



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Revenue

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: See attached supplement.

Citation of existing rules affected by this order:

Amended:

- WAC 458-18-010 *Deferral of special assessments and/or property taxes -- Definitions.*
- WAC 458-18-030 *Deferral of special assessments and/or property taxes -- Declarations to defer — Filing — Forms.*
- WAC 458-18-080 *Deferral of special assessments and/or property taxes -- Duties of the department of revenue – State treasurer.*

Statutory authority for adoption: RCW 84.38.180

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 13-02-087 on 12/31/12 .

Describe any changes other than editing from proposed to adopted version: **None**

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **An analysis was not prepared.**

Date adopted: March 27, 2013

NAME

Alan R. Lynn

SIGNATURE

TITLE

Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 27, 2013

TIME: 12:22 PM

WSR 13-08-031

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted in the agency's own initiative:

	New	<u>0</u>	Amended	<u>3</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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The number of sections adopted using:

Negotiated rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Pilot rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Other alternative rule making:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

Attachment to CR 103P Filing
(WAC 458-18-010 etal)

PURPOSE:

Rules from Chapter 458-18 WAC amended:

- WAC 458-18-010 *Deferral of special assessments and/or property taxes -- Definitions*. This section 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 section 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 section explains the Department and State Treasurer’s responsibilities under the deferral program.

The Department of Revenue amended these rules to recognize and incorporate the following 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).

This rule was adopted on March 27, 2013 and becomes effective April 27, 2013. It may be used to determine tax liability on and after the effective date, until the codified version is available from the code reviser's office.

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 another jurisdiction, and that is substantially equivalent to a

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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 trustor to have the full right to use the real property and to revoke the trust and retake complete ownership of the property

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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.