



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Department of Revenue

Title of rule and other identifying information:

- WAC 458-18-010 *Deferral of special assessments and/or property taxes -- Definitions.* This rule provides definitions of the terms most frequently used to administer the deferral program for special assessments and/or property taxes created by chapter 84.38 RCW.
- WAC 458-18-030 *Deferral of special assessments and/or property taxes -- Declarations to defer — Filing — Forms.* This rule explains the due date for filing the declaration to defer as well as the contents of the form.
- WAC 458-18-080 *Deferral of special assessments and/or property taxes -- Duties of the department of revenue -- State treasurer.* This rule explains the Department and State Treasurer’s responsibilities under the deferral program.

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

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AND RECEIVED BY: March 4, 2013

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Department of Revenue is proposing to amend these rules to incorporate recent legislation:

- 2012 – E2SB 6239 (18-010 only). This legislation redefined “domestic partner” and “domestic partnership” as a union between two persons of legal age where one is at least 62 years of age. (See RCW 26.60.030).
- 2010 – SB 6379 (18-080 only). This technical change legislation provided that the state’s lien under this program is now shown on the “certificate of title” of a mobile home. Previously, the “certificate of title” was termed “the certificate of ownership.”

Additionally, language is added to WAC 458-18-030 to recognize a legislative amendment from 2006 made to the definition of “residence” contained in RCW 84.36.383 (Laws of 2006, ch. 62, §1).

Copies of draft rules are available for viewing and printing on our website at:

<http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>

Reasons supporting proposal: To update these rules consistent with current law.

Statutory authority for adoption: 84.38.180

Statute being implemented: RCW 84.36.383; 84.38.100

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Date December 31, 2012

Name (Type or print)

Alan R. Lynn

Signature

Title Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 31, 2012

TIME: 3:47 PM

WSR 13-02-087

Name of proponent: Department of Revenue

- Private
- Public
- Governmental

Name of agency personnel responsible for:

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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings. Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

AMENDATORY SECTION (Amending WSR 08-16-080, filed 8/1/08, effective 9/1/08)

WAC 458-18-010 Deferral of special assessments and/or property taxes--Definitions. Introduction. This section is intended to provide definitions of the terms most frequently used to administer the deferral program for special assessments and/or property taxes on residential housing created by chapter 84.38 RCW. Unless a different meaning is plainly required by the context, the words and phrases used in this chapter have the following meanings:

(1) "Boarding house" means a residence in which lodging and meals are provided. Each resident of a boarding house is charged a lump sum to cover the costs of lodging and meals with no separate accounting for the fair selling price of the meals.

(2) "Claimant" means a person who either elects under chapter 84.38 RCW or is required under RCW 84.64.050 to defer payment of special assessments and/or real property taxes accrued on his or her residence by filing a declaration to defer as allowed under chapter 84.38 RCW. If more than one individual in a household wishes to defer special assessments and/or taxes, only one may file a declaration to defer; in other words, only one claimant per household is allowed.

(3) "Cooperative housing" means any existing structure, including surrounding land and improvements, that contains one or more dwelling units and is owned by:

(a) An association with resident shareholders who are granted renewable leasehold interests in dwelling units in the building. Unlike owners of a condominium, the resident shareholders who hold a renewable leasehold interest do not own their dwelling units; or

(b) An association organized under the Cooperative Association Act (chapter 23.86 RCW).

(4) "Department" means the state department of revenue.

(5) "Domestic partner" means a person registered under chapter 26.60 RCW or a partner in a legal union of two persons (~~(of the same sex)~~), other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(6) "Domestic partnership" means a partnership registered under chapter 26.60 RCW or a legal union of two persons (~~(of the same sex)~~), other than a marriage, that was validly formed in

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another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

(7) "Equity value" means the amount by which the true and fair value of a residence exceeds the total amount of all liens, obligations, and encumbrances against the property excluding the deferral liens. As used in this context, the "true and fair value" of a residence is the value shown on the county tax rolls maintained by the assessor for the assessment year in which the deferral claim is made.

(8) "Fire and casualty insurance" means a policy with an insurer that is authorized by the state insurance commission to insure property in this state.

(9) "Irrevocable trust" means a trust that may not be revoked after its creation by the trustor.

(10) "Lease for life" means a lease that terminates upon the death of the lessee.

(11) "Lien" means any interest in property given to secure payment of a debt or performance of an obligation, including a deed of trust. A lien includes the total amount of special assessments and/or property taxes deferred and the interest thereon. It also may include any other outstanding balance owed to local government for special assessments.

(12) "Life estate" means an estate that consists of total rights to use, occupy, and control real property but is limited to the lifetime of a designated party; this party is often called a "life tenant."

(13) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi municipal corporation, or other political subdivision authorized to levy special assessments.

(14) "Perjury" means the willful assertion as to a matter of fact, opinion, belief, or knowledge made by a claimant upon the declaration to defer that the claimant knows to be false.

(15) "Real property taxes" means ad valorem property taxes levied on a residence in this state. The term includes foreclosure costs, interest, and penalties accrued as of the date the declaration to defer is filed.

(16) "Residence" has the same meaning given in RCW 84.36.383; it means a single-family dwelling unit whether the unit is separate or part of a multiunit dwelling and includes up to one acre of the parcel of land on which the dwelling stands, and it includes any additional property up to a total of five acres that comprises the residential parcel if local land use regulations require this larger parcel size.

(17) "Revocable trust" means an agreement that entitles the

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trustor to have the full right to use the real property and to revoke the trust and retake complete ownership of the property at any time during his or her lifetime. The trustee of a revocable trust holds only bare legal title to the real property. Full equitable title to the property remains with the trustor; the original property owner.

(18) "Rooming house" means a residence where persons may rent rooms.

(19) "Special assessment" means the charge or obligation imposed by local government upon real property specially benefited by improvements.

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AMENDATORY SECTION (Amending Order PT 84-4, filed 10/5/84)

WAC 458-18-030 Deferral of special assessments and/or property taxes--Declarations to defer--Filing--Forms. (1)

Declarations to defer special assessments and/or real property taxes for any year shall be filed no later than thirty days before the tax or assessment is due, or thirty days after receiving notice under RCW 84.64.030 or 84.64.050 whichever is later. For good cause shown the department may waive this requirement. All declarations to defer shall be made and signed by the claimant. If the claimant is unable to make his or her own declaration, it may be made and signed by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant.

(2) The declaration to defer shall be made solely upon forms prescribed by the department of revenue and supplied by the county assessor. Such forms shall contain the following:

(a) Name and address of the claimant.

(b) If the property described upon the assessment rolls by the assessor contains more than one acre, the claimant must supply a complete and accurate legal description that encompasses the residence and that does not contain more than one acre, except that a residence may include any additional property up to a total of five acres that comprises the residential parcel if this larger parcel size is required under land use regulations as provided by RCW 84.36.383.

(c) An affirmation that the claimant meets the conditions of WAC 458-18-020 including, but not limited to the name, address, policy number, and amount of fire and casualty insurance carried on the residence.

~~((e))~~ (d) A list of all members of the claimant's household.

~~((d))~~ (e) The claimant's equity in his residence including all liens, obligations and encumbrances against the property.

~~((e))~~ (f) Information concerning any special assessments to be deferred.

~~((f))~~ (g) The names of other parties with an interest in the residence to which the deferral applies.

~~((g))~~ (h) Signatures of other parties in interest designating the claimant.

~~((h))~~ (i) Signature of any mortgagee, contract purchase

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holder and/or beneficiary under a deed of trust.

~~((i))~~ (j) An affirmation that the claimant is aware of the lien of the deferred special assessments and/or real property taxes and when the lien becomes payable.

~~((j))~~ (k) A numbering system approved by the department.

~~((k))~~ (l) Any other pertinent information the department deems relevant.

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AMENDATORY SECTION (Amending Order PT 84-4, filed 10/5/84)

WAC 458-18-080 Deferral of special assessments and/or property taxes--Duties of the department of revenue--State treasurer. The department (~~shall~~) will:

(1) Notify the county assessor as soon as possible of any declaration to defer, where any factor appears to disqualify the claimant;

(2) Certify to the state treasurer the amount due the respective treasurers for any special assessments and/or real property taxes deferred for that year;

(3) File a notice of the deferral with the county recorder or auditor;

(4) Notify the department of licensing to show the state's lien on the certificate of (~~ownership~~) title of a mobile home.

The department may audit any "declaration to defer" and/or "declaration to renew deferral" it deems necessary.

The state treasurer (~~shall~~) will pay, before delinquency, to the county treasurers and the treasurers of the respective local improvement districts the amounts certified by the department of revenue. The amount paid (~~shall~~) must be distributed to the districts which levied the taxes.