residence at a different location is considered a "new customer" with respect to any meter installation services performed at the new residence, until the customer actually receives water at that location. It is immaterial that this customer may be receiving water at the old residence. The charge for installing the meter for this customer at the new location is subject to service and other activities B&O tax.

(105) Contributions of equipment or facilities. Contributions to a utility business in the form of equipment or facilities are not considered income to the utility business, if the contribution is a condition of receiving service.

(a) **Example 1.** An industrial customer purchases and pays sales tax on transformers it installs. The customer then provides the transformers to a public utility district as a condition of receiving future service. The public utility district is not subject to the PUT or B&O tax on the receipt of the transformers. Use tax is not owed by the utility district as the customer paid sales tax at the time of purchase.

(b) **Example 2.** For a water or sewerage collection business, the value of pipe, valves, pumps, or similar items provided by a developer for purposes of servicing the developed area is likewise not subject to PUT or B&O tax.

Part II - Exemptions, Deductions, and Nontaxable Receipts

(201) Exemptions. This subsection describes PUT exemptions. Also see subsections in this rule that discuss specific utilities.

(a) **Income exemption.** Persons subject to the PUT are exempt from the payment of the tax if their taxable income from utility activities does not meet a minimum threshold. RCW 82.16.040. For detailed information about this exemption, refer to WAC 458-20-104, Small business tax relief based on income of business.

(b) **Ride sharing.** RCW 82.16.047 exempts amounts received in the course of commuter ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010. For detailed information about this exemption, refer to WAC 458-20-261, Commute trip reduction incentives.

(c) **State route number 16.** RCW 82.16.046 exempts amounts received from operating state route number 16 corridor transportation systems and facilities constructed and operated under chapter 47.46 RCW.

(202) Deductions. In general, costs of doing business are not deductible under the PUT. However, RCW 82.16.050 ~~((does))~~ provides for limited deductions. This subsection describes a number of ~~((PUT))~~ those deductions. The deductible amounts should be included in the gross income reported on the state public utility tax addendum for the excise tax return and then deducted on the deduction detail page to determine the amount of taxable income. Deductions taken but not identified on the appropriate deduction detail page may be disallowed. Also see Parts III and IV of this rule, which identify additional deductions available to power and light, gas distribution, and water distribution businesses.

(a) **Cash discounts.** The amount of cash discount actually taken by the purchaser or customer is deductible under RCW 82.16.050(4).

(b) **Credit losses.** The amount of credit losses actually sustained by taxpayers whose regular books of account are kept on an accrual basis is deductible under RCW 82.16.050(5). For additional information regarding credit losses see WAC 458-20-196, Bad debts.

(c) **Taxes.** Amounts derived by municipally owned or operated public service businesses directly from taxes levied for their support are deductible under RCW 82.16.050(1). However, service charges that are spread on the property tax rolls and collected as taxes are not deductible.

Local improvement district and utility local improvement district assessments, including interest and penalties on such assessments, are not income because they are exercises of the jurisdiction's taxing authority. These assessments may be composed of a share of the costs of capital facilities, installation labor, connection fees, etc.

(d) **Prohibitions imposed by federal law or the state or federal constitutions.** Amounts derived from business that the state is prohibited from taxing under federal law or the state or federal constitutions are deductible under RCW 82.16.050(6).

(e) **Sales of commodities for resale.** Amounts derived from the sale of commodities to persons in the same public

service business as the seller, for resale within this state, are deductible under RCW 82.16.050(2). This deduction is allowed only with respect to water distribution, gas distribution, or other public service businesses that furnish water, gas, or any other commodity in the performance of a public service business. For example, income from the sale of natural gas by a gas distributing company to natural gas companies located in Washington, who resell the gas to their customers, is deductible from the gas distributing company's gross income.

(f) **Services furnished jointly.** In general, costs of doing business are not deductible under the PUT. However, RCW 82.16.050(3) allows a deduction for amounts actually paid by a taxpayer to another person taxable under the PUT as the latter's portion of the consideration due for services furnished jointly by both, provided the full amount paid by the customer for the service is received by the taxpayer and reported as gross income subject to the PUT. The services must be furnished jointly by both the taxpayer and another person taxable under the PUT.

Example 1. Manufacturing Company hires ABC Transport (ABC) to haul goods from Tacoma to a manufacturing facility in Bellingham. ABC subcontracts part of the haul to XYZ Freight (XYZ) and has XYZ haul the goods from Tacoma to Everett, where the goods are loaded into ABC's truck and transported to Bellingham. Assuming all other requirements of the deduction are met, ABC may deduct the payments it makes to XYZ from its gross income as XYZ's portion of the consideration paid by Manufacturing Company for transportation services furnished jointly by both ABC and XYZ. See WAC 458-20-180 for additional information on motor carriers.

Example 2. Dakota Electricity Generator (DEG) sells electricity to Mod Industrial Firm (MIF). DEG hires Wheeler #1 to transmit the electricity from DEG to MIF. Wheeler #1 subcontracts a portion of the transmission service to Wheeler #2.

- Wheeler #1 and Wheeler #2 are jointly furnishing transmission services to DEG. Assuming all other requirements of the deduction are met, Wheeler #1 may claim a "services jointly provided" deduction in the amount paid to Wheeler #2.

- DEG may not claim a "services jointly provided" deduction for the amount DEG paid Wheeler #1. DEG and Wheeler #1 are *not* jointly furnishing a service to MIF. DEG is selling electricity to MIF, and Wheeler #1 is selling transmission services to DEG.

Example 3. City A's water department purchases water from City B's water department. City A sells the water to its customers. City A may not take a deduction for its payment to City B's water department as "services jointly provided." The sale of water by City A to its customers is not a service jointly provided to City A's customers by both City A and City B.

City B, however, may take a deduction under RCW 82.16.050(2) for its sales of water to City A since this is a sale of commodities to a person in the same public service business, for resale within this state.

(203) **Nontaxable amounts.** The following amounts are not considered taxable income.

(a) **Insurance claim amounts.** Amounts received from insurance companies in payment of losses, which are distinguishable from amounts received to settle contract payment disagreements.

(b) **Payment of damages.** Amounts received from individuals and others in payment of damages caused by them to the utility's plant or equipment.

(c) **Amounts from eminent domain proceedings or governmental action.** Amounts received as compensation for compensatory or involuntary taking of facilities of a public utility, by the exercise of eminent domain or governmental action, are considered liquidated damages.

Part III - Light and Power Business

(301) **Light and power business.** Public utility tax is imposed by RCW 82.16.020 on gross income from providing light and power services. Light and power business means the business of operating a plant or system for the generation, production or distribution of electrical energy for hire or sale. RCW 82.16.010.

(302) **Requirements for light and power businesses.** RCW 82.16.090 requires that customer billings issued by light and power businesses serving more than twenty thousand customers include the following information:

(a) The rates and amounts of taxes paid directly by the customer (~~upon~~) on products or services rendered by such business; and

(b) The rate, origin, and approximate amount of each tax levied (~~upon~~) on the revenue of such business which has been added as a component of the amount charged to the customer. This does not include taxes levied by the federal government or taxes levied under chapters 54.28, 80.24, or 82.04 RCW.

(303) **Wheeling of electricity.** "Wheeling of electricity" is the activity of delivering or distributing electricity owned by others using power lines and equipment of the person doing the wheeling. Income from wheeling electricity is subject to the PUT.

(304) **Exchanges of electricity by light and power businesses.** There is no specific exemption that applies to an "exchange" of electrical energy or its rights. However, exchanges of electrical energy between light and power businesses (~~do~~) qualify for deduction in computing the PUT as (~~being~~) sales of power to another light and power business for resale. RCW 82.16.050(11). An exchange is a transaction that is considered to be a sale and involves a delivery or transfer of energy or its rights by one party to another for which the second party agrees, subject to the terms and conditions of the agreement, to deliver electrical energy at the same or another time. Examples of deductible exchange transactions include, but are not limited to, the following:

(a) The exchange of electric power for electric power between one light and power business and another light and power business;

(b) The transmission of electric power by one light and power business to another light and power business pursuant to the agreement for coordination of operations among power systems of the Pacific Northwest executed as of September 15, 1964;

(c) The acquisition of electric power by the Bonneville Power Administration (BPA) for resale to its Washington customers in the light and power business;

(d) The residential exchange of electric power entered into between a light and power business and the administrator of the BPA pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, P.L. 96-501, Sec. 5(c), 16 U.S.C. Sec. 839c. In some cases, power is not physically transferred, but the purpose of the residential exchange is for BPA to pay a "subsidy" to the exchanging utilities. These subsidies are considered a nontaxable adjustment (rebate or discount) for purchases of power from BPA.

(305) **Exemptions.** The following exemptions are available for sales of electricity, and are in addition to the general exemptions found in Part II of this rule.

(a) **Sales of electricity to an electrolytic processor.** RCW 82.16.0421 provides an exemption for sales of electricity made by light and power businesses to chlor-alkali electrolytic processing businesses or sodium chlorate electrolytic processing businesses for the electrolytic process. This exemption, which is scheduled to expire June 30, 2019, applies to sales of electricity made by December 31, 2018.

The exemption does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the electrolytic process.

(i) **Exemption certificate required.** To claim the exemption, the chlor-alkali electrolytic processing business or the sodium chlorate electrolytic processing business must provide the light and power business with an exemption certificate. RCW 82.16.0421. A certificate can be obtained from the department's web site at: dor.wa.gov.

(ii) **Annual report requirement.** RCW 82.16.0421 requires taxpayers receiving the benefit of this tax preference to file an annual report by April 30th of the year following any calendar year in which a taxpayer becomes eligible to claim the tax preference. See RCW 82.32.534 for more information on the annual report requirement for tax preferences.

(iii) **Qualification requirements.** To qualify all the following requirements must be met:

(A) The electricity used in the electrolytic process must be separately metered from the electricity used for the general operations of the business;

(B) The price charged for the electricity used in the electrolytic process must be reduced by an amount equal to the tax exemption available to the light and power business; and

(C) Disallowance of all or part of the exemption is a breach of contract and the damages to be paid by the chlor-alkali electrolytic processing business or the sodium chlorate electrolytic processing business is the amount of the tax exemption disallowed.

(b) **Sales of electricity to aluminum smelters.** RCW 82.16.0498 provides an exemption to be taken in the form of a credit. The credit is allowed if the contract for sale of electricity to an aluminum smelter specifies that the price charged for the electricity will be reduced by an amount equal to the credit. The exemption does not apply to amounts received from the remarketing or resale of electricity originally obtained by contract for the smelting process. The credit allowed is the same amount as the utility tax that would otherwise have been due under RCW 82.16.020.

(c) **BPA credits or funds.** Effective June 10, 2010, through June 30, 2015, RCW 82.04.310 (~~(exempts)~~) exempted from the B&O tax credits or payments received by persons from the BPA, for the purpose of implementing energy conservation programs or demand-side management programs. This exemption (~~(is scheduled to expire)~~) expired June 30, 2015, and credits or payments received on or after July 1, 2015, are subject to the B&O tax under the service and other activities classification.

(306) **Deductions.** The following deductions are available for sales of electricity, and are in addition to the general deductions found in Part II of this rule.

(a) **Sales of electricity for resale or for consumption outside Washington.** Amounts derived from the production, sale, or transfer of electrical energy for resale within or outside the state of Washington or for consumption outside the state are deductible under RCW 82.16.050(11). These sales of electricity are also not subject to the manufacturing B&O tax. RCW 82.04.310.

(b) **Low density light and power businesses.** RCW 82.16.053 provides a deduction for light and power businesses having seventeen or fewer customers per mile of distribution power lines with retail power rates that exceed the state average power rate. The statute requires the department to determine the state average electric power rate each year and make this rate available to these businesses. This rate and additional information regarding this deduction can be found (~~(via)~~) on the department's web site at: dor.wa.gov.

(c) **Conservation - Electrical energy and gas.** RCW 82.16.055 provides deductions relating to the production or generation of energy from cogeneration or renewable resources, and for measures to improve the efficiency of energy end-use.

(i) **Restrictions.** (~~(The below mentioned)~~) Use of the deductions (~~(are)~~) is subject to the following restrictions:

(A) They apply only to new facilities for the production or generation of energy from cogeneration or renewable energy resources or measures to improve the efficiency of energy end-use on which construction or installation was begun after June 12, 1980, and before January 1, 1990;

(B) The measures or projects must be, at the time they are placed in service, reasonably expected to save, produce, or generate energy at a total incremental system cost per unit of energy delivered to end-use which is less than or equal to the incremental system cost per unit of energy delivered to end-use from similarly available conventional energy resources that utilize nuclear energy or fossil fuels and that the gas or electric utility could acquire to meet energy demand in the same time period; and

(C) They may be taken for a period not exceeding thirty years after the project is placed in operation. Any recurring costs determined to be eligible for deduction under this rule will cease to be eligible in whole or part at the time of termination of any energy conservation measure or project that originally authorized the deduction under RCW 82.16.055.

(ii) **What can be deducted.** The following may be deducted from a taxpayer's gross income:

(A) Amounts equal to the cost of production at the plant for consumption within the state of Washington of electrical

energy produced or generated from cogeneration as defined in RCW 82.08.02565;

(B) Amounts equal to the cost of production at the plant for consumption within the state of Washington of electrical energy or gas produced or generated from renewable energy resources such as solar energy, wind energy, hydroelectric energy, geothermal energy, wood, wood wastes, municipal wastes, agricultural products and wastes, and end-use waste heat;

(C) Amounts expended to improve consumers' efficiency of energy end-use or to otherwise reduce the use of electrical energy or gas by the consumer;

(D) Amounts received by a utility as a contribution for the installation of service, and later refunded to the customer, are deductible from gross income at the time the amounts are refunded;

(E) Production expenses, eligible fuel costs and book depreciation of capital costs. Eligible fuel costs are all fuels if used for cogeneration or nonfossil fuel costs if not a cogeneration facility.

(307) **Credits.** Credit is available to light and power businesses that make contributions to an electric utility rural economic development revolving fund. The credit is equal to fifty percent of contributions made during a fiscal year to an electric utility rural economic development revolving fund.

(a) Light and power businesses may take a credit up to twenty-five thousand dollars, not to exceed the PUT that would normally be due, against their public utility tax liability each fiscal year for contributions made.

(b) Expenditures from the electric utility rural economic development revolving fund must be made solely on qualifying projects, in a designated qualifying rural area. For additional information see RCW 82.16.0491.

(c) The total amount of credits available statewide on a fiscal year basis for all qualified businesses is three hundred fifty thousand dollars. The department will allow earned credits on a first-come, first-served basis. The right to earn these tax credits expired June 30, 2011. Unused earned credits may be carried forward to subsequent years provided the department has given prior approval.

Part IV - Gas and Water Distribution Businesses

(401) **Gas distribution.** Gross income received for the distribution of gas is taxable under PUT as provided by RCW 82.16.020. Gas distribution business means the business of operating a plant or system for the production or distribution for hire or sale of gas, whether manufactured or natural. RCW 82.16.010. See Part II for general exemptions and deductions that may apply to gas distribution.

(402) **Requirements for gas distribution businesses.** RCW 82.16.090 requires that customer billings issued by gas distribution businesses serving more than twenty thousand customers include the following information:

(a) The rates and amounts of taxes paid directly by the customer (~~upon~~) on products or services rendered by such business; and

(b) The rate, origin, and approximate amount of each tax levied (~~upon~~) on the revenue of such business which has been added as a component of the amount charged to the customer. This does not include taxes levied by the federal gov-

ernment or taxes levied under chapters 54.28, 80.24, or 82.04 RCW.

(c) In addition to the general exemptions and deductions noted in Part II of this rule, the law provides the following:

(i) **Sales of natural or manufactured gas to aluminum smelters.** RCW 82.16.0498 provides an exemption to be taken in the form of a credit for sales of natural or manufactured gas to aluminum smelters. The credit is allowed if the contract for sale of gas to an aluminum smelter specifies that the price charged for the gas will be reduced by an amount equal to the credit. The credit allowed is the same amount as the utility tax that would otherwise have been due under RCW 82.16.020.

(ii) **Conservation - Energy from gas.** RCW 82.16.055 provides deductions for the production or generation of energy from cogeneration or renewable resources and for measures to improve the efficiency of energy end-use. See subsection (306)(c) of this rule.

(iii) **Compressed natural gas and liquefied natural gas used as transportation fuel.**

(A) Effective July 1, 2015, RCW 82.16.310 (~~exempts from PUT income from~~) provides an exemption for sales by a gas distribution business of natural gas, compressed natural gas, and liquefied natural gas if the:

(I) Compressed natural gas or liquefied natural gas is sold or used as transportation fuel; or

(II) Buyer uses natural gas to manufacture compressed natural gas or liquefied natural gas to be sold or used as transportation fuel.

(B) The buyer must provide and the seller must retain an exemption certificate. See the department's web site at: dor.wa.gov for the "Purchases of Natural Gas for Use as Transportation Fuel" form. RCW 82.16.310.

(C) Although sales of natural gas, compressed natural gas, and liquefied natural gas may be exempt under RCW 82.16.310, the income from such sales may be subject to other taxes such as business and occupation tax and retail sales tax.

(D) For the purpose of this subsection, "transportation fuel" means fuel for the generation of power to propel a motor vehicle as defined in RCW 46.04.320, a vessel as defined in RCW 88.02.310, or a locomotive or railroad car.

(403) **Water distribution.** PUT is imposed on amounts derived from the distribution of water under RCW 82.16.020. Water distribution business means the business of operating a plant or system for the distribution of water for hire or sale. RCW 82.16.010. In addition to the general exemptions and deductions noted in Part II of this rule, the law provides the following:

(a) **Water distribution by a nonprofit water association.** Amounts derived from the distribution of water by a nonprofit water association and used for capital improvements, related to the water distribution service, by that association are deductible under RCW 82.16.050(12).

(b) **Distribution of irrigation water.** Amounts derived from the distribution of water through an irrigation system, for irrigation purposes, are deductible under RCW 82.16.050(7). The phrase "for irrigation purposes" means water (~~that is~~) used solely for nourishing plant life. Thus, when a water distribution business supplies potable water and some

of the water is segregated and separately supplied solely for the nourishing of plant life as opposed to water supplied for domestic, municipal, or industrial uses, charges for such separately supplied irrigation water may be deducted from gross income subject to PUT.

To meet the "irrigation system" requirement, a water distribution business must demonstrate that its distribution system has turnouts or similar connections for irrigation purposes that are separate from service hookups or similar connections for domestic, industrial, or municipal uses. Under the appropriate circumstances, the use of separate meters and cross-connection or back flow devices may be evidence of such separate connections.

AMENDATORY SECTION (Amending WSR 13-14-121, filed 7/3/13, effective 8/3/13)

WAC 458-20-180 Motor carriers. (1) Introduction.

This rule explains the tax reporting responsibilities of persons engaged in the business of transporting by motor vehicle persons or property for hire. It explains transportation business and the application of public utility tax (PUT), business and occupation (B&O), and retail sales taxes to persons engaged in the business.

(a) **Examples.** This rule contains examples (~~which~~) that identify a number of facts and then state a conclusion. The examples should be used only as a general guide. The tax results of other situations must be determined after a review of all (~~of~~) the facts and circumstances.

(b) **References to related rules.** The department of revenue (department) has adopted other rules that relate to the application of the PUT. Readers may want to refer to the rules in the following (~~rules~~) list:

(i) WAC 458-20-104(~~;~~) Small business tax relief based on income of business;

(ii) WAC 458-20-13501(~~;~~) Timber harvest operations(~~;~~ ~~which provides guidance regarding hauling of logs~~);

(iii) WAC 458-20-171(~~;~~) Building, repairing or improving streets, roads, etc., which are owned by a municipal corporation or political subdivision of the state or by the United States and which are used primarily for foot or vehicular traffic;

(iv) WAC 458-20-174(~~;~~) Sales of motor vehicles, trailers, and parts to motor carriers operating in interstate or foreign commerce;

(v) WAC 458-20-175(~~;~~) Persons engaged in the business of operating as a private or common carrier by air, rail or water in interstate or foreign commerce;

(vi) WAC 458-20-178(~~;~~) Use tax and the use of tangible personal property;

(vii) WAC 458-20-179(~~;~~) Public utility tax; and

(viii) WAC 458-20-193D(~~;~~) Transportation, communication, public utility activities, or other services in interstate or foreign commerce.

(2) **What is a motor transportation business?** A "motor transportation business" is a business operating any motor propelled vehicle transporting persons or property of others for hire and includes, but is not limited to, the operation of any motor propelled vehicle as an auto transportation company, common carrier, or contract carrier as defined by

RCW 81.68.010 and 81.80.010. (~~(f)~~) See RCW 82.16.010. (~~(g)~~) The term "motor transportation business" does not include any "urban transportation business" as described in subsection (~~(3)~~) (4) of this rule.

(a) It includes hauling for hire any extracted or manufactured material, over the state's highways and over private roads but does not include:

(i) The transportation of logs or other forest products exclusively (~~upon~~) on private roads or private highways (which is subject to the service B&O tax, e.g., see WAC 458-20-13501(~~;~~) Timber harvest operations); and

(ii) (~~Effective July 1, 2009,~~) A log transportation business(~~;~~ see RCW 82.16.010(~~6~~)) as described in subsection (3) of this rule.

(b) It does not include the hauling of any earth or other substance excavated or extracted from or taken to the right of way of a publicly owned street, place, road, or highway, by a person taxable under the public road construction B&O tax classification, regardless of whether or not the earth moving portion is separately stated. (~~(f)~~) See WAC 458-20-171 for more information. (~~(g)~~)

(3) **What is a log transportation business?** A "log transportation business" means the business of transporting logs by truck, except when such transportation meets the definition of urban transportation business or occurs exclusively on private roads. See RCW 82.16.010. Effective August 1, 2015, RCW 82.16.020 provides a preferential public utility tax rate for log transportation businesses.

(4) **What is an urban transportation business?** An "urban transportation business" is a business operating any vehicle for public use in the transportation of persons or property for hire, when:

- Operating entirely within the corporate limits of any city or town, or within five miles of the corporate limits thereof; or

- Operating entirely within and between cities and towns whose corporate limits are not more than five miles apart or within five miles of the corporate limits of either thereof.

(a) **The five mile standard.** "Operating entirely within five miles of the corporate limits thereof" means the five-mile standard is applied on a straight line from the corporate limits and not based on road mileage. It is immaterial how many miles the carrier travels from the origin to the termination of the haul as long as the origin and the termination of the haul are within five miles of the corporate limits. (~~(f)~~) See RCW 82.16.010. (~~(g)~~)

(b) **What is included in urban transportation?** Urban transportation includes, but is not limited to, the business of operating passenger vehicles of every type and also the business of operating cartage, pickup or delivery services, including the collection and distribution of property arriving from or destined to a point within or without the state, whether or not such collection or distribution be made by the person performing a local or interstate line-haul of such property. See subsection (~~(6)~~) (7)(d) of this rule for deduction information for interstate transportation of persons or property.

(c) **What is not urban transportation?** Urban transportation does not include the business of operating any vehicle for transporting persons or property for hire when the origin or termination is more than five miles beyond the corporate

limits of any city (or contiguous cities) through which it passes. Thus an operation extending from a city to a point which is more than five miles beyond its corporate limits does not constitute urban transportation. This is true even if the route is through intermediate cities (~~which~~) that enable the vehicle to always be within five miles of a city's corporate limits. See subsection (2) of this rule for "What is a motor transportation business?"

~~((4))~~ **(5) What does "motor transportation" and "urban transportation" include?** Motor and urban transportation include the business of operating motor-driven vehicles, (~~upon~~) on public roads, used in transporting persons or property belonging to others, on a for-hire basis. These terms include the business of:

(a) Operating taxicabs, armored cars, and contract mail delivery vehicles, but do not include the businesses of operating auto wreckers or towing vehicles (taxable as sales at retail under RCW 82.04.050), school buses, ambulances, nor the collection and disposal of solid waste (taxable under the service and other activities B&O tax classification); and

(b) Renting or leasing trucks, trailers, buses, automobiles, and similar motor vehicles to others for use in the conveyance of persons or property when as an incident of the rental contract such motor vehicles are operated by the lessor or by an employee of the lessor.

~~((5))~~ **(6) Why is the distinction between the motor and urban transportation classifications important?** These tax classifications have different tax rates and it is important to segregate the gross income of each activity. The gross income of persons engaged in the business of motor transportation (~~have their gross income~~) is taxed under the motor transportation PUT classification. The gross income of persons engaged in the business of urban transportation (~~have their gross income~~) is taxed under the urban transportation PUT classification. The gross income of persons engaged in both urban and motor transportation (~~have their gross income~~) is taxed under the motor transportation classification, unless the revenue is segregated as shown by their records.

~~((6))~~ **(7) Are deductions available?** Income, as described below, (~~can~~) may be deducted from the taxable amounts reported, provided the amounts were originally included in the gross income. See WAC 458-20-179 for generally applicable deductions for PUT, such as bad debt and cash discount.

(a) **Fees and charges for public transportation services.** RCW 82.16.050(~~((14))~~) provides a deduction for amounts derived from fees or charges imposed on persons for transit services provided by a public transportation agency. Public transportation agencies must spend an amount equal to the tax reduction provided by this deduction solely to:

- Adjust routes to improve access for citizens using food banks and senior citizen services; or
- To extend or add new routes to assist low-income citizens and seniors.

(b) **Services furnished jointly.** In general, costs of doing business are not deductible under the public utility tax (PUT). However, RCW 82.16.050(~~((3))~~) does allow a deduction for amounts actually paid by a taxpayer to another person taxable under the PUT as the latter's portion of the consideration due

for services furnished jointly by both, provided the full amount paid by the customer for the service is received by the taxpayer and reported as gross income subject to the PUT.

This includes the amount paid to a ferry company for the transportation of a vehicle and its contents (but not amounts paid to state owned or operated ferries) when the vehicle is carrying freight or passengers for hire and is being operated by a person engaged in the business of motor or urban transportation. This does not include amounts paid for transporting such vehicles over toll bridges.

Example(~~((1))~~) 1. A customer hires ABC Transport (ABC) to haul goods from Tacoma to a manufacturing facility in Bellingham. ABC subcontracts part of the haul to XYZ Freight (XYZ) and has XYZ haul the goods from Tacoma to Everett where the goods are loaded into ABC's truck and transported to Bellingham. Assuming all other requirements of the deduction are met, ABC may deduct the payments it makes to XYZ from its gross income as XYZ's portion of the consideration paid by the customer for transportation services furnished jointly by ABC and XYZ.

(c) **Transportation of commodities to export facilities.** Income received from transporting commodities from points of origin in this state to an export elevator, wharf, dock, or ship side on tidewater or its navigable tributaries is deductible under RCW 82.16.050(~~((9))~~). The deduction is only available when the commodities are forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations. However, this deduction is not available when the point of origin and the point of delivery to the export elevator, wharf, dock, or ship side are located within the corporate limits of the same city or town.

(i) **Example (~~((1))~~) 2.** AB Transport moves freight by tug and barge from points in Washington to terminal facilities at tidewater ports in Washington. The freight is subsequently shipped from the ports by vessel to interstate and foreign destinations. AB Transport may deduct the gross income from these shipments under RCW 82.16.050(~~((9))~~).

(ii) **Example (~~((2))~~) 3.** ABC Trucking hauls widgets from the manufacturing plant to a storage area (~~which~~) that is adjacent to the dock. The storage area is quite large and the widgets are moved from the storage area to alongside the ship in time for loading. The widgets are loaded on the ship and then transported to a foreign country. ABC Trucking may take a deduction for the amounts received for transporting the widgets from the manufacturer to the storage area. The movement of the widgets within the storage area is not considered (~~to be~~) "intervening transportation," but is part of the stevedoring activity.

(iii) **Example (~~((3))~~) 4.** ABC Trucking hauls several types of widgets from the manufacturing plant to a "staging area" where the widgets are sorted. After sorting, XY Hauling transports some of the widgets from the staging area to local buyers and other widgets to the dock (~~which~~) that is located approximately five miles from the staging area where the widgets are immediately loaded on a vessel for shipment to Japan. The dock and staging area are not within the corporate city limits of the same city. ABC Trucking may not take a deduction for amounts received for hauling widgets to the staging area. Even though some of the widgets ultimately

were exported, ABC Trucking did not deliver the widgets to the dock where the widgets were loaded on a vessel.

However, XY Hauling may take a deduction for the gross income for hauls from the staging area to the dock. The widgets were loaded on the vessel in their original form with no additional processing. The haul also did not originate or terminate within the corporate city limits of the same city or town. All the conditions were met for XY Hauling to claim the deduction.

(d) **Interstate transportation of persons or property.** Income received from transporting persons or property by motor transportation equipment where either the origin or destination of the haul is outside the state of Washington is deductible. The interstate movement originates or terminates at the point where the transport obligation of the interstate carrier begins or ends. See WAC 458-20-193D for additional information on interstate activities. Transportation provided within the state prior to the point of origin of the interstate movement or subsequent to the point of destination within this state is wholly intrastate and not deductible.

Example(+) 5. Airport B Shuttle provides transportation to and from the airport for persons departing or arriving from destinations ~~(which)~~ that may or may not be out of state. This service is not incidental to any interstate movement and thus gross income is taxable under either motor or urban transportation.

(e) **Interstate transportation of commodities.** Income received from the transportation of commodities from points of origin in this state to final destination outside this state, or from points of origin outside this state to final destination in this state are deductible under RCW 82.16.050~~((+))~~ where the carrier grants to the shipper the privilege of stopping the shipment in transit at some point in this state for the purpose of storing, manufacturing, milling, or other processing, and thereafter forwards the same commodity, or its equivalent, in the same or converted form, under a through freight rate from point of origin to final destination.

(f) **Transportation of agricultural commodities.** Certain income received from the transportation of agricultural commodities can be deducted when the commodities do not include manufactured substances or articles. For the income to be deducted, the commodities must be transported from points of origin in the state to interim storage facilities in this state for transshipment, without intervening transportation, to an export elevator, wharf, dock, or ship side on tidewater or its navigable tributaries to be forwarded, without intervening transportation, by vessel, in their original form, to interstate or foreign destinations. If agricultural commodities are transshipped from interim storage facilities in this state to storage facilities at a port on tidewater or its navigable tributaries, the same agricultural commodity dealer must operate both the interim storage facilities and the storage facilities at the port. RCW 82.16.050~~((+))~~.

(i) The deduction under this subsection is available only when the person claiming the deduction obtains a completed "Certificate of Agricultural Commodity Shipped to Interstate and Foreign Destinations" from the agricultural commodity dealer operating the interim storage facilities.

(ii) A blank certificate can be found ~~(via)~~ on the department's ~~(Internet)~~ web site at ~~(http://)~~ dor.wa.gov. The

form may also be obtained by contacting the department's telephone information center at 1-800-647-7706, or by writing the department at:

Taxpayer Information and Education
Department of Revenue
P.O. Box 47478
Olympia, WA 98504-7478

~~((7))~~ (8) **Exemption for income from persons with special transportation needs.** RCW 82.16.047 provides an exemption from PUT for amounts received for providing commuter share riding or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010. Transportation must be provided by a public social service agency or a private, nonprofit transportation provider as defined in RCW 81.66.010.

~~((8))~~ (9) **Business activities other than hauling.** Persons engaged in the business of motor or urban transportation may also receive income from other business activities. The tax consequences of this income is generally based on whether or not these services are performed as a part of or are incidental to the hauling activity, or are services where the taxpayer does not haul the shipment.

(a) **Handling and other services that are a part of or incidental to the hauling activity.** When a person performs activities such as packing, crating, loading or unloading of goods that the person is hauling for the customer, those services are considered to be performed as a part of the hauling activity, or are services incidental to the haul itself. The gross income from those services is taxed in the same manner as the hauling activity, e.g., motor or urban transportation.

Example(+) 6. Mary hires Luke's Packing & Hauling Co. (Luke's) to load, haul, and unload her belongings at a local storage facility just a couple of miles down the street from the city apartment she is vacating. Luke's will report the gross income from Mary under the urban transportation PUT classification.

(b) **Handling and other services that are not a part of or incidental to the hauling activity.**

(i) If a person engaged in hauling activities packs, crates, loads, or unloads goods that the person is not also hauling for the customer, the gross income from these activities will generally be subject to service and other activities B&O tax.

Example(+) 7. James hires Luke's Packing & Hauling (Luke's) to wrap, pack, and crate his belongings in preparation for long-term storage. Luke's will not be hauling James' belongings as Haul and Storage Inc. has been hired to pick up the belongings and put them in their storage facility. Luke's will report the gross income for wrapping, packing, and crating James' belongings under the service and other activities B&O tax classification.

(ii) A person engaged in hauling activities may also perform services that are not a part of or are separate from the hauling activity. The gross income from these activities is not subject to the motor or urban transportation PUT, but is instead subject to tax based on the nature of the activity and other provisions of the law.

Example(+) 8. Affordable Hauling and Storage (Affordable) hauls products for hire and also operates a warehouse. Big Manufacturing Company (Big) hires Affordable

to pick-up and deliver products to and from Affordable's warehouse for long-term storage. Affordable charges Big for the hauling services as they occur and also separately invoices Big a monthly fee for storing the products. The income from the hauling services is subject to the motor transportation or urban transportation PUT classification, as the case may be. The monthly storage charges are subject to the warehousing B&O tax classification. ~~((f))~~ See WAC 458-20-182 for an explanation of the tax-reporting responsibilities of warehouse businesses. ~~((g))~~

(c) Sales, leases, or rentals of tangible personal property by motor carriers. Persons engaged in either motor or urban transportation may also sell, lease, or rent tangible personal property, such as forklifts or trailers. Gross income from the sale, lease, or rental of tangible personal property without an operator to a consumer, is subject to retailing B&O and retail sales taxes, unless a specific exemption applies. If the sale is a sale for resale, the sale is subject to the wholesaling B&O tax classification. ~~((See WAC 458-20-211 for more))~~ For information regarding the tax reporting responsibilities of persons that lease or rent tangible personal property see WAC 458-20-211. ~~((g))~~

If the sale, lease, or rental of the property qualifies for one of the retail sales tax exemptions for equipment used in interstate commerce provided by RCW 82.08.0262 or 82.08.0263 (e.g., as may be the case with a trailer used in interstate commerce), the retailing of interstate transportation equipment B&O tax classification applies. ~~((See))~~ Refer to WAC 458-20-174 for information on limited exemptions ~~((for))~~ that may apply to motor carriers operating in interstate or foreign commerce. ~~((g))~~

~~((g))~~ **(10) Purchases of tangible personal property.** Persons engaged in the business of motor or urban transportation must pay retail sales tax to their vendors when purchasing motor vehicles, trailers, parts, equipment, tools, supplies, and other tangible personal property for use in conducting their business. ~~((See))~~ Refer to WAC 458-20-174 for limited exemptions ~~((for))~~ that may apply to motor carriers operating in interstate or foreign commerce. ~~((g))~~

~~((10))~~ **(11) Purchases made for rental or lease to others.** Persons buying motor vehicles, trailers and similar equipment solely for the purpose of renting or leasing the same without an operator are making purchases for resale. ~~((For sales made on or after January 1, 2010,))~~ The seller must obtain a copy of the buyer's reseller permit from the buyer to document the wholesale nature of any sale as provided in WAC 458-20-102 ~~((f))~~ Reseller permits ~~((Resale certificates used prior to January 1, 2010, must be kept on file by the seller for five years from the date of last use or until December 31, 2014))~~.

WSR 15-20-100
EXPEDITED RULES
HEALTH CARE AUTHORITY
(Washington Apple Health)
[Filed October 6, 2015, 10:51 a.m.]

Title of Rule and Other Identifying Information: WAC 182-505-0210 Washington apple health—Eligibility for children.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Wendy Barcus, Rules Coordinator, Health Care Authority (HCA), P.O. Box 42716, Olympia, WA 98504-2716, or deliver to Cherry Street Plaza, 626 8th Avenue S.E., Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, AND RECEIVED BY December 7, 2015.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This filing is necessary to correct an incorrect cross-citation.

Reasons Supporting Proposal: This proposal will provide accurate information for the reader.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Melinda Froud, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1408; Implementation and Enforcement: Mick Pettersen, P.O. Box 45534, Olympia, WA 98504-5534, (360) 725-0913.

October 6, 2015
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-15-153, filed 7/21/15, effective 8/21/15)

WAC 182-505-0210 Washington apple health—Eligibility for children. (1) Unless otherwise stated in this section, a child is a person age eighteen or younger (including the month the child turns nineteen). To be eligible for one of the Washington apple health (WAH) for kids programs, a child must:

(a) Be a resident of Washington state under WAC 182-503-0520 and 182-503-0525;

(b) Provide a Social Security number (SSN) under WAC 182-503-0515 unless exempt; and

(c) Meet any additional requirements listed for the specific program.

(2) Children younger than age one are eligible for WAH categorically needy (CN) coverage, without a new application, when they are born to a mother who is eligible for WAH:

(a) On the date of the newborn's birth, including a retroactive eligibility determination; or

(b) Based on meeting a medically needy (MN) spenddown liability with expenses incurred by the date of the newborn's birth.

(3) Children are eligible for WAH at no cost when they:

(a) Have countable family income that is no more than two hundred ten percent of the federal poverty level (FPL) under WAC 182-505-0100;

(b) Are currently eligible for supplemental security income (SSI); or

(c) Received SSI payments in August 1996 and would continue to be eligible for those payments except for the August 1996 passage of amendments to federal disability definitions.

(4) Children are eligible for premium-based WAH under WAC 182-505-0215 when they:

(a) Have countable family income that is not more than three hundred twelve percent of FPL under WAC 182-505-0100;

(b) Do not have other creditable health insurance under WAC 182-500-0020; and

(c) Pay the required monthly premiums under WAC 182-505-0225.

(5) Children are eligible for WAH home and community based waiver programs under chapter 182-515 WAC when they:

(a) Meet citizenship or immigration status under WAC ~~((182-503-0525))~~ 182-503-0535;

(b) Meet SSI-related eligibility requirements under chapter 182-512 WAC; and

(c) Meet program-specific age requirements.

(6) Children are eligible for the WAH long-term care program when they meet the institutional program rules under chapter 182-513 or 182-514 WAC, and either:

(a) Reside or are expected to reside in a medical institution, intermediate care facility for the intellectually disabled (ICF/ID), hospice care center, or nursing home for thirty days or longer; or

(b) Reside or are expected to reside in an institution for mental diseases (IMD) (as defined in WAC 182-500-0050(1)) or inpatient psychiatric facility:

(i) For ninety days or longer and are age seventeen or younger; or

(ii) For thirty days or longer and are age eighteen through twenty-one.

(7) Children are eligible for the WAH-MN program under WAC 182-519-0100 when they:

(a) Meet citizenship or immigrant status under WAC 182-503-0535;

(b) Have countable family income that exceeds three hundred twelve percent of FPL under WAC 182-505-0100; or

(c) Have countable family income that is more than two hundred ten percent of FPL, but are not eligible for premium-based WAH as described in subsection (4) of this section because of creditable coverage; and

(d) Meet a spenddown liability under WAC 182-519-0110, if required.

(8) Children are eligible for WAH SSI-related programs under chapter 182-512 WAC when they:

(a) Meet citizenship or immigration status under WAC 182-503-0535;

(b) Meet SSI-related eligibility under chapter 182-512 WAC; and

(c) Meet an MN spenddown liability under WAC 182-519-0110, if required.

(9) Children who are not eligible for WAH under subsections (5) through (8) of this section because of their immigration status, are eligible for the WAH alien emergency medical program if they:

(a) Meet the eligibility requirements of WAC 182-507-0110;

(b) Have countable family income:

(i) That exceeds three hundred twelve percent of FPL under WAC 182-505-0100; or

(ii) That is more than two hundred ten percent of FPL, but they are not eligible for premium-based WAH, as described in subsection (4) of this section because of creditable coverage; and

(c) Meet a spenddown liability under WAC 182-519-0110, if required.

(10) Children who are in foster care or receive subsidized adoption services are eligible for coverage under the WAH foster care program described in WAC 182-505-0211.

(11) Children who are incarcerated in a public institution (as defined in WAC 182-500-0050(4)) that is not an IMD, are not eligible for any WAH program unless they are receiving inpatient hospital services outside of the public institution.

(12) Children who reside in a public institution that is an IMD are eligible for WAH under this section but are not eligible to receive inpatient hospital services outside of the IMD unless they are unconditionally discharged from the IMD before receiving the services.

WSR 15-20-101

EXPEDITED RULES

HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed October 6, 2015, 10:52 a.m.]

Title of Rule and Other Identifying Information: WAC 182-540-030 Kidney disease program (KDP)—Resource eligibility.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE

RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Wendy Barcus, Rules Coordinator, Health Care Authority (HCA), P.O. Box 42716, Olympia, WA 98504-2716, or deliver to Cherry Street Plaza, 626 8th Avenue S.E., Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, AND RECEIVED BY December 7, 2015.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The agency is amending this rule for housekeeping changes only. The amendments fix a broken hyperlink and replace an incorrect WAC reference.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 2716 [42716], Olympia, WA 98504-2716, (360) 725-1842; Implementation and Enforcement: Mary Hughes, P.O. Box 5017 [45017], Olympia, WA 98504-5017, (360) 725-0469.

October 6, 2015
Wendy Barcus
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-23-065, filed 11/18/13, effective 1/1/14)

WAC 182-540-030 Kidney disease program (KDP)—Resource eligibility. (1) The person's household must have countable resources at or below the limits established for the qualified medicare beneficiary (QMB) program for the person to be eligible for the kidney disease program. QMB resource standards for an individual and a couple are listed at: ((<http://www.hca.wa.gov/medicaid/eligibility/documents/incomestandards.pdf>)) <http://www.hca.wa.gov/medicaid/eligibility/pages/standards.aspx>.

(2) See WAC 182-540-021 to determine who must be included in the household when making a determination of whose resources count.

(3) The following resources are not counted:

(a) A home, defined as real property owned by a client as their principal place of residence together with surrounding and contiguous property;

(b) Household furnishings;

(c) One burial plot per household member or irrevocable burial plans with a mortuary;

(d) Up to one thousand five hundred dollars for a person or three thousand dollars for a couple set aside in a revocable burial account;

(e) Any resource which is specifically excluded by federal law.

(4) The agency follows rules for SSI-related medicaid determinations described in WAC 182-512-0200 through

182-512-0550 when determining whether any other resources are countable with the exception of subsection (5) of this section.

(5) The agency follows rules in chapter ((182-515)) 182-516 WAC when a person owns a trust, an annuity, or a life estate.