EXPEDITED RULE MAKING

CR-105 (July 2026)
(Implements RCW 34.05.353)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 05, 2026
TIME: 5:31 PM

WSR 26-20-088

Agency: Department of Revenue

Title of rule and other identifying information: (describe subject) WAC 458-20-240: Manufacturer's new employee tax credits—Applications filed after June 30, 2010.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Department of Revenue intends to amend WAC 458-20-240 to incorporate changes enacted pursuant to Substitute Senate Bill 6149 (2026), which amended the definition of rural county under RCW 82.14.370. The definition of rural county was changed to include in addition to the current definition, a county with a population density of 100 persons per square mile or greater, with no city with a population greater than 45,000 persons.

Reasons supporting proposal: The update is to conform the rule to SSB 6149, which passed during the 2026 legislative session.

Statutory authority for adoption: RCW 82.32.300 and RCW 82.01.060

Statute being implemented: RCW 82.04.062

Is rule necessary because of a:

Federal Law?	☐ Yes	☒ No
Federal Court Decision?	☐ Yes	☒ No
State Court Decision?	☐ Yes	☒ No

If yes, CITATION:

Name of proponent: (person or organization) Department of Revenue

☐ Private
☐ Public
☒ Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Ken Torgerson	7345 Linderson Way SW, Tumwater, WA	360-534-1579
Implementation:	Jeannette Becker	7345 Linderson Way SW, Tumwater, WA	360-534-1599
Enforcement:	Jeannette Becker	7345 Linderson Way SW, Tumwater, WA	360-534-1599

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

☐ Relates only to internal governmental operations that are not subject to violation by a person;

☐ Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;

☐ Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;

☒ Content is explicitly and specifically dictated by statute;

☐ Substitutes "alien" with "noncitizen" and related grammatical changes not changing the effect of the rule;

☐ Has been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or

☐ Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

☐ The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;

☐ The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;

☐ The rule is no longer necessary because of changed circumstances; or

☐ Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): The expedited rulemaking process is appropriate because the Department of Revenue is incorporating changes resulting from 2026 legislation.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

Name: Ken Torgerson

Agency: Department of Revenue

Address: PO Box 47453, Olympia, WA 98504-7453

Phone: 360-534-1579

Fax: 360-534-1606

Email: kent@dor.wa.gov

Website: DOR.WA.GOV

BEGINNING (date/time) 10/05/2026/5:30 PM_____ **AND RECEIVED BY** (date/time) 12/7/2026/12:00 PM

Date: 10/05/2026	**Signature:**
Name: Perry Samans	
Title: Rules Coordinator	

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings.
Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

AMENDATORY SECTION (Amending WSR 22-24-102, filed 12/6/22, effective 1/6/23)

WAC 458-20-240 Manufacturer's new employee tax credits—Applications filed after June 30, 2010. (1) **Introduction.** Chapter 82.62 RCW provides business and occupation (B&O) tax credits to certain persons engaged in manufacturing and research and development activities. These credits are intended to stimulate the economy by creating employment opportunities in specific rural counties and community empowerment zones of this state. The credits are as much as $4,000 per qualified employment position. This rule explains the eligibility requirements and application procedures for this program. It is important to note that an application for the tax credits must be submitted to the department of revenue (department) within 90 consecutive days after the first qualified employment position is filled. See subsection (6) of this rule for additional information regarding this application requirement.

(2) **Who is eligible for these tax credits?** Subject to certain qualifications, an applicant (person applying for a tax credit under chapter 82.62 RCW) who is engaged in an eligible business project is entitled to the tax credits provided by chapter 82.62 RCW.

(a) **What is an eligible business project?** An "eligible business project" means:

(i) Manufacturing, commercial testing, or research and development activities conducted by an applicant;

(ii) In an eligible area at a specific facility;

(iii) Where employment increases as described under subsection (3) of this rule; and

(iv) Does not include any portion of a business project undertaken by a light and power business or any portion of a business project creating employment positions outside an eligible area.

To be considered an "eligible business project," the applicant's number of average full-time qualified employment positions at the specific facility must increase by 15 percent in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled. Subsection (4) of this rule explains how to determine whether this threshold is satisfied.

New businesses meeting all requirement of the program, whether new to Washington or newly formed, are eligible for all qualified employment positions filled during the four consecutive full calendar quarters immediately preceding the quarter during which the first qualified employment position is filled.

(b) **What is an eligible area?** An "eligible area" is:

(i) A rural county, which is any of the following, as determined by the office of financial management pursuant to RCW 43.62.035:

(A) A county with fewer than 100 persons per square mile ((~~or,~~));

(B) A county with a population density of 100 persons per square mile or greater, with no city as defined in RCW 36.70A.030, with a population greater than 45,000 persons; or

(C) A county smaller than 225 square miles((~~, as determined annually by the office of financial management and published by the department effective for the period of July 1st through June 30th~~)). (See RCW 82.14.370); or

(ii) A community empowerment zone (CEZ). CEZ means an area meeting the requirements of RCW 43.31C.020 and officially designated by

DRAFT

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings.
Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

the director of the department of commerce. For a business located in a CEZ, credit is only earned for those employees, who at the time of hire, are residents of the CEZ in which the project is located.

(iii) **How to determine whether an area is an eligible area.** Rural county designation information can be obtained from the office of financial management internet website at www.ofm.wa.gov/pop/popden/rural.asp. The department has instituted a geographic information system (GIS), referred to as the Tax Rate Lookup Tool, to assist taxpayers in determining taxing jurisdiction boundaries, local tax rates, and a mapping and address lookup system to determine whether a specific address is within a CEZ. The system is available on the department's internet website at dor.wa.gov.

(c) **What are manufacturing and research and development activities?**

(i) **Manufacturing.** "Manufacturing" has the meaning given in RCW 82.04.120. In addition, for the purposes of chapter 82.62 RCW, "manufacturing" also includes the activities performed by research and development laboratories and commercial testing laboratories.

(ii) **Research and development.** "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun, but only when such activities are intended to ultimately result in the production of a new, different, or useful substance or article of tangible personal property for sale. "Commercial sales" does not include sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed $1,000,000.

(3) **What are the hiring requirements?** The average full-time qualified employment positions at the specific facility will be at least 15 percent greater in the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled than the applicant's average qualified employment positions at the same facility in the four consecutive full calendar quarters immediately preceding the calendar quarter during which the first qualified employment position is filled.

(a) **What is a qualified employment position?** A "qualified employment position" means a position filled by a permanent full-time employee employed at an eligible business project for four consecutive full calendar quarters. Once a full-time position is established and filled it will continue to be considered "filled" even during periods of vacancy, provided the cumulative period of any vacancies in that position is not more than 120 days in the four quarter period and the employer is training or actively recruiting a permanent replacement, full-time employee for the position.

(b) **What is a "permanent full-time employee"?** A "permanent full-time employee" is a position that is filled by an employee who satisfies any one of the following minimum thresholds:

(i) Works 35 hours per week for 52 consecutive weeks;

(ii) Works 455 hours, excluding overtime, each quarter for four consecutive quarters; or

(iii) Works 1,820 hours, excluding overtime, during a period of 12 consecutive months.

(c) **"Permanent full-time employee" - Seasonal operations.** For applicants that regularly operate on a seasonal basis only and that employ more than 50 percent of their employees to work on a seasonal basis, a "permanent full-time employee" is a permanent full-time employ-

DRAFT

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings.
Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

ee as described above or an employee(s) that works the equivalent amount of hours on a seasonal basis.

(4) **How to determine if the 15 percent employment increase requirement is met.** The credit is only available to applicants who satisfy the 15 percent employment increase.

(a) **Determining the 15 percent increase.** To determine the projected number of permanent full-time qualified employment positions necessary to satisfy the 15 percent employment increase requirement:

(i) Determine the average number of permanent full-time qualified employment positions that existed at the facility during the four consecutive full calendar quarters immediately preceding the calendar quarter for which the first qualified employment position is filled.

(ii) Multiply the average number of full-time positions from subsection (i) by .15 or 15 percent. The resulting number equals the number of new positions that must be filled to meet the 15 percent increase. Numbers are rounded down to the nearest whole number.

(b) **When does hiring have to occur?** All hiring increases must occur during the four consecutive full calendar quarters after the calendar quarter during which the first qualified employment position is filled for purposes of meeting the 15 percent threshold test. Positions hired in the four consecutive full calendar quarters prior to the first qualified employment position being filled are not eligible for a credit but the positions are used as a base when calculating whether the 15 percent threshold has been met.

(c) **The department will assist applicants to determine their hiring requirements.** Accompanying the tax credit application is a worksheet to assist the applicant in determining if the 15 percent qualified employment threshold is satisfied. Based upon the information provided in the application, the department will advise applicants of their minimum number of hiring needs for which credits are being sought.

(d) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax status of each situation must be determined after a review of all of the facts and circumstances.

(i) ABC Company anticipates increasing employment at a manufacturing facility by an average of 15 full-time qualified employment positions for a total of 113 positions. The average number of full-time qualified employment positions for the four consecutive full calendar quarters immediately preceding the calendar quarter for which the first qualified employment position is filled was 98. To qualify for the tax credit program, the minimum average number of full-time qualified employment positions required for the four consecutive full calendar quarters after the calendar quarter for which the first qualified positions is filled is 98 x .15 = 14.7 (rounding down to 14 positions). Therefore, ABC Company's plan to hire 15 full-time qualified employees satisfies the 15% employment increase requirement.

(ii) ABC anticipates increasing employment positions at this same manufacturing facility by an average of 15 additional full-time qualified employment positions during the following four consecutive full calendar quarters for a total of 128 positions. To qualify for the tax credit program, the minimum average number of full-time qualified employment positions required for these four consecutive full calendar quarters is 16 (113 x .15 = 16.95, rounding down to 16). Therefore, ABC Company's plan to hire 15 full-time qualified employees does not satisfy the 15% employment increase requirement.

DRAFT

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings.
Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

(5) **Restriction against displacing existing jobs within Washington.** The law provides that no recipient may use tax credits approved under this program to decertify a union or to displace existing jobs in any community of the state. Thus, the average expected increase of employment positions at the specific facility for which application is made must reflect a gross increase in the applicant's employment of persons at all locations in this state. Transfers of personnel from existing positions outside of an eligible area to new positions at the specific facility within an eligible area will not be allowed for purposes of approving tax credits. Also, layoffs or terminations of employment by the recipient at other locations in Washington but outside an eligible area for the purpose of hiring new positions within an eligible area will result in the withdrawal of any credits taken or approved.

(6) **Application procedures.** A taxpayer must file an application with and obtain approval from the department to receive tax credits under this program. A new application must be submitted after each group of four consecutive full calendar quarters that you project employment to increase over 15 percent. RCW 82.62.020 requires that application for the tax credits be filed within the first 90 days after the first qualified employment position is filled. Applications failing to satisfy this statutory requirement will be disapproved.

(a) **How to obtain and file applications.** Rural Area Application for New Employee B&O Tax Credit forms are provided by the department at the department's internet website at dor.wa.gov under the option for forms. The completed application may be sent by fax or mail to the addresses provided in the application form.

The U.S. Post Office postmark or fax date will be used as the date of application.

(b) **Confidentiality.** Applications, reports, or any other information received by the department in connection with this tax credit program, except applications not approved by the department, are not confidential and are subject to disclosure. All other taxpayer information is subject to the confidentiality provisions in RCW 82.32.330.

(c) **Department to act upon application within 60 days.** The department will determine if the applicant qualifies for tax credits on the basis of the information provided in the application and will approve or disapprove the application within 60 days. If approved, the department will issue a credit approval letter containing the dollar amount of tax credits available for use and the procedures for taking the credit. If disapproved, the department will notify the applicant in writing of the specific reasons for disapproval. The applicant may seek administrative review of the department's disapproval of an application by filing a petition for review with the department. The petition must be filed within 30 days from the date of notice of the disallowance pursuant to the provisions of WAC 458-20-100 (Informal administrative reviews).

(d) **No adjustment of credit after approval.** After an application is approved and tax credits are granted, no upward adjustment of the application will be made for the four calendar quarters for which the application was approved.

(7) **How much is the tax credit?** The amount of tax credit is based on the number of qualified employment positions created and the wages and benefits paid to these qualified employees.

(a) **How much tax credit may I claim for each qualified employment position?** The amount of tax credit that may be claimed for each position created is as follows:

DRAFT

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings.
Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

(i) Two thousand dollars for each qualified employment position that pays $40,000 or less in wages and benefits annually and is employed in an eligible business project; and

(ii) Four thousand dollars for each qualified employment position that pays more than $40,000 in wages and benefits annually and is employed in an eligible business project.

(b) **What qualifies as wages and benefits?** For the purposes of chapter 82.62 RCW, "wages" means compensation paid to an individual for personal services, whether denominated as wages, salary, commission, bonus, or otherwise. "Benefits" means compensation not paid as wages and includes Social Security, retirement, health care, life insurance, industrial insurance, unemployment compensation, vacation, holiday, sick leave, military leave, and jury duty. "Benefits" does not include any amount reported as wages.

(8) **How to claim approved credits.** The recipients must take the tax credits approved under this program on excise tax returns filed using the department's electronic filing system. These tax credits may not exceed the B&O tax liability.

(a) **When can credits be used?** The credits cannot be used until the department has approved the application. After approval, a recipient may use $2,000 or $4,000 of tax credit at the time it hires each new employee, depending on the wage/benefit level of the position filled.

(b) **No refunds for unused credits.** No tax refunds will be made for any tax credits which exceed tax liability during the life of this program. If tax credits derived from qualified hiring exceed the recipients' business and occupation tax liability in any one calendar year under this program, they may be carried forward to the next reporting period(s), until used or expired.

(c) **Expiration of unused credits.** All unused credits earned by the recipient expire on January 1st of the year that is six years after the year in which the latest of any one of the following events occurs:

(i) The department receives notice from the recipient or its representative that the recipient has ceased engaging in business in the state as those terms are defined in chapter 82.04 RCW;

(ii) The department closes the recipient's tax reporting account; or

(iii) The filing with the department of the recipient's last return that claimed the credit.

(9) **Report to be filed by recipient.** A recipient of tax credits under this program must complete and submit a report of employment activities to substantiate that he or she has complied with the hiring and retention requirements for approved credits. RCW 82.62.050. This report must be filed with the department by the last day of the month immediately following the end of the four consecutive full calendar quarter period for which a credit is earned. Based upon this report, the department will verify that the recipient is entitled to the tax credits approved by the department when the application was reviewed. Rural Area Annual Report for New Employee B&O Tax Credit forms are provided by the department at the department's internet website dor.wa.gov under the option for forms. The completed report may be sent by fax or mail to the addresses provided in the report form.

The U.S. Post Office postmark or fax date will be used as the date of filing.

(a) **Verification of report.** The department will use the same report the recipient provides to the department of employment security,

DRAFT

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings.
Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

which is known as the quarterly employment security report, to verify the recipient's eligibility for tax credits. The recipient must maintain copies of the quarterly employment report for the four consecutive full calendar quarters prior to the quarter for which the first qualified employment position is filled, the five calendar quarters for which the credits are claimed (this includes the quarter for which the first qualified employment position is filled), and the four consecutive full calendar quarters following the hiring of persons to fill the qualified employment positions. (The recipient does not have to forward copies of the quarterly employment report to the department each quarter.) The department may use other wage information provided to the department by the department of employment security. The taxpayer must provide additional information to the department, as the department finds necessary to calculate and verify wage eligibility.

(b) **Failure to file report.** The law provides that if any recipient fails to submit a report or submits an inadequate report, the department may declare the amount of taxes for which credit has been used to be immediately due and payable. An inadequate report is one which fails to provide information necessary to confirm that the requisite number of employment positions has been created and maintained for four consecutive full calendar quarters.

(10) **What if the required number of positions is not created?** The law provides that if the department finds that a recipient is not eligible for tax credits for any reason, other than failure to create the required number of qualified employment positions, the amount of taxes for which any credit has been used will be immediately due. No interest or penalty will be assessed in such cases. However, if the department finds that a recipient has failed to create the specified number of qualified employment positions, the department will assess interest, but not penalties, on the taxes against which the credit has been used. This interest on the assessment is mandatory and will be assessed at the statutory rate under RCW 82.32.050, retroactively to the date the tax credit was used. The interest will accrue until the taxes for which the credit was used are fully repaid. RCW 82.32.050. The interest rates under RCW 82.32.050 can be obtained from the department's website at dor.wa.gov or by calling the department's information center at 360-705-6705.

(11) **Program thresholds.** The department cannot approve any credits that will cause the total credits approved to exceed $7,500,000 in any fiscal year. RCW 82.62.030. A "fiscal year" is the 12-month period of July 1st through June 30th. If all or part of an application for credit is disallowed due to cap limitations, the disallowed portion will be carried over for approval the next fiscal year. However, the applicant's carryover into the next fiscal year is only permitted if the total credits approved for the next fiscal year does not exceed the cap for that fiscal year as of the date on which the department has disallowed the application.

DRAFT