WSR 23-23-067
PERMANENT RULES
DEPARTMENT OF REVENUE
[Filed November 9, 2023, 9:11 a.m., effective December 10, 2023]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is amending WAC 458-19-030 and 458-19-035 to incorporate 2023 legislation, HB 1303, and HB 1527. HB 1303 clarifies how the levy limit is calculated for taxing districts that have been consolidated. HB 1527 authorizes taxing districts that have been consolidated or annexed to include increases in assessed values due to the creation of certain tax increment finance areas.

Citation of Rules Affected by this Order: Amending WAC 458-19-030 Levy limit—Consolidation of districts and 458-19-035 Levy limit—Annexation.

Statutory Authority for Adoption: RCW 84.08.010, 84.08.070, and 84.55.060.

Adopted under notice filed as WSR 23-18-081 on September 5, 2023.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: November 9, 2023.

Atif Aziz
Rules Coordinator

OTS-4901.2

AMENDATORY SECTION (Amending WSR 15-03-087, filed 1/21/15, effective 2/21/15)

WAC 458-19-030 Levy limit—Consolidation of districts. (1) **Introduction.** This rule describes the method used to calculate the first levy for a taxing district created by the consolidation of similar taxing districts in accordance with RCW 84.55.020.

(2) **Calculation of the first levy of a consolidated taxing district.** The first regular property tax levy made by a taxing district, created by the consolidation of two or more similar taxing districts, cannot exceed:

(a) The sum of the product of the limit factor multiplied by the ((highest)) amount of regular property taxes ((lawfully levied by each of the component districts during the three most recent years in which

~~taxes were levied~~)) each component taxing district could have levied under RCW 84.55.092; plus

(b) The sum of each of the amounts calculated by multiplying the regular property tax levy rate of each of the component districts for the preceding year by the increase in assessed value in each component district resulting from:

(i) New construction;

(ii) Improvements to property;

(iii) Increases in the assessed value of state assessed property; ((~~and~~))

(iv) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under ((~~chapter 84.55~~)) RCW 84.55.020 for purposes of providing an additional dollar amount. The property may be classified as real or personal property; and

(v) Increases in assessed value of real property, as defined in RCW 39.114.010, within an increment area as designated by any local government under RCW 39.114.020 if the increase is not included elsewhere under RCW 84.55.020. This subsection (2)(b)(v) does not apply to:

(A) Levies by the state;

(B) Levies by a port district for purposes of making required payments of principal and interest on general indebtedness; and

(C) Levies by a public utility district for purposes of making required payments of principal and interest on general indebtedness.

(3) **Example.** Taxing district "A" and taxing district "B" consolidate, becoming one taxing district. The highest amount of regular property taxes ((~~lawfully levied by~~)) district "A" ((~~during the three most recent years~~)) could have levied under RCW 84.55.092 is $100,000. The highest amount of regular property taxes ((~~lawfully levied by~~)) district "B" ((~~during the three most recent years~~)) could have levied under RCW 84.55.092 is $150,000. The increase in assessed value due to ((~~new construction, improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities~~)) amounts from subsection (2)(b)(i) through (v) of this rule in district "A" since the year prior to consolidation was $600,000. The increase in assessed value due to ((~~new construction, improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities~~)) amounts from subsection (2)(b)(i) through (v) of this rule in district "B" since the year prior to consolidation was $900,000. The regular property tax rate for district "A" in the year prior to consolidation was $0.50 per $1,000 of assessed value. The regular property tax rate for district "B" in the year prior to consolidation was $0.45 per $1,000 of assessed value. Assume the limit factor for this example is 101((~~%~~)) percent because it is the lesser of ((~~one hundred one~~)) 101 percent and ((~~one hundred~~)) 100 percent plus the rate of inflation. The maximum amount of regular property taxes that can be levied in the year of consolidation, for taxes payable the following year, by the new consolidated taxing district is calculated as follows:

	Highest regular levy
District "A" -	$100,000
District "B" -	150,000

Highest regular levy

Total - $250,000   x 1.01 = $252,500

Increases in assessed value multiplied by levy rate:

District "A" - $600,000 x $0.50 ÷ $1,000   = $300

District "B" - $900,000 x $0.45 ÷ $1,000   = $405

$705

Maximum regular property taxes that can be levied in the year of consolidation, payable in the year following consolidation:

$252,500 + $705 = $253,205

AMENDATORY SECTION (Amending WSR 15-03-087, filed 1/21/15, effective 2/21/15)

WAC 458-19-035 Levy limit—Annexation.   (1) **Introduction.** One taxing district may annex territory or another dissimilar taxing district from outside the annexing taxing district's boundary. This rule sets forth the method used to calculate the first regular property tax levy made after a taxing district has annexed territory or a dissimilar taxing district in accordance with RCW 84.55.030 and 84.55.110. This rule also explains what occurs when the department of natural resources (DNR) discontinues forest fire patrol assessments on parcels of forest land.

(2) **Increase in territory due to annexation.** The first regular property tax levy of a taxing district after it annexes territory or a dissimilar taxing district cannot exceed the amount calculated as follows:

(a) Multiply the highest amount of regular property taxes that could have been lawfully levied since 1985 for 1986 collection, of the annexing district as though no annexation had occurred, by the limit factor as defined in RCW 84.55.005 and WAC 458-19-005;

(b) Multiply the regular property tax levy rate of the annexing district for the preceding year by the increase in assessed value in the annexing district resulting from:

(i) New construction;

(ii) Improvements to property;

(iii) Increases in the assessed value of state assessed property; ((and))

(iv) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property; and

(v) Increases in assessed value of real property, as defined in RCW 39.114.010, within an increment area as designated by any local government in RCW 39.114.020 if the increase is not included elsewhere under RCW 84.55.030. This subsection (2)(b)(v) does not apply to:

(A) Levies by the state;

(B) Levies by a port district for purposes of making required payments of principal and interest on general indebtedness; and

(C) Levies by a public utility district for purposes of making required payments of principal and interest on general indebtedness.

(c) Multiply the current year assessed value of the annexed territory or district by the levy rate that would have been used for the current year by the annexing district had there been no annexation. To calculate the levy rate that would have been used for the current year by the annexing district, divide the regular levy limit of the annexing district by the current assessed value of the annexing district, excluding the annexed area.

(d) Add together the ((~~result of each of the calculations set forth~~)) amounts from each calculation in subsection (2)(a), (b), and (c) of this rule to determine the maximum amount of the first regular levy of a taxing district after annexation.

(3) **Example.** ((~~Following is an example of the calculations prescribed in subsection (2) of this rule.~~)) Taxing district "A" annexes a portion of taxing district "B" that takes effect before August 1st in ((~~2014~~)) 2026. The highest amount of regular property taxes that could have been levied by district "A" since 1985 for 1986 collection is $100,000. The increase in assessed value from ((~~2013 to 2014~~)) 2025 to 2026 in district "A" due to ((~~new construction, improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities~~)) amounts from subsection (2)(b)(i) through (v) of this rule is $700,000. The levy rate for district "A" for ((~~2013~~)) 2025 was $0.50 per $1,000 of assessed value. The ((~~2014~~)) 2026 levy rate for district "A," had there been no annexation, would have been $0.48 per $1,000 of assessed value. The ((~~2014~~)) 2026 assessed value of the portion of taxing district "B" that was annexed by taxing district "A" is $5,000,000, which includes ((~~the value of new construction, improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities~~)) amounts from subsection (2)(b)(i) through (v) of this rule. Assume the levy limit for this example is 101((~~%~~)) percent because it is the lesser of ((~~one hundred one~~)) 101 percent and ((~~one hundred~~)) 100 percent plus the rate of inflation. The first regular levy by taxing district "A" after annexation cannot exceed the amount calculated as follows:

District "A" highest levy since 1985 -	$100,000
	x 1.01
	$101,000
A.V. of new construction* in district "A" -	$700,000
District "A" levy rate for ((2013)) 2025 -	x 0.50
	$350,000
Divide by $1,000 -	÷ 1,000
Levy amount for new construction -	$350
((2014)) 2026 A.V. of annexed portion of district "B" -	$5,000,000
District "A" levy rate that would have been used in ((2014)) 2026, absent annexation -	x 0.48
	$2,400,000
Divide by $1,000 -	÷ 1,000
Levy amount for annexed part of district "B" -	$2,400
	$101,000
	350
	+ 2,400

Maximum levy amount for district "A" after annexation -	$103,750

* For purposes of this example, "new construction" ((also)) in-cludes ((~~improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities~~)) amounts from subsection (2)(b)(i) through (v) of this rule.

(4) **Loss of territory due to annexation.** When a taxing district loses a portion of its territory as a result of annexation to another district, the levy limit for the taxing district that loses part of its territory is calculated by multiplying the highest amount that could have been lawfully levied by that taxing district since 1985 for 1986 collection by the limit factor as defined in RCW 84.55.005 and WAC 458-19-005. However, only the increase in assessed value from the preceding year, attributable to ((~~new construction, improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind tur-bine, solar, biomass, and geothermal facilities~~)) amounts from subsec-tion (2)(b)(i) through (v) of this rule that occurred in the remaining territory of the taxing district is added to the amount determined, to calculate the levy limit. Except for voter approval of an excess levy, the levy rate cannot exceed the statutory dollar rate limit for that type of taxing district.

(5) **Forest fire patrol protection assessments discontinued by DNR - Effect.** If an owner of forest land within a forest protection zone neglects or fails to provide adequate fire protection as required by RCW 76.04.600, DNR will provide this protection and impose an annual assessment on each parcel of forest land in accordance with RCW 76.04.610. When DNR discontinues the forest fire patrol assessment by dissolving the forest protection assessment areas and an existing fire district assumes protection services and property tax levying authori-ty for this unimproved land within its existing boundaries, the as-sessed value of the fire district will increase and effectively be an annexation for property tax purposes. In order to be included in the assessed value of the fire district, all details of the dissolution and annexation must be completed and the county assessor's office must receive formal notice from the fire district and DNR prior to August 1st of the assessment year. This notice must specify the forest fire patrol assessment areas being dissolved, the fire district(s) assuming the levying and fire protection responsibilities, and the forest land impacted by the change.