



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017) (Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 06, 2022

TIME: 11:25 AM

WSR 22-18-088

Agency: Department of Revenue

Subject of possible rule making: WAC 458-20-1005 – Written determinations as precedents – Criteria for publication

Statutes authorizing the agency to adopt rules on this subject: RCW 82.32.410; RCW 82.32.300)

Reasons why rules on this subject may be needed and what they might accomplish: RCW 82.32.410 authorizes the director to designate certain written determinations as precedents. RCW 82.32.410(1)(a) provides that the director shall adopt a rule identifying the criteria to be used to decide whether a determination is precedential.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: N/A

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

Name: Adam Becker	(If necessary) Name:
Address: 6400 Linderson Way SW, PO Box 47453, Tumwater, WA 98504	Address:
Phone: 360-534-1574	Phone:
Fax: 360-534-1606	Fax:
TTY: 800-833-6384	TTY:
Email: AdamB@dor.wa.gov	Email:
Web site:	Web site:
Other:	Other:

Additional comments: Written comments may be submitted by mail or email and should be directed to Adam Becker using one of the contact methods above. Written and oral comments will be accepted at the Public Meeting.

Date: 10/05/22 **Time:** 10:00 am

Public Meeting Location: Telephonic/internet meeting only. Contact Sierra Crumbaker at SierraC@dor.wa.gov for dial-in/login information.

Date: September 6, 2022

Name: Atif Aziz

Title: Rules Coordinator

Signature:



DRAFT

NEW SECTION

WAC 458-20-10005 Written determinations as precedents—Criteria for publication. (1) **Introduction.** This rule provides criteria the director uses to decide whether a determination is precedential, as required by RCW 82.32.410. The statute requires that the criteria include, but not be limited to, whether the determination clarifies an unsettled interpretation of Title 82 RCW or where the determination modifies or clarifies an earlier interpretation.

(2) **Criteria.** A determination issued pursuant to WAC 458-20-100 may be designated as precedential and published when all of the following criteria are met:

(a) The decision is a well-reasoned application of the law to a specific set of facts.

(b) The decision addresses only the law and facts necessary to resolve the case.

(c) The decision is needed to:

(i) Provide guidance on a previously unaddressed area of the law and articulate the department's current policy;

(ii) Apply the law to a significantly different set of facts;

(iii) Overrule a published determination; or

(iv) Provide a better or more current articulation on how the law should be interpreted.

(d) The decision can be effectively sanitized, or the taxpayer has granted a waiver of the secrecy clause.