



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Revenue

- Permanent Rule**
- Emergency Rule**

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)

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) _____

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

- Yes
 - No
- If Yes, explain:

Purpose: WAC 458-20-229 explains the procedures relating to refunds or credits for the overpayment of taxes, penalties, or interest. It describes how to calculate the four year period and clarifies the: nonclaim statute and its consequences; definition of what constitutes a valid claim; description of required substantiation with timelines for compliance; representative's requirement for providing a confidential information waiver; and allowable sampling procedures.

Citation of existing rules affected by this order:

Repealed:

Amended: WAC 458-20-229 Refunds

Suspended:

Statutory authority for adoption: RCW 82.32.300 and 82.01.060(2)

Other authority :

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR WSR 07-07-118 on March 20, 2007.

Describe any changes other than editing from proposed to adopted version: **See attachment.**

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.**

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted:

Filed: August 13, 2007

NAME (TYPE OR PRINT)

Janis P. Bianchi

Time: 2:10 p.m.

SIGNATURE

WSR: 07-17-065

TITLE Assistant Director,
Interpretations and Technical Advice Division

The above information was input by DOR

**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	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

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

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in the agency's own initiative:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	<u>1</u>	Repealed	_____



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

Attachment to CR 103 Rule-Making Order
WAC 458-20-229 Refunds

Describe any changes other than editing from proposed to adopted version:

1. *Subsection 3(b)* – The department added the address for filing refund claims at Rule 229 (3)(b).
2. *Subsection 3(b) (ii) (E)* – The department moved the deadline for filing the confidential information waiver from the date of filing the refund claim to the initial deadline for producing substantiation, which is 90 days after the department requests the documentation, but before any additional extensions.
3. *Subsection 3(b) (ii) (B)* – The department added language at the end of subsection 3(b)(ii)(B) allowing the taxpayer to file an application using an estimated claim amount. The new language requires the taxpayer to explain why the claim amount cannot be stated with specificity and how the estimated claim amount was determined. Further, the language prohibiting protective contingent claims was deleted.
4. *Subsection 3(b) (v) & (vii)* – New subsections (3)(b)(v) & (vii) state that a valid application does not require that the substantiation documents be attached at the time of the application’s submission. The department clarified that failure to timely file substantiation is grounds for denying a claim, but the claim itself is not invalid because of such omission.
5. *Subsection 3(b) (v)* – Regarding adequate substantiation, the list of records is now what the department may request to determine whether to accept or deny the claim. This replaces language stating that the taxpayer must provide the department with specific documents sufficient to substantiate the claim.
6. *Subsection 3(b) (ii) (D)* – The proposed rule explained that the basis for any refund claim must be included on the refund application. Language has been added to explain that the application may be re-filed to add additional bases at any time before the nonclaim time limitation has expired.
7. *Subsection 3(b) (v) (vii)* –The proposed rule was changed to allow the taxpayer ninety days to provide the necessary substantiation, unless the documents are under the control of a nonaffiliated third party, in which case the period is increased to 180 days.
8. *Subsection (3) (b) (vi)* – The department added language stating that at the department’s discretion, and upon good cause shown, the department may extend the period for providing substantiation.
9. *Subsection 3(b) (viii) (E)* –The language “not being timely” was deleted, resulting in the language: “...the department will not deny the claim for failure to provide timely substantiation.”
10. *Subsection 4 (b) (iv)* – The department deleted this language in its entirety.
11. *Subsection 5 sampling* – While statistical sampling is the preferred method, the rule was amended to recognize alternative methods when the department agrees that such methods are appropriate.
12. *Subsection 7* – This subsection of the proposed rule explains the refund process in cases of a court decision. The department added a reference to BTA opinions so that the subsection also applies in those cases. Further, the department set a time limit for processing refund requests within ninety days from the date that taxpayer has submitted all documents to the department.