

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

NEW SECTION

**WAC 458-20-21701 Enhanced collection tools. (1)**

**Introduction.** This section explains procedures for electronic notice and order to withhold and deliver service, and mitigation options for financial institutions required to respond to service by the department of revenue (department). This new service option is in addition to other forms of service authorized in RCW 82.32.235 and described in WAC 458-20-217(4). Electronic service under this rule will be referred to as "E-Withhold."

(2) **What is E-Withhold?** E-Withhold is a data-driven effort to identify assets that may satisfy unpaid tax lien liabilities. RCW 82.32.235 provides thirty days for financial institutions to respond to E-Withhold service. The department will perform an additional review/validation after the initial response is received from a financial institution to ensure accuracy before directing a financial institution to withhold and remit funds.

The department has developed detailed instructions for E-Withholds, which include information about file formats, response codes, payment references, access to the secured file transfer service, and other details needed by financial institutions. This information can be viewed at [dor.wa.gov/E-Withhold](http://dor.wa.gov/E-Withhold).

(3) **Who can be served by E-Withhold?** E-Withhold service applies to "financial institutions." Financial institutions are defined as banks, trust companies, mutual savings banks, savings and loan associations, or credit unions authorized to do business and accept deposits in this state under state or federal law.

(4) **How will E-Withholds be served?** The department will serve a list of all or a portion of all properly filed and unsatisfied tax warrants (the E-Withhold list) to financial institutions by secured file transfer (SFT) service. Tax warrants with established and maintained payment agreements, or taxpayers under federal bankruptcy protection at the time the list is created will not be included. The department will not serve an E-Withhold list to a financial institution more than once per calendar month. The department will send an e-mail notification to a financial institution when service has occurred, and also send a courtesy copy via U.S. mail. The department will maintain contact information for each financial institution for E-Withhold service and processing issues. Financial institutions should notify the department of changes

to contact information using the e-mail address referenced in subsection (7) of this section.

(5) **What is included on an E-Withhold list?** A list will contain information provided on a manually issued notice and order to withhold and deliver plus tax identification numbers provided to the department by taxpayers. Financial institutions served via E-Withhold must ensure that the data provided remains confidential and secure per RCW 82.32.330.

Assets subject to E-Withhold include, but are not limited to:

- Checking, saving, or share accounts;
- Time or certificates of deposit;
- Investment or brokerage accounts;
- Contents of safe deposit boxes;
- Credit card receipts; and
- Contract collections.

Examples of assets exempt from E-Withhold are described in WAC 458-20-217(4).

(6) **When are funds withheld and due to the department?** Official service of the notice and order to withhold and deliver occurs at the time the E-Withhold list is placed into the designated SFT folder. The SFT service records a date and time stamp for actions occurring on it. Financial institutions have thirty days after date of service to remit (deliver) any proceeds from the E-Withhold to the department.

Financial institutions access the E-Withhold list from the SFT folder and use the data to identify if they have any accounts or assets of the listed entities and debtors. The financial institution must provide a response within ten days of original service with the results of its efforts to identify accounts or assets so that the department can verify/validate the accounts or assets are correctly subject to the E-Withhold. After completing the review/validation process, the department will notify the financial institution via e-mail that it has placed a revised E-Withhold list in the designated SFT folder with instructions to withhold (or not). If the financial institution is instructed to withhold a taxpayer's assets, the department will immediately so notify the taxpayer by U.S. mail.

When the department responds with instructions to withhold on located accounts/assets, the financial institution completes their processes to withhold and deliver any available funds.

Instructions for the contents of safe deposit boxes are at [dor.wa.gov/E-Withhold](http://dor.wa.gov/E-Withhold).

(7) **What if a financial institution can't meet E-Withhold procedural requirements?** When a financial institution faces significant issues in meeting any of the requirements of this rule or the operational procedures referenced in subsection (2) of this section, it must submit a written request to the department for special handling. The request must identify the

condition(s) creating the challenge(s). The department will work with financial institutions on a case-by-case basis to develop a mitigation plan that will achieve the desired outcome of locating and recovering assets to pay filed tax liens.

Criteria the department will consider when analyzing ways to mitigate impact include:

A financial institution's lack of staff or technical inability to respond to electronic service; and

Membership limits or restrictions that significantly reduce the potential of locating assets for some or most of the delinquent taxpayers, geographic remoteness from large numbers of taxpayers.

Requests for a mitigation plan or other E-Withhold questions should be sent via:

E-mail to:

dorewithholds@dor.wa.gov

U.S. mail to:

Department of Revenue

Attn: Compliance Division - CRRT

P.O. Box 14699

Tumwater, WA 98511-4699

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