



EXPEDITED RULE MAKING

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

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FILED

DATE: January 15, 2020

TIME: 11:26 PM

WSR 20-03-106

Agency: Department of Revenue

Title of rule and other identifying information: (describe subject) WAC 458-61A-113 Timber, standing.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: 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..

Reasons supporting proposal: SHB 1513 (207), codified in RCW 82.45.195, exempted the sale of standing timber from tax under chapter 82.45 RCW, in cases where the sale is taxable under RCW 82.04.260(12)(d). WAC 458-61A-113 requires update to reflect this change.

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

Statute being implemented: RCW 82.45.195.

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
Drafting:	Brenton Madison	6400 Linderson Way SW, Olympia, WA	360-534-1583
Implementation:	John Ryser	6400 Linderson Way SW, Olympia, WA	360-534-1603
Enforcement:	John Ryser	6400 Linderson Way SW, Olympia, WA	360-534-1603

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 rule follows the wording of the exemption provided in RCW 82.45.195. It does not include any new interpretations..

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) March 24, 2020

Date: January 15, 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).