



EXPEDITED RULE MAKING

CR-105 (December 2017) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: November 18, 2019

TIME: 2:10 PM

WSR 19-23-072

Agency: Department of Revenue

Title of rule and other identifying information: (describe subject) WAC 458-18-010 Deferral of special assessments and/or property taxes-Definitions; WAC 458-18-020 Deferral of special assessments and/or property taxes-Qualifications for deferral; WAC 458-18-100 Deferral of special assessments and/or property taxes-When payable-Collection-Partial payment.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is amending WACs 458-18-010, 458-18-020, and 458-18-100 to incorporate 2019 legislation, Engrossed Substitute Senate Bill 5160, Sections (4) – (8). This legislation amended the qualification requirements for the property tax deferral program under chapter 84.38 RCW.

Reasons supporting proposal: These rules are being updated to incorporate changes resulting from 2019 legislation, Engrossed Substitute Senate Bill 5160, Sections (4) – (8). Providing updated deferral program qualification information to applicants will assist the applicant in understanding program requirements and will also assist county assessors when processing deferral applications.

Statutory authority for adoption: RCW 84.38.180

Statute being implemented: RCW 84.38.020; 84.38.030; 84.38.070; 84.38.130; 84.38.150.

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> 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
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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;
- Have 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 rule-making process is applicable to these rule updates because the Department is incorporating changes resulting from 2019 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

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AND RECEIVED BY (date) January 21, 2020

Date: November 18, 2019

Name: Atif Aziz

Title: Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 13-08-031, filed 3/27/13, effective 4/27/13)

WAC 458-18-010 Deferral of special assessments and/or property taxes—Definitions. (1) Introduction. This ~~((section is intended to))~~ rule provides definitions of the terms ~~((most frequently))~~ used to administer the deferral program in chapter 84.38 RCW and this section through WAC 458-18-100 for special assessments and/or property taxes on residential housing ~~((created by chapter 84.38 RCW. Unless a different meaning is plainly required by the context, the words and phrases used in this chapter have the following meanings:~~

~~((1))~~).

(2) "Boarding house" means a residence in which lodging and meals are provided. Each resident of a boarding house is charged a lump sum to cover the costs of lodging and meals with no separate accounting for the fair selling price of the meals.

~~((2))~~ (3) "Claimant" means a person who either elects under chapter 84.38 RCW or is required under RCW 84.64.050, to defer payment of special assessments and/or real property taxes accrued on ~~((his or her))~~ their residence by filing a declaration to defer as allowed under chapter 84.38 RCW. ~~((If more than one individual in a household wishes to defer special assessments and/or taxes, only one may file a declaration to defer; in other words,))~~ Only one ((claimant)) individual per household ((is allowed)) may file a declaration to defer.

~~((3))~~ (4) "Cooperative housing" means any existing structure, including surrounding land and improvements, ~~((that))~~ which contains one or more dwelling units and is owned by:

(a) An association with resident shareholders who are granted renewable leasehold interests in dwelling units in the building. Unlike owners of a condominium, the resident shareholders who hold a renewable leasehold interest do not own their dwelling units; or

(b) An association organized under the Cooperative Association Act (chapter 23.86 RCW).

~~((4))~~ (5) "Department" means the state department of revenue.

~~((5))~~ (6) "Devisee" has the same meaning as provided in RCW 21.35.005: Any person designated in a will to receive a disposition of real or personal property.

(7) "Domestic partner" means a person registered under chapter 26.60 RCW or a partner in a legal union of two persons, other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

~~((6))~~ (8) "Domestic partnership" means a partnership registered under chapter 26.60 RCW or a legal union of two persons, other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership under chapter 26.60 RCW.

~~((7))~~ (9) "Equity value" means the amount by which the true and fair value of a residence exceeds the total amount of all liens, obligations, and encumbrances against the property, excluding ~~((the))~~ deferral liens. As used in this context, the "true and fair value" of a residence is the value shown on the county tax rolls maintained by the assessor for the assessment year in which the deferral claim is made.

~~((+8))~~ (10) "Fire and casualty insurance" means a policy with an insurer that is authorized by the state insurance commission to insure property in this state.

~~((+9))~~ (11) "Heir" has the same meaning as provided in RCW 21.35.005: Any person, including the surviving spouse, who is entitled under the statutes of intestate succession to the property of a decedent.

(12) "Income threshold" means:

(a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to forty-five thousand dollars; and

(b) For taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of the income threshold for the previous year, or seventy-five percent of the county median household income, adjusted every five years beginning August 1, 2019, and by March 1st every fifth year thereafter, as provided in RCW 84.36.385.

(i) Beginning with the adjustment made by March 1, 2024, and every second adjustment thereafter, if the income threshold in a county is not adjusted based on percentage of county median income, then the income threshold must be adjusted based on the growth of the consumer price index for all urban consumers (CPI-U) for the prior twelve-month period as published by the United States Bureau of Labor Statistics.

(ii) In no case may the adjustment be greater than one percent and if the income threshold adjustment is negative, the income threshold for the prior year continues to apply. The adjusted threshold must be rounded to the nearest one dollar.

(13) "Irrevocable trust" means a trust that may not be revoked after its creation by the trustor.

~~((+10))~~ (14) "Lease for life" means a lease that terminates upon the death of the lessee.

~~((+11))~~ (15) "Lien" means any interest in property given to secure payment of a debt or performance of an obligation, including a deed of trust. A lien includes the total amount of special assessments and/or property taxes deferred and the interest (~~thereon~~). It also may include any other outstanding balances owed to local governments for special assessments.

~~((+12))~~ (16) "Life estate" means an estate that consists of total rights to use, occupy, and control real property but is limited to the lifetime of a designated party; this party is often called a "life tenant."

~~((+13))~~ (17) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi municipal corporation, or other political subdivision authorized to levy special assessments.

~~((+14))~~ (18) "Perjury" means the willful assertion as to a matter of fact, opinion, belief, or knowledge made by a claimant upon the declaration to defer that the claimant knows to be false.

~~((+15))~~ (19) "Real property taxes" means ad valorem property taxes levied on a residence in this state. The term includes foreclosure costs, interest, and penalties accrued as of the date the declaration to defer is filed.

~~((+16))~~ (20) "Residence" (~~has the same meaning given in RCW 84.36.383; it means~~) is defined as:

(a) A single-family dwelling unit whether the unit is separate or part of a multiunit dwelling and includes up to one acre of the parcel

of land on which the dwelling stands (~~(, and it)~~). Residence also includes any additional property up to a total of five acres that comprises the residential parcel if local land use regulations require this larger parcel size (~~(-~~

~~(17))~~; or

(b) A single-family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality of the United States, including an Indian tribe, or in the state of Washington.

(21) "Revocable trust" means an agreement that entitles the trustor to have the full right to use the real property and to revoke the trust and retake complete ownership of the property at any time during (~~(his or her)~~) their lifetime. The trustee of a revocable trust holds only bare legal title to the real property. Full equitable title to the property remains with the trustor; the original property owner.

~~((18))~~ (22) "Rooming house" means a residence where persons may rent rooms.

~~((19))~~ (23) "Special assessment" means the charge or obligation imposed by a local government upon real property specially benefited by improvements.

AMENDATORY SECTION (Amending WSR 16-06-043, filed 2/24/16, effective 3/26/16)

WAC 458-18-020 Deferral of special assessments and/or property taxes—Qualifications for deferral. (1) Introduction. This rule describes the qualifications a person (claimant) must meet to qualify for a deferral of special assessments and/or real property taxes on residential housing.

(2) Qualifications for deferral. A (~~(person)~~) claimant may defer payment of special assessments and/or real property taxes on up to eighty percent of the amount of (~~(his)~~) their equity value in (~~(said property)~~) their residence if the following conditions are met:

~~((1))~~ (a) Ownership. The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this (~~(subsection)~~) rule, a residence owned by a marital community, a state registered domestic partnership, or cotenants (~~(shall)~~) will be deemed to be owned by each spouse, each domestic partner, and each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

~~((2))~~ (b) Fire and casualty insurance. If the amount deferred (~~(is to)~~) will exceed one hundred percent of the claimant's equity value in the land or lot only, the claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state of Washington and (~~(shall)~~) designate the state as a loss payee (~~(upon said)~~) on the policy. (~~(In no case shall)~~) The deferred amount may not exceed the amount of the insured value of the improvement plus the land value.

~~((3) In the case of)~~ (c) Installment method. For special assessment deferrals, the claimant must have opted for payment of (~~(such)~~) the special assessments on the installment method if (~~(such)~~) that method was available.

~~((4) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381, other than the income requirements, and to the extent eligible, must have first applied for the exemptions under RCW 84.36.381 through 84.36.389 prior to filing a declaration to defer.~~

~~(5) The claimant must have a combined disposable income, as defined in RCW 84.36.383, at or below the statutory limit amount provided in RCW 84.38.030.) (d) Income. The claimant must have a combined disposable income, as defined in RCW 84.36.383, equal to or less than the income threshold defined in RCW 84.38.020.~~

~~(e) Age. The claimant must be sixty years of age or older on December 31st of the year in which the deferral claim is filed, or must have been at the time of filing, retired from regular gainful employment by reason of disability as defined in RCW 84.36.383. However, any surviving spouse, surviving domestic partner, heir, or devisee of a person who was receiving a deferral at the time of the person's death qualifies if the surviving spouse, surviving domestic partner, heir, or devisee is fifty-seven years of age or older and meets the requirements of the deferral.~~

~~(f) Other requirements. The claimant must meet all requirements for an exemption for a residence under RCW 84.36.381, other than the age and income requirements, and to the extent eligible, must have first applied for the exemptions under RCW 84.36.381 through 84.36.389 prior to filing a declaration to defer.~~

AMENDATORY SECTION (Amending WSR 08-16-077, filed 7/31/08, effective 8/31/08)

WAC 458-18-100 Deferral of special assessments and/or property taxes—When payable—Collection—Partial payment. (1) ~~((Any))~~ Introduction. This rule explains the circumstances under which amounts deferred under chapter 84.38 RCW become payable.

(2) Deferral. Special assessments and/or real property taxes deferred ~~((shall))~~ become payable together with interest upon the following:

(a) ~~((Upon the))~~ Conveyance of the property ((which)) that has a deferred special assessment and/or real property tax lien ~~((upon))~~ against it.

(b) ~~((Upon the))~~ Death of the claimant except when the surviving spouse ((or)), surviving domestic partner, heir, or devisee is qualified and elects to incur the lien and continue the deferment by:

(i) Filing an original "declaration to defer" ((within ninety days of the claimant's death)); and

(ii) Continuing to meet the qualifications of WAC 458-18-010 through 458-18-100.

~~((When))~~ If a surviving spouse ((or)), surviving domestic partner, heir, or devisee elect((s)) to continue the deferment, ((the spouse or domestic partner then becomes)) they become the claimant and ~~((is))~~ will be fully subject to the conditions of WAC 458-18-010 through 458-18-100.

(c) ~~((Upon))~~ Condemnation of the property with a deferred special assessment and/or real property tax lien ((upon)) against it by a pub-

lic or private body exercising the power of eminent domain(~~(:)~~), pro
vided(~~(, That)~~):

(i) If the assessed value of the property not condemned exceeds the amount of the liens, including interest, the claimant may elect to have the liens set over to the property retained(~~(: Provided further, That)~~); and

(ii) The amount of the lien allowed to be set over (~~(shall)~~) may not exceed eighty percent of the claimant's equity in the retained property.

~~(d) (At such time as the)~~ Claimant (~~(ceases)~~) ceasing to reside permanently in the residence (~~(upon)~~) on which the deferral (~~(has been)~~) was granted. If the cessation occurs between filing the declaration and (~~(the date the taxes are payable)~~) December 15th of that year, the deferral (~~(shall)~~) will not be allowed. This disallowance does not apply if the claimant dies, leaving a spouse, domestic partner, heir, or devisee surviving, who is eligible for this deferral.

~~(e) (Upon the)~~ Failure of the claimant to have or keep in force fire and casualty insurance in sufficient amount to protect the interest of the state of Washington, or failure to keep the state listed as a loss payee (~~(upon said)~~) on the policy. Subsection (~~(1)~~) (2)(b) of this (~~(section shall)~~) rule takes precedence over subsection (~~(1)~~) (2)(d) of this (~~(section)~~) rule.

~~(1)~~ (3) Other deferrals. Once a deferral has been granted, the (~~(various)~~) conditions (~~(contained within)~~) in WAC 458-18-010 through 458-18-100 may prohibit the claimant from qualifying for further deferrals(~~(, but any obligations resulting)~~).

(4) Payment of deferral. Amounts owing from deferrals previously granted will become due and payable (~~(only upon occurrence of)~~) when any of the conditions (~~(set forth)~~) in subsection (~~(1)~~) (2) of this (~~(section)~~) rule occurs.

~~(3) Upon occurrence of)~~ When any of the conditions requiring the payment of (~~(any)~~) deferred special assessments and/or real property taxes occur, the county treasurer (~~(shall proceed to)~~) will collect (~~(the same in the manner)~~) these amounts as provided (~~(for)~~) in chapter 84.56 RCW. For purposes of (~~(collection of)~~) collecting the deferred taxes and interest, the provisions of chapters 84.56, 84.60, and 84.64 RCW (~~(shall be applicable. When these moneys are)~~) apply. Once collected, (~~(they shall be)~~) these amounts are credited to a special account in the county treasury and (~~(shall then)~~) will be remitted to the state treasurer within thirty days from collection with remittance advice to the department (~~(of revenue)~~). The state treasurer (~~(shall)~~) will deposit the (~~(moneys in)~~) deferred taxes and interest into the state general fund.

~~(4) Any person may at any time pay a part or)~~ Payment of all or part of the deferred assessments and/or taxes, including the interest, (~~(but such payment shall)~~) does not affect the deferred tax status of the property. (~~(Any)~~) Payments made (~~(shall)~~) will be credited to the oldest deferred amount and (~~(shall)~~) will be prorated between interest and the deferred assessments and/or taxes.