

## **WAC 458-20-XXXX**

### **Working Families Tax Credit**

This rule provides information on the Working Families Tax Credit (WFTC). The WFTC is a credit in the form of a refund of retail sales and use tax due provided to eligible low-income persons. Starting February 1, 2023, eligible applicants may apply to the Department to receive a refund of sales or use tax paid during the period for which they are claiming the credit. The credit amount is based upon the applicant's income (including the applicant spouse's income, if filing married filing jointly on your federal income tax return) along with the number of qualifying children the applicant (and the applicant's spouse, if applicable) may have.

To qualify for a payment, applicants must meet the eligibility requirements provided in RCW 82.08.0206 and complete a WFTC application in the form and manner provided by the Department.

This rule is organized into four parts. Each part addresses a question or topic relevant to the administration of the WFTC program as follows:

1. Part 1: Eligibility Requirements
2. Part 2: Application Process
3. Part 3: Refund Amount
4. Part 4: General Administration and Review

Examples included in this rule identify a number of facts and then state a general conclusion; they should be used only as a general guide. The tax consequences of all situations must be determined after a review of all the facts and circumstances.

#### **Part 1: Eligibility Requirements**

1. **Am I eligible to receive a WFTC refund?** – To be eligible for a refund under the Working Families Tax Credit (WFTC), an individual applying for the credit must be an “eligible low-income person.” An “eligible low-income person” is an “individual” who meets all of the following requirements:
  - a. **Valid SSN or ITIN:** You (and your spouse if you are filing married filing jointly on your federal income tax return) must have a valid Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN);
  - b. **Properly File a Federal Income Tax Return:** You (and your spouse if you are filing married filing jointly) must properly file a federal income tax return for the tax year for which the credit is being claimed;
  - c. **EITC Eligible:** You must be eligible for the federal Earned Income Tax Credit (EITC), including meeting the federal income thresholds. The one exception to this requirement is that you, your spouse (if you are filing married filing jointly on your federal income tax return), and/or your qualifying children may have a valid ITIN instead of a SSN;

- d. **Residency:** You (or your spouse, if you are filing married filing jointly on your federal income tax return) must be a resident of Washington at least 183 days during the tax year for which the credit is being claimed; and
- e. **Sales or Use tax paid:** You paid Washington sales or use tax on taxable purchases you made during the period for which the credit is being claimed.

The term “individual” refers to an individual or an individual and that individual’s spouse if they file a federal joint income tax return.

An individual for the purposes of WFTC eligibility means any natural person who files a federal income tax return under the single, head of household, qualifying widow/widower, or married filing separately filing statuses. However, if you file a federal income tax return with your spouse under the married filing jointly filing status, you and your spouse are each considered to be a single individual for the purposes of WFTC eligibility with the exception of determining residency. In determining residency for spouses filing married filing jointly, only one spouse must be a Washington resident to meet the WFTC residency requirement.

**Question 1A: What if I am still married to my spouse, but we are separated, and I file a separate federal income tax return. Am I still eligible for the WFTC?**

**Answer 1A:** If you are still married to your spouse and you do not file a federal income tax return as married filing jointly and you are considered “unmarried” per Internal Revenue Code section 32(d), then you may still be eligible for the federal EITC, and thus the Washington WFTC. If you are filing “married but filing separately,” then the Department will require you to provide additional information to confirm your “unmarried” status.

“Unmarried” means that you must meet the following requirements:

- a. You are married, but you did not file a federal income tax return as married filing jointly.
- b. You lived with your qualifying child for more than half of the year. You may prove this by providing:
  - i. School records that match your place of residence,
  - ii. Rental application or lease with child/children listed,
  - iii. Landlord statement regarding child/children,
  - iv. Public benefits verification letters or statements,
  - v. Community based organization letters of recommendation, or vouchers, or
  - vi. Any other records that establish that your qualifying child lived with you for more than half of the year.
- c. Additionally, you must show either:
  - i. You did not have the same principal place of abode as your spouse during the last 6 months of the tax year, or
  - ii. You have a decree, instrument, or agreement (other than a divorce decree) described in [IRC 121\(d\)\(3\)\(C\)](#) (e.g., a written separation agreement, alimony or spousal maintenance decree, etc.) with your spouse and you and

your spouse are not members of the same household by the end of the tax year.

**Question 1B: I am still legally married, but I meet the “unmarried” requirements listed above. If my spouse does not meet the WFTC eligibility requirements, does that disqualify me from receiving the WFTC?**

**Answer 1B:** No. If you are filing a separate federal income tax return from your spouse, you will not be disqualified from receiving the WFTC solely because your spouse does not meet the WFTC requirements. If you are filing as married but filing separately, the Department will require additional documentation to establish your “unmarried” status as indicated above.

The following subsections of this rule [xx] through [xx] describe these eligibility requirements in subsection 1(a) through (e) of this rule above.

2. **Valid SSN or ITIN** – To be eligible for the WFTC, you must have a valid Social Security Number (SSN) or a valid Individual Taxpayer Identification Number (ITIN).

**Question 2A: What is a valid SSN?**

**Answer 2A:** An SSN is a number issued by the Social Security Administration to identify and record an individual’s wages or self-employment earnings. Your SSN must be valid for employment and issued before the due date of the federal income tax return you plan to claim the federal EITC (including extensions). A Social Security Number on a Social Security card that provides, “Valid for work with DHS authorization,” will be accepted as a valid SSN. However, if your Social Security card has the words, “Not valid for employment,” your SSN is not valid for WFTC purposes.

**Question 2B: What is a valid ITIN?**

**Answer 2B:** An ITIN is a tax processing number issued by the Internal Revenue Service (IRS). A valid ITIN for WFTC eligibility purposes is one that is not expired. If you, your spouse, or any of your qualifying children do not have a valid ITIN and are waiting for an ITIN or an ITIN renewal from the IRS, provide proof that you have applied for and are waiting to receive an ITIN or an ITIN renewal from the IRS. If the Department does not receive these documents from you by December 31<sup>st</sup>, then your application may be denied.

3. **Properly file a federal income tax return** – To be eligible for the WFTC, you (and your spouse, if filing married filing jointly on your federal income tax return) must properly file a federal income tax return for the tax year for which you are claiming the credit.

**Question 3A: What does it mean to “properly file” a federal income tax return?**

**Answer 3A:** The federal income tax return you and your spouse (if you are filing married filing jointly on your federal income tax return) file must fulfill the statutory and regulatory

requirements for the federal government to process your return. For example, if you wish to claim the WFTC for the 2022 tax period, you must properly file your 2022 federal tax return and include all information required on the return for the federal government to be able to process it.

**Question 3B: Do I have to claim the EITC to be eligible for the WFTC refund?**

**Answer 3B:** You are not required to claim or to actually receive the federal EITC to be eligible to receive the WFTC refund. So long as you and your spouse (if you are filing married filing jointly on your federal income tax return) and your qualifying children have valid SSNs or ITINs, and otherwise meet all other requirements to receive the federal EITC, you may be eligible to receive the WFTC refund.

- 4. Federal Earned Income Tax Credit eligible** – To be eligible for the WFTC, you must first be eligible for the federal Earned Income Tax Credit (EITC), including meeting the federal phase-out income thresholds for your adjusted gross income (AGI). The Department will calculate the WFTC refund based on the income you reported on your properly filed federal income tax return. The Department will determine your earned income and will apply certain reductions to the established federal income thresholds to determine your WFTC payment amount.

**Question 5A: What does “income” mean?**

**Answer 5A:** RCW 82.08.0206(2)(b) defines “income” as earned income as defined by the Internal Revenue Code (IRC or Title 26 U.S.C.) section 32.

**Question 5B: Is “combat pay” considered to be earned income under the WFTC income definition?**

**Answer 5B:** IRC section 32 allows those who have combat pay to elect whether to include their combat pay as earned income for the purposes of calculating their federal EITC amount. Regardless of whether you elect to include your combat pay as earned income for federal purposes, you can make a separate election of whether to include your combat pay as earned income for WFTC refund calculation purposes.

**Question 5C: What are the requirements to meet the federal income threshold?**

**Answer 5C:** The federal income thresholds for the federal EITC change on an annual basis. These thresholds vary depending on your filing status and how many qualifying children you have. Eligibility for the federal EITC is based on your adjusted gross income (AGI). If your AGI (or earned income) is equal to or more than the federal income limit, then you cannot claim the federal EITC and, as such, you cannot claim the WFTC. The Department will use the same federal phase-out income thresholds for the tax period for which the credit is being claimed.

**Question 5D: Not all members of my family have a valid SSN, but I am otherwise eligible for the federal EITC. Am I still eligible for the WFTC?**

**Answer 5D:** Yes, unlike the federal EITC, the WFTC does not require that all claimed individuals must have a valid SSN to be eligible. To be eligible for the WFTC, you, your spouse (if you are married and filing married filing jointly on your federal income tax return), and your qualifying children (if applicable), may either have a valid SSN or a valid ITIN.

**Question 5E: Are there any other federal EITC requirements that could potentially disqualify me from receiving the WFTC?**

**Answer 5E:** To be eligible for the federal EITC, you cannot file Form 2555, Foreign Earned Income and your investment income (income you receive from interest, dividends, capital gains, royalties, rental income, or other passive activities) cannot exceed \$10,000 (indexed for inflation). Nonresident aliens are not eligible to receive the federal EITC, even if they have a valid SSN. If you are not eligible to receive the federal EITC for these reasons, then you are not eligible to receive the WFTC.

**Question 5F: What if I am prohibited from claiming the federal EITC? Can I still qualify to receive the WFTC refund?**

**Answer 5F:** If the federal government has prohibited you from claiming the EITC due to reckless or intentional disregard or due to fraud and you are currently within the disallowance period during which you are not allowed to claim the federal EITC, then you cannot qualify to receive the WFTC refund.

5. **Residency** – To be eligible for the WFTC, you must be a resident of Washington, which means that you were physically present and resided in Washington for at least 183 days during the year for which you are claiming the credit.

**Question 4A: What does it mean to be “physically present” and “reside” in Washington?**

**Answer 4A:** To be “physically present” means that you are in or located within the state of Washington. To “reside” in Washington means that an individual has their home or residence in the state. In order to be considered a Washington resident, a person must be “physically present” and must “reside” in Washington for at least 183 days. Individuals who commute to Washington (e.g., for work) do not “reside” in Washington.

**Example 1:**

**Facts:**

Sally lives in Oregon but works in Washington. Sally drives to her work in Washington every morning and drives back to her home in Oregon every evening. She does this for more than 183 days during the year.

**Conclusion:**

While Sally might be “physically present” in Washington for at least 183 days, she did not “reside” in Washington as she lives in Oregon. Sally does not meet the WFTC residency requirement, and accordingly, would not qualify for a WFTC refund.

**Question 4B: What if I am in Washington for at least 183 days for work or for school without commuting back to my state of residence, do I meet the WFTC residency requirement?**

**Answer 4B:** Yes. An individual who is physically present in Washington for at least 183 days and does not commute back to their state of residence will generally be considered to “reside” in Washington and is a Washington resident for WFTC residency purposes.

**Question 4C: What if I work or attend school out-of-state and was not physically present in Washington for at least 183 days, can I still qualify if I consider Washington to be my home?**

**Answer 4C:** No. Even if you consider Washington to be your home and your state of residence, you must still be physically present in Washington for at least 183 days to meet the WFTC residency requirement.

**Question 4D: What if my spouse does not meet the residency requirement but I do, can we still qualify?**

**Answer 4D:** Yes. If you and your spouse are filing married filing jointly on your federal income tax return and your spouse does not meet the definition of a Washington resident, you may both still qualify to receive a joint refund so long as one of you meets the definition of a Washington resident.

**Question 4E: What if I am experiencing homelessness, can I still qualify?**

**Answer 4E:** Yes. The term “reside” does not require that an individual have a physical dwelling in Washington, just that Washington is the place they reside. Individuals or their families who are experiencing homelessness may demonstrate that they “reside” in Washington by providing proof of their residency via a letter or affidavit from a community organization or shelter attesting: (1) the community organization or shelter knows and can identify the individual, (2) the individual has resided in a particular area in Washington (which the organization or shelter will describe), and (3) the individual has resided in this area at least 183 days during the period for which the credit is being claimed.

**Question 4F: What if I am not a United States citizen or what if I am in the United States on a visa, can I still qualify as a Washington resident for WFTC purposes?**

**Answer 4F:** Yes, if you can demonstrate you resided in Washington and were physically present in Washington for at least 183 days during the year for which you are claiming the

credit. Generally, an individual's citizenship or visa status is not considered for WFTC residency purposes.

**Question 4G: What if the Department has questions and needs additional documentation?**

**Answer 4G:** If you are asked to confirm your status as a Washington resident, you must provide the Department with documentation which proves that you were physically present and resided in Washington for at least 183 days during the year for which you are claiming the credit.

- a. Documents which may help you to prove this include, but are not limited to, the following:
    - i. Washington driver's license,
    - ii. Washington ID card,
    - iii. Utility bills,
    - iv. Landlord statements,
    - v. Rental agreement or lease,
    - vi. Mortgage statements,
    - vii. Public benefits verification letters or statements,
    - viii. Community based organization letters of recommendation, vouchers, or testimonials, or
    - ix. School records
  - b. If you are unable to provide documentation which proves your residency, you will need to contact the Department to determine if there are other methods by which you can prove you meet the residency requirement, which the Department may allow at its discretion.
  - c. If the documentation provided does not adequately demonstrate your or your spouse's residency, the Department reserves the right to request supplemental information to confirm or clarify your residency during the period at issue.
6. **Sales or use tax paid** – The Department will generally presume that if you and/or your spouse (if you are filing married filing jointly on your federal income tax return) lived in the state of Washington for at least 183 days that you paid Washington state sales or use tax on taxable purchases you made during that period. You will need to attest to this fact on the WFTC application under penalties of perjury.

## **Part 2: Application Process**

7. **How do I file a WFTC application with the Department?** – To receive a refund, you must file an application with the Department. The Department will accept either a paper or electronic application. The Department will begin accepting WFTC applications on February 1<sup>st</sup> of each year or, if the 1<sup>st</sup> falls on a Saturday, Sunday or legal holiday, the next business day. RCW 1.12.070(3). The WFTC application, along with the required attachments, must be received by the Department no later than December 31<sup>st</sup> in the

calendar year following the tax year for which you file your federal tax return. If December 31<sup>st</sup> falls on a Saturday or Sunday, then the application will be due the next business day. For example, if you are requesting a WFTC refund based on your 2022 tax year information, the WFTC application, along with all required attachments, are due on or before December 31, 2023.

- a. If you are submitting your application electronically: To be considered timely, your WFTC application, along with all required attachments, must be received by the Department on or before December 31<sup>st</sup>.
- b. If you are submitting your application by mail: To be considered timely, your WFTC application, along with all required attachments, must be sent by the United States mail and postmarked on or before the December 31<sup>st</sup> deadline.
- c. For information on how to file an application, refer to the Department's website at X.

**8. What additional items do I need to include for the Department to process my WFTC application?** – In addition to the WFTC application, you must also provide the following items as attachments for the Department to process your application:

- a. Federal Income Tax Return: Applicants must include a copy of their federal income tax return, including all applicable schedules that they filed for the period for which they are claiming the WFTC refund. For example, if you are claiming a WFTC credit for the 2022 tax year, you must submit a copy of your 2022 federal income tax return.
- b. Proof of Identity: You must provide proof of your identity.
  - i. A government or tribal-issued photo identification of the applicant to establish your identity.
  - ii. Examples of acceptable identification include, but are not limited to, the following:
    1. Washington Driver's License (preferred)
    2. Passport (U.S. or foreign) or Passport Card,
    3. Permanent Resident Card (Form I-551) or Alien Registration Receipt Card,
    4. Employee Authorization Document Card (Form I-766),
    5. U.S. Visa with picture, or
    6. Other verifiable identification card issued by a federal, state, tribal, or local government agency or entity which has a picture.
  - iii. If you are filing with a third-party preparer or with tax preparation software, you must include a copy of your picture identification with your WFTC application at the time of filing.
  - iv. If you are unable to provide proof of your identity, you will need to contact the Department to determine if there are other methods by which you can prove your identity, which the Department may allow at its discretion.

**Question 8A: What happens if I do not provide the additional required documents with my WFTC application?**

**Answer 8A:** Your application will not be considered “complete” and the Department will not be able to process your WFTC refund.

**Question 8B: What does it mean to have a “complete” WFTC application?**

**Answer 8B:** To process your WFTC refund, you must provide a “complete” WFTC application to the Department on or before the filing deadline, which includes the following items:

- a. A filled-out and signed WFTC application (your spouse must also sign the WFTC application if you are filing married filing jointly on your federal income tax return),
- b. Your federal income tax return, and
- c. Proof of your identity.

**9. What if I forgot to file my WFTC application by December 31<sup>st</sup>, is it too late to file?**

– If you do not apply to receive the credit in the calendar year following the year for which the claim is being made, then you cannot apply for it later. For example, if you wish to request a WFTC refund based on your 2022 tax year information, the Department will not accept WFTC applications that were filed or mailed after December 31, 2023.

**Part 3: Refund Amount**

**10. How much of a refund can I receive?** – WFTC refunds will be paid to filers who meet the eligibility requirements. The amount you can receive is based on your income, your spouse’s income (if you are filing married filing jointly on your federal income tax return), and how many qualifying children you have.

**Question 9A: What is the maximum amount that I can receive?**

**Answer 9A:** The maximum amount depends on how many qualifying children you have, but only your first three qualifying children are considered for payment purposes.

- a. If you have no qualifying children, your maximum credit amount is \$300,
- b. If you have one qualifying child, your maximum credit amount is \$600,
- c. If you have two qualifying children, your maximum credit amount is \$900, and
- d. If you have three or more qualifying children, your maximum credit amount is \$1,200.

**Question 9B: What information does the Department use to calculate my WFTC refund?**

**Answer 9B:** The Department calculates your WFTC based on your properly filed federal income tax return for the period for which you are claiming the refund.

**Question 9C: What reductions does the Department make to the federal income thresholds?**

**Answer 9C:** The Department must reduce the federal income threshold by the specified amounts under RCW 82.08.0206(3)(b). This means that your maximum credit will be decreased if your income exceeds the reduced federal income thresholds as follows:

- a. If you have no qualifying children, then the Department will reduce the federal income threshold by \$2,500 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced phase-out income threshold the Department will reduce the amount of credit received by \$0.18.
- b. If you have one qualifying child, then the Department will reduce the federal income threshold by \$5,000 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal phase-out income threshold the Department will reduce the amount of credit by \$0.12.
- c. If you have two qualifying children, then the Department will reduce the federal income threshold by \$5,000 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal phase-out income threshold the Department will reduce the amount of credit by \$0.15.
- d. If you have three or more qualifying children, then the Department will reduce the federal income threshold by \$5,000 for the prior federal tax year. Then, for every additional dollar of income you have over the reduced federal phase-out income threshold the Department will reduce the amount of credit by \$0.18.

The Department will adjust the credit reductions on an annual basis beginning in 2023 in order to align the WFTC maximum qualifying income with the maximum federal adjusted gross income limit for the federal EITC. These adjustments will be published in an Excise Tax Advisory separate from this rule.

**Question 9D: What does “maximum qualifying income” mean?**

**Answer 9D:** Maximum qualifying income is the maximum federally adjusted gross income for the prior federal tax year.

**Question 9E: How does the Department calculate my WFTC refund?**

**Answer 9E:** Below is an example of how the WFTC refund is calculated based on the federal income threshold amounts for the 2021 tax year:

Note: This is an example of the calculation only. The earliest that the WFTC may be claimed is January 1, 2023, which would rely on the maximum qualifying income for tax

year 2022 rather than tax year 2021 as demonstrated in the example above. Please refer to the Department’s website here for updated calculation tables for tax year 2022 and beyond.

Table A

For those filing as Single, Head of Household, Widowed, or Married Filing Separately\*

Number of Qualifying Children	Federal Income Thresholds (Maximum AGI)	Federal Income Threshold Reduction Amount	Reduced Federal Income Threshold for WFTC
0	\$21,430	\$2,500	\$18,930
1	\$42,158	\$5,000	\$37,158
2	\$47,915	\$5,000	\$42,915
3 or more	\$51,464	\$5,000	\$46,464

\*Those filing Married Filing Separately must meet the “unmarried” requirement to qualify

Table B

For those filing as Married Filing Jointly

Number of Qualifying Children	Federal Income Thresholds (Maximum AGI)	Federal Income Threshold Reduction Amount	Reduced Federal Income Threshold for WFTC
0	\$27,380	\$2,500	\$24,880
1	\$48,108	\$5,000	\$43,108
2	\$53,865	\$5,000	\$48,865
3 or more	\$57,414	\$5,000	\$52,414

Example 2:

**Facts:**

John and Mary are married and filed their 2021 federal income tax return as married filing jointly. John and Mary have one qualifying child. On their federal income tax return, John and Mary’s combined earned income was \$43,200 and they meet all of the requirements in subsection (1)(a) through (e) of this rule to qualify for the WFTC refund.

**Conclusion:**

The applicable federal income threshold for a couple that is married filing jointly with one qualifying child is \$48,108. See Table B. This amount must be reduced by \$5,000 by the federal income threshold reduction amount, which results in a reduced federal income threshold for WFTC of \$43,108. See Table B. John and Mary’s earned income for WFTC purposes is \$92 higher than the reduced federal income threshold for WFTC ( $\$43,200 - \$43,108 = \$92$ ). The Department must reduce the refund by \$0.12 for every dollar above the \$43,108 reduced federal income threshold (or 12% for each dollar).

Because they have one qualifying child, the highest credit amount that John and Mary could receive is \$600. Because their earned income is \$92 above the reduced federal income threshold, their refund will be reduced by \$11.04 ( $\$92 \times \$0.12 = \$11.04$ ). John and Mary’s \$600 refund is \$588.96.

**Question 9F: What is a “qualifying child” for WFTC purposes?**

**Answer 9F:** To be eligible under the WFTC, a “qualifying child” must meet the federal tax requirements under Internal Revenue Code section 32. The only exception to this is that children who do not meet the valid SSN requirements for federal EITC purposes will still be considered “qualifying children” for WFTC purposes so long as they have a valid ITIN and meet all other federal requirements.

**Question 9G: How do I determine whether my child is a “qualifying child”?**

**Answer 9G:** A qualifying child must meet the following requirements:

- a. The child must be –
  - i. Your child or grandchild, or
  - ii. Your brother, sister, stepbrother, stepsister, or any descendent of such relative,
- b. The child must have shared the same principal place of abode with you for more than one-half of the tax year,
- c. The child has not filed a joint tax return with their spouse,
- d. The child must be younger than you (and your spouse, if you are filing married filing jointly on your federal income tax return) and –
  - i. Is not yet 19 years old at the end of the year for which you are claiming the refund, or
  - ii. Is a student no older than 24 years old at the end of the year for which you are claiming the refund, or
  - iii. Permanently and totally disabled during the tax year, regardless of age.

**Question 9H: For circumstances where several people could potentially claim the same child, how does the Department decide who can claim the child for WFTC purposes?**

**Answer 9H:** If there is a question of who may claim the child, the Department will determine who can claim based on the following hierarchy of rules:

- a. If only one person is the child's legal parent (“parent”): The parent may claim the child,
- b. If both parents file a joint tax return with each other: They may claim the child,
- c. If both parents claim the child on separate tax returns: The parent with whom the child lived with the longest during the year may claim the child,
- d. If the child lived with each parent for the same amount of time: The parent with the higher adjusted gross income (AGI) for the year may claim the child
- e. If neither parent can claim the child: The person who had the highest AGI for the year may claim the child; and
- f. If a parent can claim the child but does not: The person who had the highest AGI for the year may claim the child, but only if that person's AGI is greater than the AGI of any of the child's parents who can claim the child.

**Question 9I: What if I am the noncustodial parent of my child? Can I still receive the WFTC refund if my spouse does not claim our child?**

**Answer 9I:** You may still qualify to receive the WFTC if you meet the requirements for an individual without children, but you cannot claim the child as a qualifying child on your WFTC application. A custodial parent is the parent with whom the child lived for the greater number of nights during the year. The other parent is the noncustodial parent. While it may be possible for you to claim the child as your qualifying child for other federal tax benefits, the child must still live with you for more than half the year to be considered a qualifying child for federal EITC purposes. As you are the noncustodial parent, and therefore the child did not live with you for the required period of time during the year, you cannot claim this child for federal EITC purposes and, as such, you cannot claim this child for WFTC purposes.

**Question 9J: What if my qualifying child lives with my spouse outside of Washington? If I am a Washington resident, can I claim my qualifying child for WFTC purposes?**

**Answer 9J:** Yes, but only if you and your spouse are filing married filing jointly on your federal income tax return and you or your spouse are considered to be a Washington resident for the year for which you are claiming the refund. The child claimed must also meet all WFTC requirements for a qualifying child. The Department may request additional information from you and your spouse to confirm that these requirements have been met.

**Question 9K: What is the minimum refund amount that I can receive?**

**Answer 9K:** So long as you meet all eligibility requirements and you are entitled to receive one cent or more under the WFTC, you will receive a minimum refund of \$50. RCW 82.08.0206(3)(c).

**Question 9L: Will the WFTC refunds be adjusted for inflation?**

**Answer 9L:** Yes, the refund amounts will be adjusted for inflation each year beginning January 1, 2024 based on changes to the consumer price index that are published by November 15<sup>th</sup> of the previous year for the most recent 12-month period. “Consumer price index” means, for any 12-month period, the average consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor. RCW 82.08.0206(3)(d) and (e).

Credit amounts that are adjusted due to inflation must be rounded to the nearest \$5.00. Updated credit amounts will be published in an Excise Tax Advisory.

**11. What if I made a mistake?** – If you realize that you have made a mistake on your WFTC application, then you must correct the mistake by updating or amending your WFTC application.

**Question 11A: When do I need to amend my WFTC application?**

**Answer 11A:** You must amend your WFTC application when you realize the information submitted on your application is not accurate. This allows the Department to make sure that it has accurate records and that it can process your refund without additional delay. If you have questions about amending your application, please contact the Department for additional information.

**Question 11B: What if the Internal Revenue Service (IRS) makes changes to my federal income tax return? Do I need to amend my WFTC application?**

**Answer 11B:** Yes, if the IRS makes changes to your federal income tax return, then the amount of refund that you are eligible to receive may be different than what the Department provided to you and you will need to amend your WFTC application. If the Department finds that the IRS has made changes to the federal income tax return that would increase or decrease the amount of the WFTC refund you are entitled to receive, then the Department may make changes to your WFTC refund amount. This may mean that you will be required to pay back some of the credit that you received. If you know that the IRS has made changes to your federal tax return, you should alert the Department of these changes as soon as possible by amending your WFTC application.

**Question 11C: How long do I have to amend my WFTC application?**

**Answer 11C:** If you timely filed your WFTC application, along with all required attachments, you may amend your application at any point within the statutory nonclaim period provided in [RCW 82.32.060](#). The statutory nonclaim period is four years beginning with the calendar year for which the refund is being claimed. For example, if an applicant wishes to amend their 2022 WFTC application, they may do so at any point during the shaded years below:

<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
2022 – Sales/use tax paid	2023 – Applicant files 2022 WFTC application			2026 – final year to submit amended application

**Question 11D: If I should have received a larger WFTC refund than I got, can I still receive the additional amount?**

**Answer 11D:** Yes, if you alert the Department that you should have been paid a larger refund than you received, or if the Department finds that you should have been paid a larger refund than you received, then the Department will send the additional amount that you should have received to you. However, the Department may only send additional refund amounts if it discovers or is notified of the error before the end of the four-year statutory nonclaim period. If you realize that you were entitled to a larger WFTC refund than you received, the Department encourages you to submit an amended application as soon as possible to avoid being time barred. Interest is not paid on any additional WFTC amounts that you are entitled to receive. See RCW 82.08.0206(10).

#### **Part 4: General Administration and Review**

- 12. How is the WFTC Program administered?** – The Department is responsible for administering the WFTC program. The Department administers the application process described in Part 2 of this rule, by providing refunds to applicants who meet the eligibility requirements in Part 1 of this rule. As part of this administration, the Department has the authority to review all WFTC applications and determine the amount the applicant is legally entitled to receive. If the Department determines that a refund was overpaid, it may issue an assessment within four years after the close of the calendar year for which the WFTC refund is being claimed. For example, if you file your 2022 WFTC application on December 1, 2023, the Department has until the end of 2026 to issue an assessment for the overpaid refund amount. If the Department finds that you have received less than you were legally entitled to receive, then the Department must adjust your WFTC refund amount and send you the additional refund owed to you.
- 13. What if I disagree with the Department’s decision?** – If you disagree with the Department’s decision concerning your WFTC refund amount or assessment of WFTC overpayment, you may seek administrative review of that decision. To have this decision reviewed, you must seek an informal review under WAC 458-20-100 (Rule 100). Additional information and details regarding the Rule 100 process is available on the Department’s website at <https://dor.wa.gov/file-pay-taxes/reviews-and-appeals>.

**Question 13A: What types of issues may I appeal?**

**Answer 13A:** You may seek administrative review of the following actions taken by the Department regarding the WFTC: (1) you received an assessment for overpayment of the WFTC refund amounts; (2) the Department denied all or part of your request for a WFTC refund; (3) you received an adverse letter ruling from the Department.

**Question 13B: How do I request an informal review?**

**Answer 13B:** All informal review requests must be submitted in writing to the Department within 30 days of the date the preliminary decision was issued. Information about how to seek review, including filing your petition, is available on the Department's website.

**Question 13C: What is the review process?**

**Answer 13C:** WFTC reviews are subject to small claims review as described in Rule 100 as the amount at issue is below \$25,000. This process provides petitioners with a simplified review that includes an abbreviated written determination, which becomes the final action of the Department. If you do not want your case heard as a small claims review, you may request a longer mainstream review. Once the petition is received, the Department will acknowledge receipt with a letter. You will have the opportunity to provide additional records and explain your position in an informal hearing. After the Department has reviewed your claim, a tax review officer assigned to your case will issue a final agency determination. A determination concerning the review of an assessment or refund denial may be appealed to the Board of Tax Appeals. A determination concerning the review of a letter ruling is not subject to further appeal beyond the Department.

- 14. What if I owe money to the Department?** – If you receive a WFTC refund amount that is larger than you were entitled to receive, the Department may assess the overpaid amount.

**Question 14A: Do the WFTC overpayments accrue interest?**

**Answer 14A:** Yes. However, interest will not begin to accrue on the amount assessed for the first six months from the date the Department issued the assessment. After this initial six-month period, interest will accrue on the amount due and owing at the rates specified under RCW 82.32.050 until the total amount due has been paid in full.

**Question 14B: Can the Department assess penalties on WFTC overpayments?**

**Answer 14B:** Yes. If overpayment due is not paid in full by the date due, or the Department issues a warrant for the collection of amounts due under this subsection, the Department may assess applicable penalties under RCW 82.32.090. However, the penalties are not due until six months after the penalties are assessed. The Department will take appropriate steps work with you to establish a payment plan or other means to resolve the liability.

If the Department finds, by clear, cogent, and convincing evidence, that an individual knowingly submitted, caused to be submitted, or consented to the submission of, a fraudulent WFTC claim for refund, the Department must assess a penalty of 50 percent of the overpaid amount in addition to any other applicable penalties.

Below is an example of how interest and penalties may be assessed if you received a larger WFTC refund than you were entitled to receive and are required to pay the overpayment back (note: this example does not account for leap years):

January 1<sup>st</sup>: Amount of overpayment is assessed, requires payment by February 1<sup>st</sup>

February 2<sup>nd</sup>: Full payment is not made, 15% penalty is assessed but is not due until August 2<sup>nd</sup>.

March 4<sup>th</sup>: Full payment is not made, additional 10% penalty is assessed but is not due until September 4<sup>th</sup>.

July 1<sup>st</sup>: Interest begins to accrue

August 2<sup>nd</sup>: 15% penalty is now due, interest continues to accrue until amounts are paid in full.

September 4<sup>th</sup>: 10% penalty is now due for a total of 25% penalty, interest continues to accrue until amounts are paid in full.

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