



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 458-18A-010 *Deferral of special assessments and/or property taxes -- Definitions.*
- WAC 458-18A-020 *Deferral of special assessments and/or property taxes -- Qualifications for deferral.*
- WAC 458-18A-060 *Deferral of special assessments and/or property taxes -- Limitations of deferral -- Interest*
- WAC 458-18A-080 *Deferral of special assessments and/or property taxes -- Duties of the department of revenue -- State treasurer.*

Statutory authority for adoption: RCW 84.37.090 and 84.38.180

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 13-02-088 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: 12:14 PM

WSR 13-08-030

**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	Repealed	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	Repealed	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	Repealed	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	Repealed	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>4</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	Repealed	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 458-18A-010 etal)

PURPOSE:

Rules from Chapter 458-18A WAC amended:

- WAC 458-18A-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 on residential housing created by chapter 84.37 RCW.
- WAC 458-18A-020 *Deferral of special assessments and/or property taxes -- Qualifications for deferral*. This section explains the qualification under which a person may defer payment of the second installment portion of special assessments and/or real property taxes included on the annual property tax statement and due on October 31 in any year.
- WAC 458-18A-060 *Deferral of special assessments and/or property taxes -- Limitations of deferral – Interest*. This section explains the limitation to the deferral program when liens created by the deferrals of special assessments and/or real property taxes equal or exceed forty percent of the claimant's equity value in said property.
- WAC 458-18A-080 *Deferral of special assessments and/or property taxes -- Duties of the department of revenue -- State treasurer*. This section explains various duties of the Department of Revenue and State Treasurer relating to the administration of the deferral program.

The Department of Revenue amended these rules to recognize and incorporate the following legislation:

- 2012 – ESSB 6239 (18A-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); SHB 2056 (18A-020 only). This legislation changed the term "boarding home" to "assisted living facility" throughout the boarding home licensing statute and elsewhere in the Revised Code of Washington.
- 2010 – SB 6379 (18A-060 and 18A-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”.
- 2010 – E2SHB 1597 (18A-020 only). Under this legislation, the special assessments eligible for deferral under the low-income property tax deferral program are limited to those that are listed on the annual property tax statement. Additionally, duplicate audits of the low-income property tax deferral program by the Joint Legislative Audit and Review Committee were eliminated and the reporting was made consistent with the review of tax preferences schedule.

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 09-14-038, filed 6/24/09, effective 7/25/09)

WAC 458-18A-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 84.37 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 elects under chapter 84.37 RCW 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 84.37 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) "Good cause" means factors peculiar to each claimant. At a minimum, the applicant must be able to demonstrate that factors outside of his or her control were the cause for missing the statutory deadline. This includes factors which would effectively prevent a reasonable person facing similar circumstances from filing a timely application, such as acting or failing to act based on authoritative written advice received directly from persons upon which a reasonable person would normally rely, severe weather conditions preventing safe travel to the point of filing, incapacity due to illness or injury, and other factors of similar gravity. Inadvertence or oversight is not a basis for a "good cause" extension of the filing deadline.

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

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

(12) "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.

(13) "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."

(14) "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.

(15) "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.

(16) "Real property taxes" means ad valorem property taxes levied on a residence in this state. The term includes

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foreclosure costs, interest, and penalties accrued as of the date the declaration to defer is filed.

(17) "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.

(18) "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 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.

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

(20) "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 WSR 09-14-038, filed 6/24/09, effective 7/25/09)

WAC 458-18A-020 Deferral of special assessments and/or property taxes--Qualifications for deferral. A person may defer payment of the second installment portion of special assessments and/or real property taxes included on the annual property tax statement and due on October 31 in any year in which the following conditions are met:

(1) The special assessments and/or real property taxes must be imposed upon a residence that was occupied by the claimant as a principal place of residence as of January 1 of the year in which the special assessments and/or real property taxes are due. Confinement of the person to a hospital, nursing home, (~~boarding home~~) assisted living facility, or adult family home does not disqualify the claim for deferral if:

(a) The residence is temporarily unoccupied;

(b) The residence is occupied by a spouse or a domestic partner and/or a person financially dependent on the claimant for support;

(c) The residence is rented for the purpose of paying nursing home, hospital, (~~boarding home~~) assisted living facility, or adult family home costs; or

(d) The residence is occupied by a caretaker who is not paid for watching the house.

(2) The claimant must have a combined disposable income, as defined in RCW 84.36.383, of fifty-seven thousand dollars or less.

(3) The first installment portion of the special assessments and/or property taxes listed on the annual tax statement and due on April 30 for the year in which the deferral claim is made must already be paid.

(4) A deferral is not allowed for special assessments and/or property taxes levied for payment in the first five calendar years in which the claimant owns the residence. To defer special assessments and/or property taxes in 2008, the claimant must have had an ownership interest in the residence by December 31, 2003.

(5) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection a residence owned by a marital community, a state registered domestic partnership, or cotenants is deemed to be

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owned by each spouse, each domestic partner, and each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life or a revocable trust does not satisfy the ownership requirement.

(6) The total amount deferred must not exceed forty percent of the amount of the claimant's equity value in the residence. If the amount deferred is to exceed one hundred percent of the claimant's equity value in the land or lot only, the claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state of Washington and designate the state as a loss payee upon said policy. In no case should the deferred amount exceed the amount of the insured value of the improvement plus the land value.

(7) A claimant may not defer taxes under both this chapter and chapter 84.38 RCW in the same tax year.

(8) In the case of special assessment deferral, the special assessments must have been included on the annual property tax statement.

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AMENDATORY SECTION (Amending WSR 09-14-038, filed 6/24/09, effective 7/25/09)

WAC 458-18A-060 Deferral of special assessments and/or property taxes--Limitations of deferral--Interest. No deferral will be granted if the liens created by the deferrals of special assessments and/or real property taxes equal or exceed forty percent of the claimant's equity value in said property. Equity value will be determined as of January 1 in the year the taxes are to be deferred.

The liens include:

(1) The total amount of special assessments and/or real property taxes deferred; plus

(2) Interest on the amount deferred. The rate of interest is an average of the federal short-term rate as defined in 26 U.S.C. Sec. 1274(d) plus two percentage points. The rate set for each new year is computed by taking an arithmetical average to the nearest percentage point of the federal short-term rate, compounded annually. That average is calculated using the rates from four months: January, April, and July of the calendar year immediately preceding the new year, and October of the previous preceding year. The interest is calculated from the time it could have been paid before delinquency until such obligation is paid. In the case of a mobile home, the department of licensing will show the state's lien on the certificate of ~~((ownership))~~ title for the mobile home. In the case of all other property, the department of revenue will file a notice of the deferral with the county recorder or auditor.

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AMENDATORY SECTION (Amending WSR 09-14-038, filed 6/24/09, effective 7/25/09)

WAC 458-18A-080 Deferral of special assessments and/or property taxes--Duties of the department of revenue--State treasurer. The department 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.

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

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