



STATE OF WASHINGTON  
DEPARTMENT OF REVENUE  
OFFICE OF THE DIRECTOR

P.O. Box 47454 • Olympia Washington 98504-7454 • (360) 534-1600 • Fax (360) 534-1606

January 27, 2012

**TO:** Tom Hoemann, Secretary  
Washington State Senate

Barbara Baker, Chief Clerk  
Washington State House of Representatives

**FROM:** Brad Flaherty, Director *BF*

**SUBJECT:** ELECTRONIC WITHHOLD & DELIVER REPORT

During the 2009 legislative session, the Washington State Legislature passed ESSB 6169 (chapter 562, Laws of 2009), to allow the Department of Revenue (Department) to electronically serve to financial institutions the Notice and Order to Withhold and Deliver authorized under RCW 82.32.235. When the Legislature considered this legislation, financial institutions expressed concern that electronic service could be burdensome on smaller institutions. For this reason, the Legislature directed the Department to report to the Legislature's fiscal committees about implementation of electronically served withhold and deliver orders.

To provide information about the implementation of ESSB 6169, this report identifies policies developed by the Department and describes the implementation process and how difficulties were overcome to ensure a successful program.

This report was prepared by Patricia Traulsen, Kassi Hipwell, Sue Flaherty, and JoAnne Gordon under the direction of Drew Shirk, Legislative Director of the Office of Legislation and Policy. Please contact Drew at (360) 534-1547 if you have any questions.

cc: The Honorable Christine Gregoire, Governor  
Members, Senate Ways and Means Committee  
Members, House Ways and Means Committee





Electronic  
Withhold  
and Deliver  
**REPORT**

# Overview

This report provides information about the implementation of Engrossed Substitute Senate Bill 6169 (chapter 562, Laws of 2009). This legislation, which amended RCW 82.32.235, allows the Department of Revenue (Department) to electronically serve to financial institutions the Notice and Order to Withhold and Deliver.

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# Withhold and Deliver – A Collection Tool

## Voluntary Compliance & Tax Collection

The Department relies on the concept of voluntary compliance to collect the taxes and fees it administers under Title 82 RCW. From the Department's perspective, voluntary collection represents the revenue the Department collects from registered taxpayers without an enforcement effort.

The Department estimates that voluntary compliance in Washington State represents 97.9 percent of the total tax liability of registered taxpayers. While it may appear effortless, the Department's success with voluntary compliance stems from a variety of Department initiatives. Such initiatives include various methods to enforce tax collection.

## Enforced Tax Collection

When voluntary compliance fails, the Department uses enforcement methods provided under chapter 82.32 RCW to collect the tax due, along with any accrued interest and penalties. To secure payment of delinquent taxes, the Department must frequently issue a tax lien. When filed with the superior court, a tax lien has the effect of a judgment against the taxpayer.

If the Department still cannot secure payment, the Department may levy the taxpayer's property. To levy upon property held by third parties, such as banks or other financial institutions, the Department serves the third party with a "notice and order to withhold and deliver" (withhold). Before ESSB 6169 was enacted, the Department was required to serve a separate paper withhold for each taxpayer whose bank account was levied.

## ESSB 6169 (Chapter 562, Laws of 2009) Expands RCW 82.32.235

Effective July 26, 2009, ESSB 6169 amended RCW 82.32.235 to enhance the Department's levy authority to levy property held by financial institutions to include electronic service of the withhold and deliver (E-Withhold) as a list of some or all of the unpaid tax liens for which no payment agreement with the taxpayer exists.

## Electronic Service Limited

E-Withhold service is currently limited to financial institutions, which are defined as banks, trust companies, mutual savings banks, savings and loan associations, and credit unions that are authorized under state or federal law to do business in and accept deposits in Washington.

# Complexities and Impacts

## Implementation Complexities

### ESSB 6169 took effect July 26, 2009.

While working with stakeholders, the Department realized that successful implementation of the E-Withhold legislation required a phased-in, multi-faceted process, rather than “one-size fits all” approach.

Before service of the first E-Withhold, the Department conducted a pilot in February and March 2010. This was necessary to work through a variety of unanticipated issues, which were driven by the following factors:

- **Industry consolidation.** At the beginning of implementation, there were approximately 255 financial institutions subject to E-Withhold requirements. Currently, 222 financial institutions are subject to E-Withhold. Industry consolidation, closures, and deletion of institutions not meeting the criteria are the reasons for the decreased number of financial institutions.
- **Differences between banks and credit unions.** Even though they provide comparable services and products, credit unions and banks operate in different regulatory and management environments and, as a result, have different needs.
- **Technology needs versus administrative concerns.** The Department initially met with financial industry lobbyists and institutional officers and managers. As discussions moved from administrative to technology aspects, the Department recognized the need to work closely with information technology personnel.
- **Different information technology platforms.** No single information technology platform exists for financial institutions. Some institutions have no technology platforms or information technology personnel and outsource these functions to third party “core processors”.

- **Diversity and size of institutions.** Financial institutions vary in size, geographic footprint, staffing levels, number of depositors, etc. The Department discovered financial institution staff had varying skill sets and experience in working with the technical aspects needed to process E-Withhold service.

## Minimizing Impacts

During the legislative process, stakeholders opposed ESSB 6169 in its original form and the bill was amended to address stakeholder concerns. The Community Bankers of Washington and the Washington Bankers Association subsequently testified that while they continued to have concerns related to increased administrative burdens, they were willing to work with the Department to develop policies to minimize the impacts.

ESSB 6169 directed the Department to work with financial institutions to develop policies concerning:

- How often the Department serves E-Withholds.
- The circumstances under which the Department provides a partial list of tax liens.

ESSB 6169 gave the Department wide latitude to minimize the impacts of the E-Withhold program on individual institutions. At a minimum, the legislation directed the Department to consider:

- The size of a financial institution.
- The location of a financial institution.
- The number of business accounts that a financial institution does business with.
- Other factors as determined by the Department.

Under the latitude provided by the legislation, the Department also considers:

- The number of branches.
- The number of employees.
- The number of deposit accounts.
- The number of business accounts vs. the number of personal accounts.
- The ability to deliver funds using the automated clearing house (ACH) credit method.
- The impacts of mergers, acquisitions, and closures.

- Institutional limits or restrictions that significantly reduce the potential of locating assets.
- Geographic remoteness from large numbers of taxpayers.
- The ability to test electronic-withhold processes.
- Other potential factors as raised by individual financial institutions.

# Minimizing Impacts

## Methods to Minimize Impacts

To assist financial institutions facing significant challenges with meeting requirements, the Department may adjust its procedures to minimize the impact.

Financial institutions must request the Department's assistance in writing and explain the challenges they face. Through December 2011, 193 financial institutions made requests to minimize impacts in 366 instances. Approximately 87 percent of financial institutions have agreements with the Department to minimize the impacts of electronic withholds.

To minimize impacts, the Department provides a choice of file formats, and may also:

- Serve E-Withholds on individual institutions less frequently than once a month.
- Tailor the list of lien records for individual institutions.
- Accept payment of E-Withhold funds by check in lieu of the ACH credit method.
- Delay the Department's service of E-Withholds.

## File Formats

For E-Withhold purposes, a file format is simply the method used by financial institutions and the Department to communicate electronically. The Department offers financial institutions three file formats to select from:

- **Financial Institution Data Match (FIDM) Format.** Originally developed for federal legislation passed in 1996 and 1998, FIDM is an automated nationwide child support enforcement strategy.

The Department of Social and Health Services (DSHS) uses FIDM to conduct data matches identifying assets of individuals who are delinquent in meeting their child support obligations. Financial institutions and core processors were more familiar with the format. For the E-Withhold program, the Department altered the FIDM format because:

- Tax lien records include individuals and business entities with both Social Security numbers (SSN) and federal employer identification numbers (FEIN). Data matches for individuals with delinquent child support liability are limited to individuals and SSNs.
- The DSHS Support Enforcement Officers create and serve manual paper levies. The Department delivers levies electronically.
- **DOR Preferred Format.** This file format is a flat text file that was developed in-house by the Department’s Information Services Division. Financial institutions that lack information technology staff or use third party core processors find this method difficult or costly to use. Third party core processors often will charge a fee for new programming and monthly maintenance fees.
- **Excel Spreadsheet.** This file method is used by some financial institutions that lack the technical ability to program or incur the cost of core processor fees. The Excel spreadsheet is programmed to import a flat file list, or to export the Excel spreadsheet back into a flat file for return to the Department. Most financial institutions have selected the Excel spreadsheet for the withhold payment response until they are able to fully automate this step of the process.

**Use of File Formats by Financial Institutions\***

	Inquiry	Response
<b>FIDM Format</b>	<b>113</b>	
<b>DOR Preferred Format</b>	<b>38</b>	<b>23</b>
<b>Excel Spreadsheet</b>	<b>71</b>	<b>199</b>

\*As of December 31, 2011

**Frequency**

Under ESSB 6169, the Department may not serve an E-Withhold on a financial institution more than once a month. Because monthly service may be overly burdensome on smaller institutions, the Department may agree to less frequent service, such as bimonthly, quarterly, biannually, or annually.

One hundred eighty six financial institutions receive E-Withhold service less frequently than monthly.

**Tailoring the Master Lien List**

The majority of assistance requests from financial institutions are related to the master list of lien records. The Department may tailor the master list by:

- **Excluding business accounts.** Individuals (sole proprietors), partnerships, corporations, and various other legal entities operate businesses. If a financial institution does not offer business accounts, the Department may tailor the master list to limit service to accounts held by individuals.

Fifteen financial institutions receive a records list that excludes business accounts.

- **Reducing the number of lien records.** The number of records included on master lien records list changes each month. It has included as many as 8,009 records and as few as 5,751. Chart A, page 5, identifies the monthly records count of the master records list.

Service of the full master records list may significantly impact the staffing resources of small financial institutions. To minimize the impact, the Department may reduce the number of lien records included in the list served on an individual institution. Reduced records lists have ranged from 50 to 1200 lien records. Fifty-two financial institutions receive a “downsized” lien records list.

- **Limiting geographic areas.** Many financial institutions serve depositors within a limited geographic area. For these institutions, the Department may target a geographic area by limiting the lien record list to certain counties and/or zip codes, and Eastern Washington or Western Washington.

Forty-seven financial institutions receive a lien list that is tailored geographically.

## Chart A

### Master List Record Count

	2010	2011
Month of Service	Master List Record Count	Master List Record Count
January	No Service	7044
February	928*	7249
March	8009*	6823
April	7918	6182
May	7801	6056
June	No Service**	6479
July	7585	6511
August	7592	6285
September	7690	6124
October	7840	6110
November	7661	5751
December	7129	5818

\*Pilot

\*\*Programming updates implemented

### Delayed or Rescheduled Service

When requested, the Department will consider delaying or rescheduling service of the E-Withhold. The Department reviews delay requests on a case-by-case basis.

For example, a new employee may be responsible for processing an E-Withhold at a small institution. Upon request, the Department may delay service until the new employee is trained, by the institution and DOR, on E-Withhold procedures.

### Remittance by ACH Credit vs. Check

The primary advantage to electronically transferring funds is a reduction of the Department's processing costs. The Department initially anticipated that financial institutions would use the automated clearing house (ACH) credit method to electronically transfer E-Withhold funds.

Most financial institutions use ACH, a central distribution and settlement system, to electronically clear debits and credits. For E-Withhold purposes, the ACH credit method charges the lien holder's account and transfers the E-Withhold funds being withheld to the Department's account.

A number of financial institutions, however, do not use the ACH credit method to transfer funds. In these cases, the Department may agree to accept payment of the funds via check. Forty-eight percent of financial institutions remit funds via check.



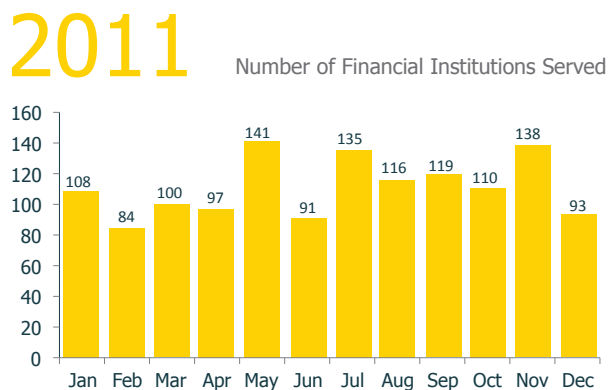
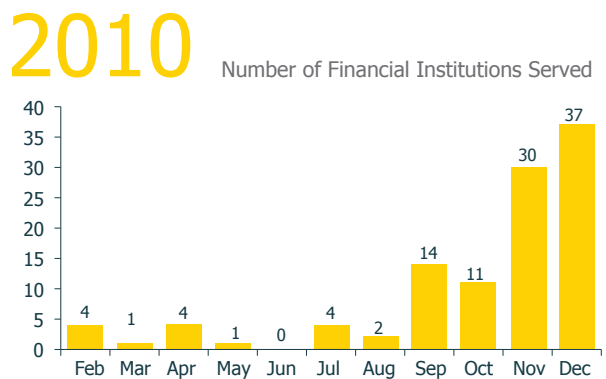
# Service of E-Withholds

## Phased-In Service

Electronic service of the notice and order to withhold and deliver is new for both the Department and financial institutions. Consequently, starting dates for the E-Withhold service on individual financial institutions were staggered. Individual institutions were added to the service schedule as financial institutions received training, technical issues were resolved, and agreements to minimize impacts were established. Chart B identifies the number of institutions that have received electronic service each month since start of the pilot project in February 2010.

To date, 220 out of 222 financial institutions have been served electronically. The remaining financial institutions will receive E-Withhold service during January 2012.

**Chart B**  
**Implementation of ESSB 6169 E-Withhold**



## Training

The Department conducts training for financial institutions via video conferencing. Through December 2011, the Department conducted 108 training sessions. Chart C identifies the number of training sessions conducted monthly between February 2010 and December 2011.

Initially, several institutions participated in each training session. When financial institutions expressed concerns about participating at the same time as their competitors, the Department started conducting training for individual institutions.

To meet the on going needs of financial institutions, the Department anticipates conducting future training sessions as needed.

**Chart C**  
**E-Withhold Meeting Tracker**

	2010	2011
Month	Number of Meetings Held	Number of Meetings Held
January		6
February	4	2
March	11	3
April	10	2
May	13	2
June	1	2
July	5	2
August	7	5
September	8	4
October	2	3
November	4	4
December	5	3
Total	70	38
Two year total		108

## Tools for Financial Institutions

The Department developed tools to help financial institutions meet the requirements of the E-Withhold program:

- **E-Withhold Internet page.** In addition to providing access to the secured file transfer (SFT) service, the portal through which information is transferred to and from the financial institution, the Department has an Internet page that provides access to information about procedures and file formats. It also provides instructions, announcements and reference material.
- **Dedicated Email address.** A dedicated email address provides access to help from Department staff for E-Withhold concerns. The mailbox is consistently monitored by the Department's experts for the E-Withhold program.
- **Staff assistance.** The Department has dedicated staff that includes a manager, a special agent, and one revenue agent to administer the E-Withhold program.
- **Video conference training sessions.** Staff conducts training sessions for financial institutions on an as-needed basis.
- **Administrative Rule.** WAC 458-20-21701 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.

## Process for E-Withhold Service

During the E-Withhold process the Department and individual financial institutions communicate using the Department of Enterprise Service's secured file transfer service, which provides a secure method to transmit information. There is no charge to financial institutions for use of the service. Two folders within the service are established for each financial institution. The financial institution uses one folder to retrieve lists from the Department and the other to submit responses and data back to the Department.

The E-Withhold process is a series of four steps:

1. The Department's initial service of E-Withhold lists.
2. Financial Institution's review of list and initial response.
3. The Department's review and final instructions.
4. Financial Institution remits payment.

While a discussion of the four-step process follows, diagram A, page 10, charts the steps.

## Step 1

### Initial Service

Before the Department can serve an E-Withhold, it must have issued a tax lien that has been filed with the superior court in the county where the business is primarily conducted. When preparing the list of lien records for E-Withhold service, the Department excludes lien records if:

- The taxpayer is meeting the terms of a Department-approved payment plan.
- The taxpayer is under the protection of the bankruptcy courts.
- The Department has placed a hold or exclusion status on the taxpayer's tax registration account.
- The Department does not possess the taxpayer's Social Security number (SSN) or Federal Employer Identification Number (FEIN).

The Department posts the E-Withhold list to the SFT folder specific to the individual institution, after which the Department sends a notification email to the institution's contact person.

## Step 2

### Institution's Review & Response

A financial institution has 10 calendar days to review the E-Withhold list for the location of accounts or assets and respond to the Department. Accounts and assets subject to withhold include:

- Checking, savings, or share accounts.
- Time or certificates of deposit.
- Investment or brokerage accounts.
- Contents of safe deposit boxes.

Not all assets are subject to attachment by the Department. Examples of such assets include Social Security, railroad retirement, welfare, and unemployment benefits payable by the federal or state government.

To respond to the E-Withhold, the financial institution uses numeric codes to identify its findings with respect to specific lien records:

Code	Review Indicates
00	No assets or accounts located
01	Checking, savings, or share account located
02	Brokerage account located
03	Certificate of deposit or other term investment located
04	Safe deposit box located
05	Asset other than above assets located
06	Another judicial or administrative process supersedes Department's withhold
07	Financial institution believes asset legally exempt from Department's withhold
08	Provided names and/or tax identification numbers are significantly different and may not be the same person or entity.
09	Tax identification numbers provided reference an LLC but the person or entity being levied is only a member of the LLC.

## Step 3

### Further Instructions

Within five business days, the Department reviews the financial institution's response and provides final instructions to withhold and remit the assets to the Department or to release the E-Withhold. At the same time, the Department mails notification of the E-Withhold to the taxpayer.

## Step 4

### Remittance of Withheld Assets

The financial institution must remit the located assets, generally money, to the Department and provide payment details within thirty days, exclusive of the day of service.

### E-Withhold Revenue Recovery

To date, the E-Withhold program has resulted in the collection of more than \$2.1 million. The amount of revenue collected has increased as the number of financial institutions receiving service has increased:

Year	Financial Institutions**	Recovery
2010	66	\$293,867
2011*	220	\$1,835,935
<b>Total Recovered</b>		<b>\$2,129,802</b>

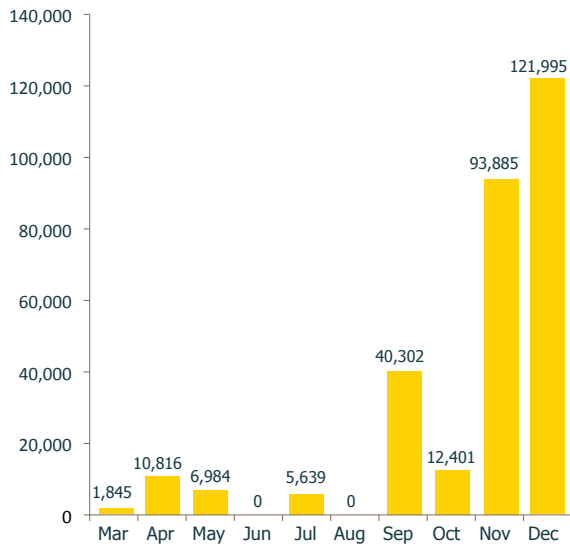
\* Additional recovery pending for service initiated during November and December

\*\* Represents the total number of institutions that received service.

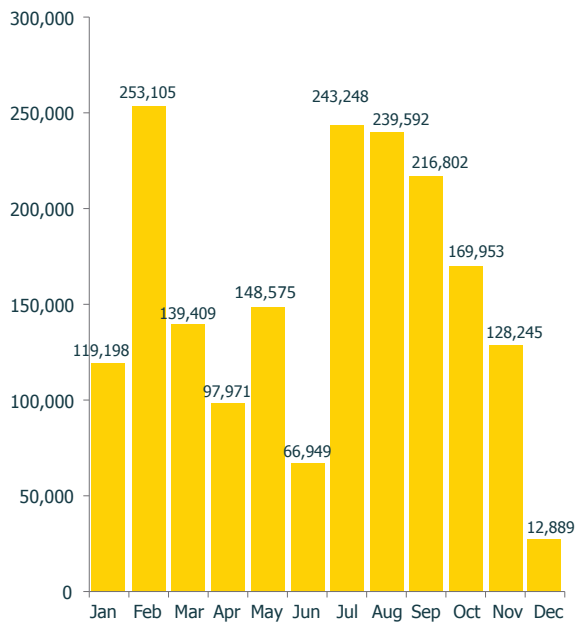
Chart D, page 9, identifies the amount of revenue received each month as a result of the E-Withhold program.

Chart D

# 2010 Dollar Recovery: \$293,867



# 2011 Dollar Recovery: \$1,835,935



**Total Dollar Recovery: \$2,129,802**

## Financial Institutions' Perceptions

In October 2011, the Department conducted an anonymous survey of financial institutions. Seventy-seven out of 222 institutions responded. While a few of the responding financial institutions found the process cumbersome and expensive, the overall feedback was positive. Concerns about the process expressed via text responses can be categorized as follows:

- The E-Withhold process is cumbersome.
- Some institutions would like the process to more closely parallel the process used by Support Enforcement.
- Small financial institutions have found implementing the process to be expensive.
- Some financial institutions are frustrated that the Department continues to serve paper withhold and delivers for individual taxpayers.

Several of the responding financial institutions made suggestions for improving the process. The Department continues to explore and implement these suggestions.

The full survey results can be found on page 11.

## Department's Conclusions

The Department considers E-Withhold to have been a success. E-Withhold provides another useful tool in the Department's toolbox for enforcing the collection of unpaid tax liens.

The Department continues to work with the financial institutions to improve and enhance the E-Withhold program. Also, the Department continues to provide training, solicit feedback, update programming, and provide daily operational and technical support to the institutions.

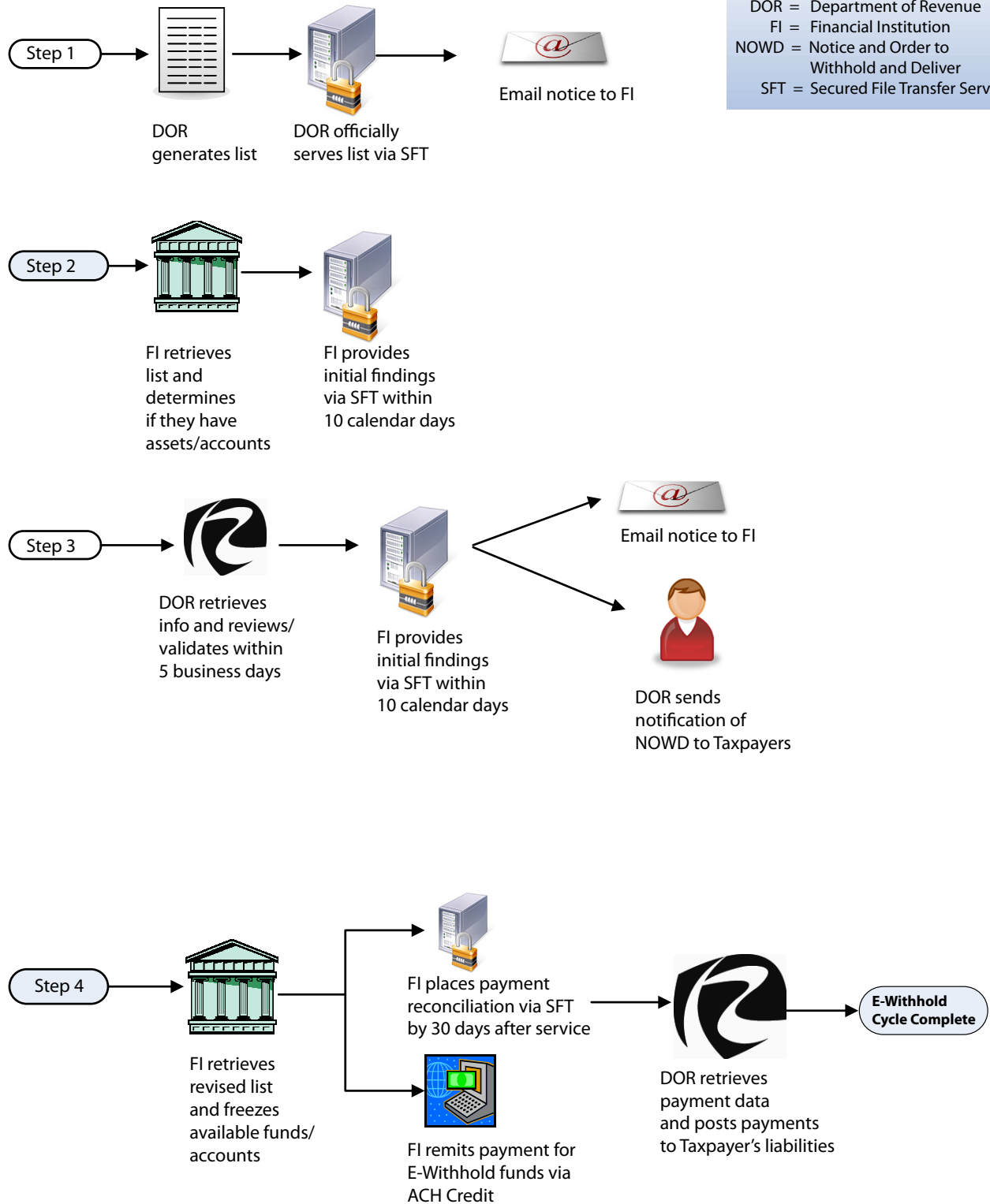
## Diagram A

### E-Withholds -Process Design

Updated October 3, 2011

#### Key

DOR = Department of Revenue  
 FI = Financial Institution  
 NOWD = Notice and Order to  
 Withhold and Deliver  
 SFT = Secured File Transfer Service



## Survey Results

- Was the information provided during the WebEx meeting helpful?
 

<b>Very helpful</b>	<b>4</b>	<b>5.19%</b>
<b>Mostly helpful</b>	<b>18</b>	<b>23.38%</b>
<b>Somewhat helpful</b>	<b>24</b>	<b>31.17%</b>
<b>No help at all</b>	<b>4</b>	<b>5.19%</b>
<b>Not applicable</b>	<b>27</b>	<b>35.06%</b>
- How would you rate the accessibility and assistance from the Revenue E-Withhold implementation staff?
 

<b>Very helpful</b>	<b>35</b>	<b>45.45%</b>
<b>Mostly helpful</b>	<b>19</b>	<b>24.68%</b>
<b>Somewhat helpful</b>	<b>12</b>	<b>15.58%</b>
<b>No help at all</b>	<b>4</b>	<b>5.19%</b>
<b>Not applicable</b>	<b>7</b>	<b>9.09%</b>
- How would you rate the service provided by the Revenue technical staff?
 

<b>Very helpful</b>	<b>32</b>	<b>42.11%</b>
<b>Mostly helpful</b>	<b>16</b>	<b>21.05%</b>
<b>Somewhat helpful</b>	<b>14</b>	<b>18.42%</b>
<b>No help at all</b>	<b>2</b>	<b>2.63%</b>
<b>Not applicable</b>	<b>12</b>	<b>15.79%</b>
- How would you rate the content and navigation of our E-Withhold website (dor.wa.gov/ewithhold):
 

<b>Very helpful</b>	<b>11</b>	<b>14.47%</b>
<b>Mostly helpful</b>	<b>35</b>	<b>46.05%</b>
<b>Somewhat helpful</b>	<b>24</b>	<b>31.58%</b>
<b>No help at all</b>	<b>5</b>	<b>6.58%</b>
<b>Not applicable</b>	<b>1</b>	<b>1.32%</b>
- Please rate your experience with the mitigation process:
 

<b>Very satisfied</b>	<b>12</b>	<b>15.79%</b>
<b>Satisfied</b>	<b>36</b>	<b>47.37%</b>
<b>Dissatisfied</b>	<b>4</b>	<b>5.26%</b>
<b>Very dissatisfied</b>	<b>8</b>	<b>0.53%</b>
<b>Neutral</b>	<b>10</b>	<b>13.16%</b>
<b>Not applicable</b>	<b>6</b>	<b>7.89%</b>
- How satisfied are you with the outcome of your mitigation plan?
 

<b>Very satisfied</b>	<b>13</b>	<b>17.11%</b>
<b>Satisfied</b>	<b>34</b>	<b>44.74%</b>
<b>Dissatisfied</b>	<b>4</b>	<b>5.26%</b>
<b>Very dissatisfied</b>	<b>7</b>	<b>9.21%</b>
<b>Neutral</b>	<b>9</b>	<b>11.84%</b>
<b>Not applicable</b>	<b>9</b>	<b>11.84%</b>
- Was Revenue staff responsive to your issues and concerns?
 

<b>Yes</b>	<b>57</b>	<b>74.03%</b>
<b>No</b>	<b>5</b>	<b>6.49%</b>
<b>Not applicable</b>	<b>11</b>	<b>14.29%</b>
<b>I would like to comment</b>		<b>45.19%</b>

### Four Text Responses

1. We have been participating in DOR eWithhold since April. Since then, we have only had service through the withhold process on one of the accounts that we submitted back. However, we continue to receive frequent manual levies from the DOR for one of our customers. This customer has been included in every file that we have sent, however, in speaking with the case worker, she has chosen to opt out when notified that they were part of an E-Withhold file. This is very frustrating for us. E-Withhold creates additional cost to us due to charges from our core processor to run the files and additional employee time and effort to complete the files. If we are required to put out this extra time and expense on our side, we would like to know that the DOR is at least using the service. In this particular case, we received four

separate manual levies within the span of 30 days, and none of them were done through eWithhold, even though we processed a file including the customer during the time period.

2. This process is not personal enough. We receive emails with suggestions, but no person that we can contact for help. They seem to be a little snippy in the emails.

3. The staff at the DOR is very nice and helpful; I do not think the overall process is efficient and is extremely cumbersome. Sending files back and forth back and forth is a waste of resources.

4. All I got when I tried to call was a fast busy signal - no help. Tried several times then just muddled my way through until I "zeroed out" and could file the report.

8. What is your overall satisfaction of the E-Withhold process?

<b>Very satisfied</b>	<b>14</b>	<b>18.42%</b>
<b>Satisfied</b>	<b>34</b>	<b>44.74%</b>
<b>Dissatisfied</b>	<b>11</b>	<b>14.47%</b>
<b>Very dissatisfied</b>	<b>8</b>	<b>10.53%</b>
<b>Neutral</b>	<b>9</b>	<b>11.84%</b>
<b>Not applicable</b>		

9. Please provide other feedback or suggestions you have:

### Thirty-four Text Responses

1. The overall process is fairly simple. The only problem we seem to have had any issues with is with sending ACH payments. Apparently the way you receive ACH payments requires a specific coding that we cannot provide and have therefore been requested to send payment by paper check. This is completely backwards to the idea of being Green and going paperless. We are trying to work on making it possible to code the ACH transaction so that it shows up on your side correctly, but requesting us to send a paper check is not what we wanted to hear.

2. It would be helpful to have a response back when there will not be any withholding after the institution has replied to the initial service with their 'accounts' spreadsheet.

3. It would be helpful if we received notice that you were not going to withhold funds.

4. I'm happy to see the hard copy letters finally stop. Since we've set up an automated process to handle e-withhold, no person within our institution has the password; I'd like to see the password expiration extended so that we are not constantly changing our automated processes.

5. Once we have sent the first file back to you you should acknowledge that you received it and when we should expect to receive your response back. That way we know you received the file and we don't have to check it several times to see if you have sent the file back. With the last file you should respond that it was received and the date the payment is due. We had a problem with a file and never knew it until the last minute then had to rush to figure it out. By sending a acknowledgement e-mail we would know everything is ok and being processed.

6. Being new to the process, I wish that the e-withholdings could just be answered without having to change the name of the file.

7. As a small institution with historically very few levies, the process of becoming compliant with the E-Withhold process seemed like a lot of work for a pretty limited benefit.

8. We didn't hear any WebEx meeting program from you, so could please provide webEx information to us. Thank you ^^

9. Can you please add the web page link to the request for funds email?

10. This has been an absolute nightmare. The Webex was shown far too soon and I didn't remember a thing by the time we rolled out. We are VERY small, and I AM the Operations department. I have spent so much time on this and still don't feel comfortable when I get a new list. Expensive too! It costs us \$1500 to implement a program that checks against our database, then \$100 a run. I know the liability to the bank is great, so I've been doing my best to grasp this thing. Your staff has been very helpful and patient with me however, and that has been nice. Hopefully with time I will get better, but for right now, it's still a foreign language to me! I apologize for the negativity, but you asked.

11. We very much appreciate the department's inclusion of an FIDM file as that reduced a good deal of the up front cost to us from our core processor. We would like the department to consider the possibility of mimicing more of the DSHS process. Through DSHS, our core processor receives one file for all of its Washington Banks that it is able to run independently and return to DSHS. For the DOR process, each bank has to manually access the file and submit it to our core. This causes additional expense and time on everyone's side. It would be great if we could try to improve efficiency by having the DOR send one file to each core processor rather than through each individual bank.

12. This is very cumbersome. Doesn't make sense to do it quarterly and still send paper garnishments the rest of the time.

13. Needs to be an easier way to do this without going back and forth 4 times. Still receive notices outside of quarterly process. Not sure why the redundancy. This process was/is very expensive to implement. DSHS system MUCH easier.

14. Tried to ask for file transfer automation and NO one ever called me back. :(

15. We continue to receive paper requests for withholding. I understood the electronic process was to help us eliminate responding to so many paper requests. Is that still the intent?

16. The file transfer process is fine. However, the actual process of withholding does not provide us with a copy of a levy to share with our customer. Generally we do not debit customer accounts without some type of notice so this does put us in an awkward situation.

17. The biggest issue we faced was not having the documentation that we normally send our customers on all levies/garnishments.

18. We have not run into any issues at this point and time so it has been good so far.

19. We had hoped, once we provided you responses to your account inquiries, results would be saved and reduce the size of future inquiry files. Since this did not happen, we have implemented more automated queries, thus requiring more technical staff resources.

20. Too different from other reporting processes.

21. Thank you for making this a smooth process.

22. It seems that once I have answered the e-withhold, I start to receive garnishments in the mail, why is that. I thought that I was only going to receive them by e-withhold.

23. This is a very labor intensive project for a small financial institution to have to deal with. We do not have our own on-site IT dept that can handle something like this. We had to submit a special request to our data processor to ask them to come up with a program that can be run to look for matches. These kinds of requests aren't free plus it costs us each time we have to run it.

It was much better before when DOR just sent us the levy request when they thought they had a match.

24. Send a file of customer names; if we have any matches we will hold and send. Or can you interface with the state "Dead beat Dad" report that DSHS uses?

25. This process is very cumbersome and very poorly rolled out and negatively impacts the financial institution for a very small return.

26. Staff is very responsive to my inquiries.

27. It would be helpful to have quick reference guides for things such as the flow of the process and file formats rather than having them inside the large reference documents.

28. I would like to have a email sent back to us when we send our responses in the "To DOR " file to ensure you have received it.

29. This process may have made it easier for the DOR but the entire burden has been placed on the FI. This was expensive to implement and there has only been negative to the FI.



30. With the various files, it can become confusing as to when the funds are due to the state. It would be helpful if the email that has the ACH Credit information included the date due. It would also be helpful if that email included a phone number for our customers to call with questions.

31. Hopefully this will speed your processing because it took me much longer than the couple of minutes I spent with the paper report and in addition I have to wait until Nov 1 to post the debit from my checking account. More time spent.

32. Even after the mitigation process, it still seems like we're receiving very large files. Also, the names/TINs in the files sometimes appear duplicative from previous months files. I'm not sure that the process is as efficient as it could be. We'd also like to see some sort of automated email acknowledgment when our files are received so that our compliance is noted. Thanks.

33. We have had some challenges with the start up and transition of this process. The Staff has been very patient and helpful with solutions.

34. Our bank is so small and in a limited area, I personally prefer them mailed. We report quarterly and usually have 1 or 2 hits.

\*The survey responses are reproduced as submitted to the Department by individual institutions without editing for spelling and grammar.

## **RCW 82.32.210**

Tax warrant — Filing — Lien — Effect. (Effective until January 1, 2012.)

(1) If any fee, tax, increase, or penalty or any portion thereof is not paid within fifteen days after it becomes due, the department of revenue may issue a warrant in the amount of such unpaid sums, together with interest thereon from the date the warrant is issued until the date of payment. If, however, the department of revenue believes that a taxpayer is about to cease business, leave the state, or remove or dissipate the assets out of which fees, taxes or penalties might be satisfied and that any tax or penalty will not be paid when due, it may declare the fee, tax or penalty to be immediately due and payable and may issue a warrant immediately.

(a) Interest imposed before January 1, 1999, shall be computed at the rate of one percent of the amount of the warrant for each thirty days or portion thereof.

(b) Interest imposed after December 31, 1998, shall be computed on a daily basis on the amount of outstanding tax or fee at the rate as computed under RCW 82.32.050(2). The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year. As used in this subsection, "fee" does not include an administrative filing fee such as a court filing fee and warrant fee.

(2) The department shall file a copy of the warrant with the clerk of the superior court of any county of the state in which real and/or personal property of the taxpayer may be found. The clerk is entitled to a filing fee under RCW 36.18.012(10). Upon filing, the clerk shall enter in the judgment docket, the name of the taxpayer mentioned in the warrant and in appropriate columns the amount of the fee, tax or portion thereof and any increases and penalties for which the warrant is issued and the date when the copy is filed, and thereupon the amount of the warrant so docketed shall become a specific lien upon all goods, wares, merchandise, fixtures, equipment, or other personal property used in the conduct of the business of the taxpayer against whom the warrant is issued, including property owned by third persons who have a beneficial interest, direct or indirect, in the operation of the business, and no sale or transfer of the personal property in any way affects the lien.

(3) The lien shall not be superior, however, to bona fide interests of third persons which had vested prior to the filing of the warrant when the third persons do not have a beneficial interest, direct or indirect, in the operation of the business, other than the securing of the payment of a debt or the receiving of a regular rental on equipment. The phrase "bona fide interests of third persons" does not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the taxpayer mentioned in the warrant who executed the chattel or real property mortgage or the document evidencing the credit transaction.

(4) The amount of the warrant so docketed shall thereupon also become a lien upon the title to and interest in all other real and personal property of the taxpayer against whom it is issued the same as a judgment in a civil case duly docketed in the office of the clerk. The warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the state in the manner provided by law in the case of judgments wholly or partially unsatisfied.

[2001 c 146 § 12; 1998 c 311 § 8; 1997 c 157 § 3; 1987 c 405 § 15; 1983 1st ex.s. c 55 § 8; 1967 ex.s. c 89 § 3; 1961 c 15 § 82.32.210. Prior: 1955 c 389 § 38; prior: 1951 1st ex.s. c 9 § 13; 1949 c 228 § 225, part; 1937 c 227 § 20, part; 1935 c 180 § 202, part; Rem. Supp. 1949 § 8370-202, part.]

Notes: Severability -- 1987 c 405: See note following RCW 70.94.450.

Effective dates -- 1983 1st ex.s. c 55: See note following RCW 82.08.010.

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(b) Interest imposed after December 31, 1998, is computed on a daily basis on the amount of outstanding tax or fee at the rate as computed under RCW 82.32.050(2). The rate so computed must be adjusted on the first day of January of each year for use in computing interest for that calendar year. As used in this subsection, "fee" does not include an administrative filing fee such as a court filing fee and warrant fee.

(2) Except as provided in RCW 82.32.212, the department must file a copy of the warrant with the clerk of the superior court of any county of the state in which real and/or personal property of the taxpayer may be found. The clerk is entitled to a filing fee under RCW 36.18.012(10). Upon filing, the clerk will enter in the judgment docket, the name of the taxpayer mentioned in the warrant and in appropriate columns the amount of the fee, tax or portion thereof and any increases and penalties for which the warrant is issued and the date when the copy is filed. The amount of the warrant so docketed is a specific lien upon all goods, wares, merchandise, fixtures, equipment, or other personal property used in the conduct of the business of the taxpayer against whom the warrant is issued, including property owned by third persons who have a beneficial interest, direct or indirect, in the operation of the business, and no sale or transfer of the personal property in any way affects the lien.

(3) The lien is not superior, however, to bona fide interests of third persons that vested before the filing of the warrant when the third persons do not have a beneficial interest, direct or indirect, in the operation of the business, other than to secure payment of a debt or to receive a regular rental on equipment. The phrase "bona fide interests of third persons" does not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the taxpayer mentioned in the warrant who executed the chattel or real property mortgage or the document evidencing the credit transaction.

(4) The amount of the warrant so docketed is also a lien upon the title to and interest in all other real and personal property of the taxpayer against whom it is issued the same as a judgment in a civil case duly docketed in the office of the clerk. The warrant so docketed is sufficient to support the issuance of writs of garnishment in favor of the state as provided by law for judgments wholly or partially unsatisfied.

[2011 c 131 § 1; 2001 c 146 § 12; 1998 c 311 § 8; 1997 c 157 § 3; 1987 c 405 § 15; 1983 1st ex.s. c 55 § 8; 1967 ex.s. c 89 § 3; 1961 c 15 § 82.32.210. Prior: 1955 c 389 § 38; prior: 1951 1st ex.s. c 9 § 13; 1949 c 228 § 225, part; 1937 c 227 § 20, part; 1935 c 180 § 202, part; Rem. Supp. 1949 § 8370-202, part.]

Notes: Effective date -- 2011 c 131: See note following RCW 82.32.212.

Severability -- 1987 c 405: See note following RCW 70.94.450.

Effective dates -- 1983 1st ex.s. c 55: See note following RCW 82.08.010.

## RCW 82.32.235

Notice and order to withhold and deliver property due or owned by taxpayer — Bond — Judgment by default.

(1) In addition to the remedies provided in this chapter the department is authorized to issue to any person, a notice and order to withhold and deliver property of any kind whatsoever when there is reason to believe that there is in the possession of such person, property which is or will become due, owing, or belonging to any taxpayer against whom a warrant has been filed.

(2) The sheriff of the county where the service is made, or his or her deputy, or any duly authorized representative of the department may personally serve the notice and order to withhold and deliver upon the person to whom it is directed or may do so by certified mail, with return receipt requested.

(3)(a) The department is authorized to issue a notice and order to withhold and deliver to any financial institution in the form of a listing of all or a portion of the unsatisfied tax warrants filed under this chapter with the clerk of the superior court of a county of the state, except tax warrants subject to a payment agreement, which is not in default, between the department and the taxpayer.

(b) As an alternative to the methods of service in subsection (2) of this section, the department may serve the notice and order to withhold and deliver authorized under this subsection electronically. The remedy in this subsection (3) is in addition to any other remedies authorized by law.

(c) No more than one notice and order to withhold and deliver under this subsection (3) may be served on the same financial institution in a calendar month.

(d) Notice and order to withhold and deliver under this subsection (3) must include the federal taxpayer identification number of each taxpayer.

(e) For purposes of this subsection, "financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

(f) The department may provide a financial institution relief from a notice and order to withhold and deliver in the form provided under this subsection (3) upon the request of the financial institution. The department must consider the size, customer base, and geographic location of the financial institution when considering

whether to provide relief. The department must serve any financial institution so relieved under subsection (1) of this section.

(4) Any person who has been served with a notice and order to withhold and deliver under subsection (1) of this section must answer the notice within twenty days, exclusive of the day of service. Any person who has been served with a notice and order to withhold and deliver under subsection (3) of this section must answer the notice within thirty days, exclusive of the day of service. The answer must be in writing, under oath if required by the department, and include true answers to the matters inquired of in the notice. Any person served under subsection (3) of this section may answer in aggregate within thirty days, but must answer separately as to each taxpayer listed and specify any property by taxpayer which is delivered. The department must allow any person served electronically under subsection (3) of this section to answer the notice and order to withhold and deliver electronically in a format provided or approved by the department.

(5) In the event there is in the possession of any person served with a notice and order to withhold and deliver, any property which may be subject to the claim of the department, such property must be delivered immediately to the department of revenue or its duly authorized representative upon demand. The department must hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. Instead of delivering the property to the department or the department's duly authorized representative, the person may furnish a bond satisfactory to the department conditioned upon final determination of liability.

(6) Should any person, having been served with a notice and order to withhold and deliver, fail to answer the notice and order to withhold and deliver within the time prescribed in this section or otherwise fail to comply with the duties imposed in this section, the department may bring a proceeding, in the superior court of Thurston county or of the county in which service of the notice was made, to enforce the notice and order to withhold and deliver. The court may render judgment by default against such person for the full amount claimed by the department in the notice and order to withhold and deliver or may grant such other relief as the court deems just, together with costs.

(7) For purposes of this section, "person" has the same meaning as in RCW 82.04.030 and also includes any agency, department, or institution of the state.

[2009 c 562 § 1; 1987 c 208 § 1; 1975 1st ex.s. c 278 § 85; 1971 ex.s. c 299 § 22; 1963 ex.s. c 28 § 11.]

Notes: Finding -- 2009 c 562: "(1) The legislature finds that the state's vital interest in collecting lawfully due taxes must be balanced against the burden of complying with section 1(3) of this act, particularly for small financial institutions.

(2)(a) Therefore, the legislature directs the department of revenue to work with interested financial institutions to develop policies regarding the frequency of service under section 1(3) of this act and under what circumstances a notice and order to withhold and deliver will contain only a partial list of unsatisfied tax warrants eligible to be included in the notice. The policies should take into account the size of a financial institution, location of a financial institution, number of business accounts that a financial institution has, and any other factors the department may choose to consider.

(b) The department is also directed to develop a policy regarding the information to be contained in a notice and order to withhold and deliver to ensure that financial institutions can accurately match their records with the names of tax debtors.

(3) The department must report to the fiscal committees of the legislature on the implementation of section 1(3) of this act by January 1, 2012. The report should describe the policies developed by the department as directed in subsection (2) of this section. The report should also describe any difficulties the department encountered in implementing section 1(3) of this act and any suggestions the department may have to improve the effectiveness of section 1(3) of this act, reduce the burden on financial institutions in complying with section 1(3) of this act, or both."  
[2009 c 562 § 2.]

Construction -- Severability -- 1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Effective dates -- Severability -- 1971 ex.s. c 299: See notes following RCW 82.04.050.

## **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? Funds withheld through E-Withhold must be remitted by the thirty-first day after official service. For example, if official service occurs on May 15th, the financial institution must remit the withheld funds by June 15th. Official service occurs when the E-Withhold list is placed into the financial institution's designated SFT folder. The SFT service records a date and time stamp for actions occurring on it.

The department has established response steps and dates between official service and final remittance in order to verify/validate potential withholding. These response steps and dates are provided in the E-Withhold procedures document at [dor.wa.gov/E-Withhold](http://dor.wa.gov/E-Withhold). Instructions for the contents of safe deposit boxes are also included in the procedures document 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](mailto:dorewithholds@dor.wa.gov)

U.S. mail to:

Department of Revenue  
Attn: Compliance Division - CRRT  
P.O. Box 14699  
Tumwater, WA 98511-4699  
[Statutory Authority: RCW 82.01.060 and 82.32.235. 10-07-035, § 458-20-21701, filed 3/10/10, effective 4/10/10.]