



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 07, 2020

TIME: 11:13 AM

WSR 20-09-034

Agency: Department of Revenue

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: Updating WAC 458-61A-113, to reflect the real estate excise tax exemption for sales of standing timber taxable under RCW 82.04.260(12)(d), provided in SHB 1513 (2007), codified in RCW 82.45.195.

Citation of rules affected by this order:

New:

Repealed:

Amended: WAC 458-61A-113 Timber, standing.

Suspended:

Statutory authority for adoption: RCW 82.45.150, RCW 82.32.300, and RCW 82.01.060(2).

Other authority: n/a

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 20-03-106 on January 15, 2020 (date).

Describe any changes other than editing from proposed to adopted version: None.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Web site:

Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted on the agency's own initiative:

New	___	Amended	<u>1</u>	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: 04/06/2020

Name: Atif Aziz

Title: Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 05-23-093, filed 11/16/05, effective 12/17/05)

WAC 458-61A-113 Timber, standing. (1) The real estate excise tax applies to the sale of timber if the ownership of the timber is transferred while the timber is standing. The tax applies to the sale of standing timber whether the sale is accomplished by deed or by contract. See also chapters 84.33 RCW and 458-40 WAC for specific regulations and rules regarding the taxation of timber and forest land.

(2) The grantor's irrevocable agreement to sell timber and pass ownership to it as it is cut is a taxable transaction if the total amount of the sale is specified in the original contract.

(3) A contract to transfer the ownership of timber after it has been cut and removed from land by the grantee is not a taxable transaction.

(4) A contract between a timber owner and a harvester (~~when~~) under which the harvester provides the service of cutting the timber and transporting it to the mill is not subject to the real estate excise tax if the timber owner retains ownership of the timber until it is delivered to and purchased by the mill.

(5) Notwithstanding the above subsections, a sale of standing timber is exempt from real estate excise tax if the gross income from the sale is subject to business and occupation tax under RCW 82.04.260 (12) (d).