



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Revenue

Permanent Rule Only

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: The Department of Revenue is proposing to amend these rules to incorporate current and past legislation:

WAC 458-14-056 incorporates SSB 6333 (2014), which added language to RCW 84.40.038 regarding electronic transmission of value change notices or other notices; and updated an example.

(See attached document)

Citation of existing rules affected by this order:

Amended:

WAC 458-14-056 *Petitions – Time limits – Waiver of filing deadline for good cause.*

WAC 458-19-005 *Definitions.*

WAC 458-19-020 *Levy limit - Method of calculation.*

WAC 458-19-025 *Restoration of regular levy.*

WAC 458-19-030 *Levy limit - Consolidation of districts.*

WAC 458-19-035 *Levy limit – Annexation.*

WAC 458-19-060 *Emergency medical services levy.*

WAC 458-19-065 *Levy limit – Protection of future levy capacity.*

WAC 458-19-085 *Refunds – Procedures – Applicable limits.*

WAC 458-19-550 *State levy – Apportionment between counties.*

Statutory authority for adoption: RCW 84.08.010, 84.08.070, 84.08.080, 84.48.200, 84.52.0502, 84.55.060

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 14-23-079 on November 18, 2014 (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: **An analysis was not prepared.**

Name: phone ()

Address: e-mail

Date adopted:

January 20, 2015

NAME

Dylan Waits

SIGNATURE

TITLE

Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 21, 2015

TIME: 9:22 AM

WSR 15-03-087

**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Federal statute:	New	Amended		Repealed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	10	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 in the agency's own initiative:

	New	Amended	10	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



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

**Attachment for CR103P filing for
WACs 458-14-056; 458-19-005, 020, 025, 030, 035, 060, 065, 085, 550**

WAC 458-19-005 incorporates SSB 6333 (2014), which clarifies the date in September that the implicit price deflator is published by the federal department of commerce; SHB 1634 (2014), which allows a taxing district's levy limit to be increased due to solar, biomass, and geothermal facilities producing electricity; EHB 1969 (2011), which allows a Flood Control Zone District in certain counties to protect a portion of its levy rate outside of the \$5.90 limitation; 2SSB 5433 (2009), which protects the levy rate for county transit-related purposes from prorationing under the \$5.90 limitation; SSB 6141 (2006), which allows a taxing district's levy limit to be increased due to wind turbines that generate electricity; clarifies which levy rate to use in the levy limit calculation if the rate is reduced due to prorationing or if the rate reflects an error; and incorporates statutory language to various definitions.

WAC 458-19-020 incorporates SHB 1634 (2014), which allows a taxing district's levy limit to be increased due to solar, biomass, and geothermal facilities producing electricity; and SSB 6141 (2006), which allows a taxing district's levy limit to be increased due to wind turbines that generate electricity.

WAC 458-19-025 incorporates SHB 1634 (2014), which allows a taxing district's levy limit to be increased due to solar, biomass, and geothermal facilities producing electricity; and SSB 6141 (2006), which allows a taxing district's levy limit to be increased due to wind turbines that generate electricity.

WAC 458-19-030 incorporates SHB 1634 (2014), which allows a taxing district's levy limit to be increased due to solar, biomass, and geothermal facilities producing electricity; and SSB 6141 (2006), which allows a taxing district's levy limit to be increased due to wind turbines that generate electricity.

WAC 458-19-035 incorporates SHB 1634 (2014), which allows a taxing district's levy limit to be increased due to solar, biomass, and geothermal facilities producing electricity; SSB 6141 (2006), which allows a taxing district's levy limit to be increased due to wind turbines that generate electricity; clarifies how to calculate the levy rate when an annexation occurs; updated established boundary date; and updated an example.

WAC 458-19-060 incorporates SHB 1634 (2014), which allows a taxing district's levy limit to be increased due to solar, biomass, and geothermal facilities producing electricity; and SSB 6141 (2006), which allows a taxing district's levy limit to be increased due to wind turbines that generate electricity.

WAC 458-19-065 incorporates SHB 1634 (2014), which allows a taxing district's levy limit to be increased due to solar, biomass, and geothermal facilities producing electricity; SSB 6141 (2006), which allows a taxing district's levy limit to be increased due to wind turbines that generate electricity; and updated an example.

WAC 458-19-085 incorporates SHB 1634 (2014), which allows a taxing district's levy limit to be increased due to solar, biomass, and geothermal facilities producing electricity; and SSB 6141 (2006), which allows a taxing district's levy limit to be increased due to wind turbines that generate electricity.

WAC 458-19-550 incorporates SHB 1634 (2014), which allows a taxing district's levy limit to be increased due to solar, biomass, and geothermal facilities producing electricity; and SSB 6141 (2006), which allows a taxing district's levy limit to be increased due to wind turbines that generate electricity.

AMENDATORY SECTION (Amending WSR 14-14-023, filed 6/23/14, effective 7/24/14)

WAC 458-14-056 Petitions—Time limits—Waiver of filing deadline for good cause. (1) The ~~((sole))~~ only method for appealing ~~((an))~~ a county assessor's determination to the county board of equalization, as to valuation of property, or as to any other types of county assessor determinations is by ~~((means of))~~ a properly completed and timely filed taxpayer petition.

(2) A taxpayer's petition for review of the assessed valuation ~~((placed upon))~~ of property by the assessor or for review of any of the types of appeals listed in WAC 458-14-015 must be filed in duplicate with the board. The deadline for filing ~~((such))~~ the petition with the board ~~((shall))~~ must be the later of:

(a) July 1st of the year of assessment or determination;

(b) Thirty days, or up to sixty days if a longer time period was established by the county legislative authority, from the date ~~((that an))~~ the assessment, value change notice, or other notice ~~((has been))~~ was mailed; or

~~((c))~~ ~~((Sixty days from the date that an assessment, value change notice, or other notice has been mailed, if a longer time period was established by the county legislative authority.))~~ Thirty days, or up to sixty days if a longer time period was established by the county legislative authority, from the date the assessor electronically:

(i) Transmitted the assessment, value change notice, or other notice; or

(ii) Notified the owner or person responsible for payment of taxes that the assessment, value change notice, or other notice was available to be accessed by the owner or other person. RCW 84.40.038((+)).

(3) No late filing of a petition ~~((shall))~~ will be allowed except as specifically provided in this subsection. The board may waive the filing deadline if the petition is filed within a reasonable time after the filing deadline and the petitioner shows good cause, as defined in this subsection, for the late filing. However, the board must waive the filing deadline for the circumstance described under (g) of this subsection if the petition is filed within a reasonable time after the deadline. A petition that is filed after the deadline without a showing of good cause, as described in this subsection, must be dismissed unless, after the taxpayer is notified by the board that the petition will be dismissed because of the late filing, the taxpayer promptly shows good cause for the late filing. The board must decide a taxpayer's claim of good cause without holding a public hearing on the claim and must promptly notify the taxpayer of the decision, in writing. The board's decision regarding a waiver of the filing deadline is final and not appealable to the state board of tax appeals. Good cause may be shown by documentation of one or more of the following events or circumstances:

(a) The taxpayer was unable to file the petition by the filing deadline because of a death or serious illness of the taxpayer or of a member of the taxpayer's immediate family occurring at or shortly before the time for filing. For purposes of this subsection, the term "immediate family" includes, but is not limited to, a grandparent, parent, brother, sister, spouse, domestic partner, child, grandchild, or domestic partner's child or grandchild.

(b) The taxpayer was unable to file the petition by the filing deadline because of the occurrence of all of the following:

(i) The taxpayer was absent from his or her home or from the address where the assessment notice or value change notice is normally received by the taxpayer. If the notice is normally mailed by the assessor to a mortgagee or other agent of the taxpayer, the taxpayer must show that the mortgagee or other agent was required, pursuant to written instructions from the taxpayer, to promptly transmit the notice and failed to do so; and

(ii) The taxpayer was absent (as described in (b)(i) of this subsection) for more than fifteen of the days allowed in subsection (2) of this section prior to the filing deadline; and

(iii) The filing deadline is after July 1st of the assessment year.

(c) The taxpayer was unable to file the petition by the filing deadline because the taxpayer reasonably relied upon incorrect, ambiguous, or misleading written advice as to the proper filing requirements by either a board member or board staff, the assessor or assessor's staff, or the property tax advisor designated under RCW 84.48.140, or his or her staff.

(d) The taxpayer was unable to file the petition by the filing deadline because of a natural disaster such as a flood or earthquake occurring at or shortly before the time for filing.

(e) The taxpayer was unable to file the petition by the filing deadline because of a delay or loss related to the delivery of the petition by the postal service. The taxpayer must be able to provide documentation from the postal service of such a delay or loss.

(f) The taxpayer is a business and was unable to file the petition by the filing deadline because the person employed by the business, responsible for dealing with property taxes, was unavailable due to illness or unavoidable absence.

(g) The taxpayer was not sent a revaluation notice under RCW 84.40.045 for the current assessment year and the taxpayer can demonstrate both of the following:

(i) The taxpayer's property value did not change from the previous year; and

(ii) The taxpayer's property is located in an area revalued by the assessor for the current assessment year.

(4) If a petition is filed by mail it must be postmarked no later than the filing deadline. If the filing deadline falls upon a Saturday, Sunday or holiday, the petition must be filed on or postmarked no later than the next business day.

(5) A petition is properly completed when all relevant questions on the form provided or approved by the department have been answered and the answers contain sufficient information or statements to apprise the board and the assessor of the reasons for the appeal. A petition which merely states that the assessor's valuation is too high or that property taxes are excessive, or similar (~~such~~) types of statements, is not properly completed and must not be considered by the board. If, at the time of filing the petition, the taxpayer does not have all the documentary evidence available which he or she intends to present at the hearing, the petition will be deemed to be properly completed for purposes of preserving the taxpayer's right of appeal, if it is otherwise fully and properly filled out. However, any comparable sales, valuation evidence, or other documentary evidence not submitted at the time the petition is filed must be provided by the taxpayer to the assessor and the board at least seven business

days, excluding legal holidays, prior to the board hearing. A copy of the completed petition must be provided to the assessor by the clerk of the board. Any petition not fully and properly completed (~~must not~~) cannot be considered by the board (RCW 84.40.038) and a notice of the board's rejection of the petition must be promptly mailed to the taxpayer. See: WAC 458-14-066 Requests for valuation information—Duty to exchange documentary information—Time limits, for an explanation of the availability, use and exchange of valuation and other documentary information prior to the hearing before the board.

(6) Whenever the taxpayer has an appeal pending with the board, the state board of tax appeals or with a court of law, and the assessor notifies the taxpayer of a change in property valuation, the taxpayer is required to file a timely petition with the board in order to preserve the right to appeal the change in valuation. For example, if a taxpayer has appealed a decision of the board to the board of tax appeals regarding an assessed value for the year (~~(2005))~~ 2013, and that appeal is pending when the assessor issues a value change notice for the (~~(2006))~~ 2014 assessment year, the taxpayer must still file a timely petition appealing the valuation for the (~~(2006))~~ 2014 assessment year in order to preserve his or her right to appeal (~~(from that 2006))~~ the 2014 assessed value.

(7) Petition forms shall be available from the clerk of the board and from the assessor's office.

AMENDATORY SECTION (Amending WSR 06-02-008, filed 12/22/05, effective 1/22/06)

WAC 458-19-005 Definitions. (1) **Introduction.** This rule contains definitions of the terms used throughout chapters 84.52 and 84.55 RCW and chapter 458-19 WAC in the administration of the system used to levy property taxes on taxable property within the state of Washington.

(2) Unless the context clearly requires otherwise, the following definitions apply:

(a) "Annexation" means one taxing district is adding territory or another dissimilar taxing district from outside the annexing taxing district's boundary and includes a merger of a portion of a fire protection district under chapter 52.06 RCW with another fire protection district.

(b) "Assessed value" means the value of taxable property placed on the assessment rolls. The term is often abbreviated with the initials "A.V."

(c) "Certified property tax levy rate" means the tax rate calculated by the county assessor in accordance with law to produce the lawful amount of the certified property tax levy.

(d) "Consolidated levy rate" means:

(i) For purposes of the statutory aggregate dollar rate levy limit, the sum of all regular levy rates set for collection exclusive of rates set for the state levy, port ((and)), public utility districts, financing affordable housing for very low-income households under RCW 84.52.105, acquiring conservation futures under RCW 84.34.230, criminal justice purposes under RCW 84.52.135, emergency medical care or emergency medical services under RCW 84.52.069, county ferry districts under RCW 36.54.130, the portion of the fire protection levies protected under RCW 84.52.125, ((and)) the portion of metropolitan park district levies protected under RCW 84.52.120, transit-related purposes under RCW 84.52.140, and the protected portion of the levies imposed under RCW 86.15.160 by flood control zone districts in a county with a population of seven hundred seventy-five thousand or more that are co-extensive with a county; and

(ii) For purposes of the constitutional one percent limit, the sum of all regular levy rates set for collection exclusive of rates set for port and public utility districts.

(e) "Consolidation" means the act of combining two or more similar taxing districts into one taxing district; for example, the combination of two fire protection districts into one fire protection district.

(f) "Constitutional one percent limit" means the levy limit established by Article VII, section 2 of the state Constitution, which prohibits the aggregate of all tax levies on real and personal property from exceeding one percent (\$10 per \$1,000) of the true and fair value of property. This limit does not apply to excess levies, levies by port districts, and levies by public utility districts. This limit is also set forth in RCW 84.52.050.

(g) "Department" means the department of revenue of the state of Washington.

(h) "Excess property tax levy" or "excess levy" means a voter-approved property tax levy by or for a taxing district, other than a port or public utility district, that is subject to neither the statutory aggregate dollar rate limit set forth in RCW 84.52.043 nor the

constitutional one percent limit set forth in Article VII, section 2 of the state Constitution and in RCW 84.52.050. It does not include regular levies allowed to exceed the levy limit with voter approval.

(i) "Improvement" means any valuable change in or addition to real property, including the subdivision or segregation of parcels of real property or the merger of parcels of real property.

(j) "Inflation" means the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the Bureau of Economic Analysis of the Federal Department of Commerce (~~(in)~~) by September 25th of the year before the taxes are payable; see RCW 84.55.005.

(k) "Joint taxing district" means a taxing district that exists in two or more counties; the term does not include the state nor does it include an intercounty rural library district.

(l) "Junior taxing district" means a taxing district other than the state, a county, a county road district, a city, a town, a port district, or a public utility district.

(m) "Levy limit" means:

(i) The statutorily established limit that prohibits a taxing district, other than the state, from levying regular property taxes for a particular year that exceed the limit factor multiplied by the highest amount of regular property taxes that could have been lawfully levied in the taxing district in any year since 1985, plus an additional dollar amount calculated by multiplying the regular property tax levy rate of that district for the preceding year, or the last year the taxing district levied taxes, by the increase ((during the current year of the) in assessed value in the taxing district ((due to)) resulting from:

(A) New construction((,));

(B) Improvements to property((, and the));

(C) Increases in the assessed value of state assessed property ((by the levy rate of that district for the preceding year, or the last year the taxing district levied taxes.

(i)); and

(D) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property.

(ii) For purposes of the levy limit, the phrase "highest amount of regular property taxes that could have been lawfully levied" means the maximum amount that could have been levied by a taxing district under the limitation set forth in chapter 84.55 RCW unless the highest amount that could have been levied was actually restricted by the taxing district's statutory dollar rate limit. If the taxing district's levy was restricted by the statutory dollar rate limit, the highest amount that could have been lawfully levied is the amount produced by multiplying the assessed value of the taxing district by the statutory dollar rate.

((i)) (iii) For purposes of the levy limit, the regular property tax levy rate of the district for the preceding year, or the last year the taxing district levied taxes, may reflect a reduced rate due to the \$5.90 statutory aggregate limitation and/or the constitutional one percent limitation, if prorating occurred in the district.

The regular property tax levy rate of the district for the preceding year may also reflect a levy error or a levy error correction.

If this occurs, the rate used will be the rate had the levy error or levy error correction not occurred. RCW 84.52.085.

(iv) The levy limit for the state is the limit factor multiplied by the highest amount of regular property taxes lawfully levied in the three most recent years, plus an additional dollar amount ((attributable to new construction, improvements to property, and any increase in the assessed value of state assessed property)) calculated by multiplying the state levy rate for the preceding year by the increase in assessed value in the state resulting from:

(A) New construction;

(B) Improvements to property;

(C) Increases in the assessed value of state assessed property;

and

(D) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property.

(n) "Levy rate" means the dollar amount per thousand dollars of assessed value applied to taxable property within a taxing district and is calculated by dividing the total amount of a statutorily authorized levy of a taxing district by the total assessed value of that district and is expressed in dollars and cents per thousand dollars of assessed value.

(o) "Limit factor" means:

(i) For taxing districts with a population of less than ten thousand in the calendar year immediately prior to the assessment year, one hundred one percent;

(ii) For taxing districts, other than the state, having made a finding of substantial need in accordance with RCW 84.55.0101, the lesser of the substantial need factor or one hundred one percent; or

(iii) For all other taxing districts, including the state, the lesser of one hundred one percent or one hundred percent plus inflation.

(p) "New construction" means the construction or alteration of any property for which a building permit was issued, or should have been issued, under chapter 19.27, 19.27A, or 19.28 RCW or other laws providing for building permits, which results in an increase in the value of the property.

(q) "Regular property tax levy" or "regular levy" means a property tax levy by or for a taxing district that is subject to the statutory aggregate dollar rate limit set forth in RCW 84.52.043, the constitutional one percent limit set forth in RCW 84.52.050, or is a levy imposed by or for a port district or a public utility district.

(r) "Regular property taxes" means those taxes resulting from regular property tax levies.

(s) "Senior taxing district" means the state (for support of common schools), a county, a county road district, a city, or a town.

(t) "Statutory aggregate dollar rate limit" or "statutory aggregate limit" means the maximum aggregate regular property tax levy rate within a county established by law for senior and junior taxing districts, other than the state. The current limit is \$5.90 per \$1,000 of assessed valuation. See RCW 84.52.043 and WAC 458-19-070 ((for the current limit)).

(u) "Substantial need limit factor" means a limit factor approved by a taxing district's legislative authority that exceeds one hundred

percent plus inflation. This limit cannot exceed one hundred one percent.

(v) "Statutory dollar rate limit" means the maximum regular property tax levy rate established by law for a particular ~~((class))~~ type of taxing district.

(w) "Super majority" means a majority of at least three-fifths of the registered voters of a taxing district approving a proposition authorizing a levy, at which election the number of persons voting "yes" on the proposition constitutes three-fifths of a number equal to forty percent of the total votes cast in the taxing district in the last preceding general election; or by a majority of at least three-fifths of the registered voters of the taxing district voting on the proposition when the number of registered voters voting on the proposition exceeds forty percent of the total votes cast in the taxing district in the last preceding general election.

(x) "Tax code area" means a geographical area made up of ~~((a unique mix of))~~ one or more taxing districts, which is established for the purpose of properly calculating, collecting, and distributing taxes. Only one tax code area will have the same combination of taxing districts, with limited exceptions.

(y) "Taxing district" means the state and any county, city, town, port district, school district, road district, metropolitan park district, water-sewer district, or other municipal corporation, ~~((now or hereafter existing,))~~ having the power or legal authority to impose burdens upon property within the district on an ad valorem basis, for the purpose of obtaining revenue for public purposes, as distinguished from municipal corporations authorized to impose burdens, or for which burdens may be imposed for public purposes, ~~((upon))~~ on property in proportion to the increase in benefits ~~((accruing thereto))~~ received.

AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-020 Levy limit—Method of calculation. (1) **Introduction.** This rule explains the general method used to calculate the levy limit for the state and all other taxing districts in accordance with RCW 84.55.010 ~~((and)),~~ 84.55.092, 84.55.120. Except for the state levy, the same method is generally used to calculate the amount of regular property taxes that can be levied by a taxing district in any year. This rule also describes what occurs when a taxing district makes a finding of substantial need in accordance with RCW 84.55.0101 to use a limit factor in excess of one hundred percent plus inflation. This rule does not attempt to include all special circumstances that may affect the applicable limit under chapter 84.55 RCW.

(2) **Increase in tax revenues - Ordinance or resolution required.** The following describes the ordinance or resolution required by taxing districts when requesting increases in tax revenues.

(a) Except by holding a public hearing and adopting an ordinance or resolution, no taxing district, other than the state, may authorize an increase in property tax revenue, other than one resulting from an increase in assessed value of the district attributable to:

(i) New construction((~~τ~~));

(ii) Improvements to property((~~τ or any~~));

~~(iii) Increases in the assessed value of state assessed property ((except by holding a public hearing and adopting an ordinance or resolution.)); and~~

(iv) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property.

(b) The ordinance or resolution may cover a period of up to two years, but the ordinance or resolution must specifically state for each year the dollar increase and percentage change in the levy from the previous year. The dollar increase and percentage change should reflect everything included in the levy limit and should not reflect anything excluded under chapter 84.55 RCW (such as, but not limited to, a levy for property tax refunds paid under the provisions of chapter 84.68 or 84.69 RCW).

~~((a))~~ (c) A majority of the legislative authority of a taxing district must approve ((an)) the ordinance or resolution authorizing an increase in the taxing district's levy as calculated in subsection (3) of this rule.

~~((b))~~ (d) Upon making a finding of substantial need to increase its levy by an amount greater than the rate of inflation, the legislative authority of a taxing district may adopt a second ordinance or resolution establishing a limit factor greater than one hundred percent plus inflation. But the substantial need limit factor can never exceed one hundred one percent.

(i) In districts with legislative authorities of four members or less, two-thirds of the members must approve an ordinance or resolution supporting a substantial need to increase the limit factor.

(ii) In districts with more than four members, a majority plus one must approve an ordinance or resolution supporting a substantial need to increase the limit factor.

(3) Calculation of levy limit for all taxing districts other than the state. The amount of regular property taxes that can be levied by a taxing district, other than the state, in any year is limited to an amount that will not exceed the amount resulting from the following calculation, except as otherwise provided by statute:

(a) The highest amount that could have been lawfully levied by the taxing district in any year since 1985 for 1986 collection, multiplied by the limit factor; plus

(b) A dollar ~~(component)~~ amount calculated by multiplying the regular property tax levy rate of the district for the preceding year, or the last year the taxing district levied taxes, by the increase in assessed value of the district ~~((from the previous year attributable to))~~ resulting from:

(i) New construction((,));

(ii) Improvements to property((, and any));

(iii) Increases in the assessed value of state assessed property((, by the actual regular property tax levy rate of that district for the preceding year, or the last year the taxing district levied taxes)); and

(iv) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property.

(4) **Calculation of levy limit for the state levy.** The levy limit for the state is calculated in the same manner as for other taxing districts except that the limit factor is multiplied by the highest amount that was lawfully levied by the state in the three most recent years in which such taxes were levied.

AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-025 Restoration of regular levy. (1) Introduction.

This rule explains how a taxing district restores a regular property tax levy if it has not levied since 1985 and it elects to restore a regular property tax levy in accordance with RCW 84.55.015.

(2) **Calculation of restored regular levy.** If a taxing district has not levied since 1985 and it elects to restore a regular property tax levy, the first regular property tax payable as a result of the restored levy cannot exceed the lesser of:

(a) The combination of the following:

(i) The amount last levied plus,

(ii) A dollar ((component)) amount calculated by multiplying the ((increase in assessed value of property in the district attributable to new construction and improvements to property since the last levy through the current year by the levy rate that)) property tax levy rate which is proposed to be restored, by the increase in assessed value in the district since the last levy resulting from:

(A) New construction;

(B) Improvements to property;

(C) Increases in the assessed value of state assessed property;

and

(D) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property.

The levy rate that is proposed to be restored is determined by dividing the total dollar amount that was last levied by the district by the current year's assessed value after deducting the accumulated assessed values attributable to ~~((new construction and improvements to property since the last levy))~~ (A) through (D) of this subsection; or

(b) The maximum amount which could be lawfully levied by that district in the year the restored levy is proposed, subject to the statutory dollar rate limit contained in the taxing district's authorizing statute, without considering the calculation used in subsection (2)(a) of this rule.

(3) **Example.** Taxing district "A" has not levied a regular levy since 1985 when it levied \$10,000 based upon 1985 assessed values and all lawful limitations at that time. The total increase since the 1985 assessment year in assessed value of property in the district as a result of new construction ~~((and)),~~ improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities beginning in 1986 through the current assessment year is \$3,000,000. The assessed value of taxing district "A"

for the current year is \$15,000,000. The calculation for subsection (2)(a) of this ~~((subsection))~~ rule is as follows:

Current year A.V. -	\$15,000,000
Minus increases in new construction ((and)) , improvements to property, etc., since 1985 -	- 3,000,000
	<hr/>
	\$12,000,000
Amount levied in 1985 -	\$10,000
Current year A.V. less increases in new construction ((and)) , improvements to property, etc., -	÷ \$12,000,000
	<hr/>
Levy rate proposed to be restored -	.000833
Increases in new construction ((and)) , improvements to property, etc., -	x \$3,000,000
	<hr/>
Calculated dollar amount -	\$2,500
Allowable 1985 levy -	+ 10,000
	<hr/>
Allowable levy for current year (under <u>subsection (2)(a) of this rule</u>) -	\$12,500

The amount calculated under subsection (2)(a) of this ~~((subsection))~~ rule must be compared to the amount determined under subsection (2)(b) of this ~~((subsection))~~ rule and the lesser of the two amounts is the maximum amount that can be levied.

(4) **Assessor to maintain taxing district records.** Records of value increases attributable to new construction ~~((and))~~, improvements to property, ~~((and))~~ increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities are to be maintained each year by the county assessor for each taxing district whether or not the district imposes a regular property tax levy.

AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-030 Levy limit—Consolidation of districts. (1) **Introduction.** This rule describes the method used to calculate the first levy for a taxing district created by the consolidation of similar taxing districts in accordance with RCW 84.55.020.

(2) **Calculation of the first levy of a consolidated taxing district.** The first regular property tax levy made by a taxing district, created by the consolidation of two or more similar taxing districts, cannot exceed:

(a) The sum of the product of the limit factor multiplied by the highest amount of regular property taxes lawfully levied by each of the component districts during the three most recent years in which taxes were levied; plus

(b) The sum of each of the amounts calculated by multiplying the ~~((increase in assessed value of property attributable to new construction and improvements to property in))~~ regular property tax levy rate of each of the component districts ~~((since))~~ for the preceding year by the ~~((regular property tax rate of))~~ increase in assessed value in each component district ~~((in the preceding year))~~ resulting from:

(i) New construction;

- (ii) Improvements to property;
- (iii) Increases in the assessed value of state assessed property;

and

(iv) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property.

(3) **Example.** Taxing district "A" and taxing district "B" consolidate, becoming one taxing district. The highest amount of regular property taxes lawfully levied by district "A" during the three most recent years is \$100,000. The highest amount of regular property taxes lawfully levied by district "B" during the three most recent years is \$150,000. The increase in assessed value due to new construction ~~((and))~~, improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities in district "A" since the year prior to consolidation was \$600,000. The increase in assessed value due to new construction ~~((and))~~, improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities in district "B" since the year prior to consolidation was \$900,000. The regular property tax rate for district "A" in the year prior to consolidation was ~~\$(.50))~~ 0.50 per \$1,000 of assessed value. The regular property tax rate for district "B" in the year prior to consolidation was ~~\$(.45))~~ 0.45 per \$1,000 of assessed value. Assume the limit factor for this example is 101% because it is the lesser of one hundred one percent and one hundred percent plus the rate of inflation. The maximum amount of regular property taxes that can be levied in the year of consolidation, for taxes payable the following year, by the new consolidated taxing district is calculated as follows:

	Highest regular levy	
District "A" -	\$100,000	
District "B" -	150,000	
Total -	<u>\$250,000</u>	x 1.01 = \$252,500
Increases in assessed value multiplied by levy rate:		
District "A" - \$600,000 x \$(.50)) <u>0.50</u> ÷ \$1,000		= \$300
District "B" - \$900,000 x \$(.45)) <u>0.45</u> ÷ \$1,000		= \$405
		<u>\$705</u>

Maximum regular property taxes that can be levied in the year of consolidation, payable in the year following consolidation:

$$\$252,500 + \$705 = \$253,205$$

AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-035 Levy limit—Annexation. (1) **Introduction.** One taxing district may annex territory or another dissimilar taxing district from outside the annexing taxing district's boundary. This rule

sets forth the method used to calculate the first regular property tax levy made after a taxing district has annexed territory or a dissimilar taxing district in accordance with RCW 84.55.030 and 84.55.110. This rule also explains what occurs when the department of natural resources (DNR) discontinues forest fire patrol assessments on parcels of forest land.

(2) **Increase in territory due to annexation.** The first regular property tax levy of a taxing district after it annexes territory or a dissimilar taxing district cannot exceed the amount calculated as follows:

(a) Multiply the highest amount of regular property taxes that could have been lawfully levied since 1985 for 1986 collection, of the annexing district as though no annexation had occurred, by the limit factor as defined in RCW 84.55.005 and WAC 458-19-005;

(b) Multiply the ~~((increase in assessed value in))~~ regular property tax levy rate of the annexing district ((since)) for the preceding year ((attributable to new construction, improvements to property, and)) by the increase in assessed value ((of state assessed property by the regular property tax levy rate of the annexing district for the preceding year)) in the annexing district resulting from:

(i) New construction;

(ii) Improvements to property;

(iii) Increases in the assessed value of state assessed property;

and

(iv) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property; and

(c) Multiply the current year assessed value of the annexed territory or district by the levy rate that would have been used for the current year by the annexing district had there been no annexation. To calculate the levy rate that would have been used for the current year by the annexing district, divide the regular levy limit of the annexing district by the current assessed value of the annexing district, excluding the annexed area.

(d) Add together the result of each of the calculations set forth in subsection (2)(a), (b), and (c) of this rule to determine the maximum amount of the first regular levy of a taxing district after annexation.

(3) **Example.** Following is an example of the calculations prescribed in subsection (2) of this rule. Taxing district "A" annexes a portion of taxing district "B" that takes effect before ~~((March))~~ August 1st in ((2002)) 2014. The highest amount of regular property taxes that could have been levied by district "A" since 1985 for 1986 collection is \$100,000. The increase in assessed value from ~~((2001 to 2002))~~ 2013 to 2014 in district "A" due to new construction, improvements to property, ~~((and))~~ increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities is \$700,000. The levy rate for district "A" for ~~((2001))~~ 2013 was ~~\$((-50))~~ 0.50 per \$1,000 of assessed value. The ~~((2002))~~ 2014 levy rate for district "A," had there been no annexation, would have been ~~\$((-48))~~ 0.48 per \$1,000 of assessed value. The ~~((2002))~~ 2014 assessed value of the portion of taxing district "B" that was annexed by taxing district "A" is \$5,000,000, which includes the value of new construc-

tion ~~((and))~~, improvements to property, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities. Assume the levy limit for this example is 101% because it is the lesser of one hundred one percent and one hundred percent plus the rate of inflation. The first regular levy by taxing district "A" after annexation cannot exceed the amount calculated as follows:

District "A" highest levy since 1985 -		\$100,000
		x 1.01
		\$101,000
A.V. of new construction* in district "A" -		\$700,000
District "A" levy rate for ((2001)) 2013 -	x ((-.50)) 0.50	\$350,000
Divide by \$1,000 -		÷ 1,000
Levy amount for new construction -		\$350
((2002)) 2014 A.V. of annexed portion of district "B" -		\$5,000,000
District "A" levy rate that would have been used in ((2002)) 2014, absent annexation -	x ((-.48)) 0.48	\$2,400,000
Divide by \$1,000 -		÷ 1,000
Levy amount for annexed part of district "B" -		\$2,400
		\$101,000
		350
		+ 2,400
Maximum levy amount for district "A" after annexation -		\$103,750

* For purposes of this example, "new construction" also includes improvements to property ~~((and))~~, increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities.

(4) **Loss of territory due to annexation.** When a taxing district loses a portion of its territory as a result of annexation to another district, the levy limit for the taxing district that loses part of its territory is calculated by multiplying the highest amount that could have been lawfully levied by that taxing district since 1985 for 1986 collection by the limit factor as defined in RCW 84.55.005 and WAC 458-19-005. However, only the increase in assessed value from the preceding year, attributable to new construction, improvements to property, ~~((and))~~ increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities that ~~((is actually situated))~~ occurred in the remaining territory of the taxing district is added to the amount ~~((thus))~~ determined, to calculate the levy limit. ~~((In no case, absent))~~ Except for voter approval of an excess levy, ~~((ean))~~ the levy rate cannot exceed the statutory dollar rate limit for that ~~((class))~~ type of taxing district.

(5) **Forest fire patrol protection assessments discontinued by DNR - Effect.** If an owner of forest land within a forest protection zone neglects or fails to provide adequate fire protection as required by RCW 76.04.600, DNR will provide this protection and impose an annual assessment on each parcel of forest land in accordance with RCW

76.04.610. When DNR discontinues the forest fire patrol assessment by dissolving the forest protection assessment areas and an existing fire district assumes protection services and property tax levying authority for this unimproved land within its existing boundaries, the assessed value of the fire district will increase and effectively be an annexation for property tax purposes. In order to be included in the assessed value of the fire district, all details of the dissolution and annexation must be completed and the county assessor's office must receive formal notice from the fire district and DNR prior to ~~((March))~~ August 1st of the assessment year. This notice must specify the forest fire patrol assessment areas being dissolved, the fire district(s) assuming the levying and fire protection responsibilities, and the forest land impacted by the change.

AMENDATORY SECTION (Amending WSR 14-14-023, filed 6/23/14, effective 7/24/14)

WAC 458-19-060 Emergency medical service levy. (1) **Introduction.** This rule explains the criteria contained in RCW 84.52.069 relative to a taxing district imposing a limited or permanent regular levy for emergency medical care or emergency medical services. It describes the permitted duration of this levy, the ballot title and measure that must be presented to and approved by the voters, the maximum rate for this levy, and the applicable limits.

(2) **Purpose - Voter approval required - Who may levy.** An emergency medical service (EMS) levy is a regular voter approved levy. Any taxes collected as a result of this levy can only be used to provide emergency medical care or emergency medical services, including related personnel costs, training for such personnel and related equipment, supplies, vehicles, and structures needed to provide this care or service. A permanent EMS levy, or the initial imposition of a six-year or ten-year EMS levy must be approved by a super majority of registered voters at a general or special election. However, the uninterrupted continuation of a six-year or ten-year EMS levy only requires the authorization of a majority of the registered voters at a general or special election. For purposes of this ~~((section))~~ rule, an "uninterrupted continuation of a six-year or ten-year EMS levy" means the continuation of both the levy itself and its maximum levy rate. Only a county, emergency medical service district, city, town, public hospital district, urban emergency medical service district, regional fire protection service area, or fire protection district is authorized to impose an EMS levy.

(3) **Duration - Maximum rate.** An EMS levy is imposed each year for six consecutive years, each year for ten consecutive years, or permanently. Except as provided in subsection (10) of this ~~((section))~~ rule, a taxing district may impose a regular property tax levy in an amount that cannot exceed fifty cents per thousand dollars of assessed value of the property of the taxing district.

(4) **Contents of ballot title and measure.** Any ballot title and measure seeking authorization of an EMS levy must conform to the requirements of RCW 29A.36.210. A taxing district cannot submit to the voters at the same election multiple propositions to impose a levy under RCW 84.52.069. If the approved ballot title and measure did not authorize the maximum allowable levy rate (fifty cents) for the EMS

levy, any future proposition to increase the rate up to the maximum allowable must be specifically authorized by voters at a general or special election. That is, a taxing district may impose a levy rate up to, but no greater than, the rate contained in the approved ballot measure without obtaining additional voter approval. The ballot title and measure authorizing a taxing district to impose:

(a) An EMS levy for a limited duration must state the name of the taxing district, the maximum rate per thousand dollars of assessed value to be imposed, and the maximum number of years the levy is to be allowed; or

(b) A permanent EMS levy must state the name of the taxing district and the maximum rate per thousand dollars of assessed value to be permanently imposed. A ballot title for this type of levy must include wording to indicate that it is a permanent EMS levy. A taxing district that seeks to impose a permanent levy must also provide for a referendum procedure to apply to the ordinance or resolution imposing the tax. The detailed specifics of this procedure are set forth in RCW 84.52.069(4).

(5) **County-wide EMS levy.** A county-wide EMS levy cannot be placed on the ballot without first obtaining the approval of the legislative authority of any city within the county having a population exceeding fifty thousand. No other taxing district within the county may hold an election on a proposed EMS levy at the same time as the election on a proposed county-wide EMS levy. To the extent feasible, emergency medical care and services must be provided throughout the county whenever the county levies an EMS levy. In addition, if a county levies an EMS levy, the following conditions apply:

(a) Any other taxing district within the county, authorized to levy an EMS levy may do so, but only if the taxing district's EMS levy rate does not exceed the difference between the county's EMS levy rate and fifty cents per thousand dollars of assessed value of the property of the taxing district; and

(b) When a taxing district within the county levies an EMS levy and the voters of the county subsequently approve a county-wide EMS levy, the taxing district must then reduce its EMS levy rate so that the combined EMS levy rate of the county and the taxing district does not exceed fifty cents per thousand dollars of assessed value in the taxing district; and

(c) An EMS levy of limited duration of a taxing district within the county, authorized by the voters subsequent to a county-wide EMS levy of limited duration, will expire concurrently with the county EMS levy; and

(d) A fire protection district that has annexed an area described in subsection (10) of this ~~((section))~~ rule may levy the maximum amount of tax that would otherwise be allowed, notwithstanding any limitations in this subsection.

(6) **EMS levy of taxing district other than county.** Once a taxing district that has the authority to levy an EMS levy has done so within the county, only the county may concurrently levy an EMS levy within the boundaries of that taxing district; all other taxing districts are prohibited from levying an EMS levy within that taxing district's boundaries while it collects an EMS levy.

(a) If a regional fire protection service authority imposes a tax under this ~~((section))~~ rule, no other taxing district that is a participating fire protection jurisdiction in the regional fire protection service authority may levy a tax under this ~~((section))~~ rule.

(b) For purposes of this subsection, "participating fire protection jurisdiction" means a fire protection district, city, town, Indian tribe, or port district that is represented on the governing board of a regional fire protection service authority.

(7) **Constitutional one percent limit is applicable.** An EMS levy is subject to the constitutional one percent limit for regular property taxes. If a reduction of the rate of an EMS levy is required because this limit is exceeded, it is to be reduced in the manner set forth in RCW 84.52.010(~~(+1)~~) and WAC 458-19-075.

(8) **Statutory aggregate dollar rate limit is not applicable.** An EMS levy is not subject to the statutory aggregate dollar rate limit of five dollars and ninety cents per thousand dollars of assessed value (see RCW 84.52.043).

(9) **Applicability of limit factor to EMS levy.** The first year an EMS levy is made following voter approval, the levy limit set forth in RCW 84.55.010 does not apply. However, after the first year any EMS levy made is subject to this limit. In other words, beginning the second year this levy is made it cannot exceed the limit factor multiplied by the highest amount of regular property taxes that could have lawfully been levied since the voters last approved such a levy plus an additional dollar amount calculated by multiplying the regular property tax levy rate of the district for the preceding year by the increase in assessed value in (~~that~~) the district resulting from:

(a) New construction(~~(r)~~);

(b) Improvements to property(~~(r, and any)~~);

(c) Increases in the assessed value of (~~state-assessed~~) state assessed property (~~by the regular property tax rate for the district in the preceding year~~); and

(d) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property. The EMS levy is calculated separately from any other levies made by the taxing district for purposes of calculating the levy limit.

(10) For purposes of imposing the tax authorized under this (~~section~~) rule, the boundary of a county with a population greater than one million five hundred thousand does not include the area of the county that is located within a city that has a boundary in two counties, if the locally assessed value of all the property in the area of the city within the county having a population greater than one million five hundred thousand is less than two hundred fifty million dollars.

AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-065 Levy limit—Protection of future levy capacity.

(1) **Introduction.** This rule explains what occurs when a taxing district levies taxes in an amount less than the maximum allowed under the levy limit for any year and how future levies of the district will be calculated.

(2) **Use of maximum lawful levy amount.** In any year when a taxing district, other than the state, levies taxes in an amount less than the maximum amount allowed by the levy limit, whether voluntarily or as a result of the operation of the statutory aggregate dollar rate limit or constitutional one percent limit reducing or eliminating the taxing district's levy rate, the levy limit for succeeding years after 1985 will be calculated as though the maximum lawful levy amount allowed by the levy limit or the taxing district's statutory dollar rate limit had been levied.

(3) **Examples.** These examples do not include any amounts for new construction, improvements to property, ~~((or))~~ increases in the assessed value of state assessed property, or increases in the assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities.

(a) In ~~((2001))~~ 2013, the highest amount of regular property taxes that could have been lawfully levied by taxing district "A" as restricted by the levy limit was \$100,000. But in ~~((2001))~~ 2013 taxing district "A" ~~((is))~~ was otherwise limited by the statutory aggregate dollar rate limit to a maximum levy of \$95,000. The levy limit for the ~~((2002))~~ 2014 levy will be calculated on the basis of what could have been the highest levy amount since 1985, that is \$100,000 multiplied by the limit factor. The amount actually levied in ~~((2001))~~ 2013 is not controlling.

(b) Using the same basic facts from the previous example, if the levy amount of district "A" had been limited by the statutory dollar rate limit in ~~((2001))~~ 2013 to \$95,000, and \$95,000 was the highest amount of regular property taxes that could have been lawfully levied since 1985, then the levy limit for ~~((2002))~~ 2014 will be calculated on the basis of \$95,000, that is \$95,000 multiplied by the limit factor.

AMENDATORY SECTION (Amending WSR 14-14-023, filed 6/23/14, effective 7/24/14)

WAC 458-19-085 Refunds—Procedures—Applicable limits. (1) **Introduction.** Chapters 84.68 and 84.69 RCW both set out procedures and conditions under which property taxes are refunded. This rule explains the differences between the types of refunds authorized under each chapter, the procedures related to the refunds, and the effect the refunds have on levy limits and the levy setting process in general.

(2) **Court ordered refunds under chapter 84.68 RCW - County tax refund fund levy.** Any person who believes that the taxes levied against their property are unlawful or excessive may pay the taxes under protest, setting forth all the grounds upon which the tax is claimed to be unlawful or excessive, and bring an action in superior court or in any federal court of competent jurisdiction against the state, county, or municipality. RCW 84.68.020. If the court determines that the taxes were indeed unlawful or excessive, it will enter a judgment in favor of the taxpayer who paid the tax under protest and determine the amount to be refunded to the taxpayer. When such a judgment is entered, the law provides a specific procedure for refunding the money to the taxpayer in RCW 84.68.030 and for taxing districts to generate the moneys to be refunded in RCW 84.68.040. Any and all tax-

ing districts that were levying taxes against the property at the time for which a refund is directed by court order under RCW 84.68.020 must levy, or have levied for them, an amount for the county tax refund fund. The county tax refund fund levy is a regular levy that is subject to all the applicable levy limitations provided in law for regular levies. However, the law specifically exempts a refund fund levy from the levy limit set forth in RCW 84.55.010.

(a) Method used to make refunds. When a court judgment is entered in favor of a taxpayer, RCW 84.68.030 states that the refund is to be paid via warrants drawn against the "county tax refund fund." If, at the time the judgment is entered, there are no moneys in that fund, then the warrants bear interest and are "callable under such conditions as are provided by law for county warrants."

(b) Process used to generate funds for the county tax refund fund. RCW 84.68.040 provides that as part of the annual levying of taxes for county purposes, the county is required to make and enter a tax levy or levies for the county tax refund fund. The purpose of the refund fund levy is to produce moneys to be deposited into a fund from which a taxpayer, who paid taxes that were later adjudged to be unlawful or excessive, can be repaid, without unduly affecting the operating funds of the taxing districts. This levy has precedence over all other tax levies for county and/or taxing district purposes.

(c) Who makes and enters the tax levies for the refund fund levy? Officers of local taxing districts, the county legislative authority, the county assessor, and any other person or entity that would normally be involved in the levy making process are required to make and enter the refund fund levy. However, if a taxing district is required to levy for the county tax refund fund and fails to do so, or if a taxing district is required to levy for the county tax refund fund and does not have a regular nonvoted levy, then the county legislative authority levies the tax for or on behalf of the district, the assessor sets the rate, and the treasurer collects the tax.

(d) What limitations apply to the county tax refund fund levy? There are four basic levy limitations that need to be taken into consideration: The levy limit set forth in RCW 84.55.010; the constitutional (Article VII, section 2) and statutory (RCW 84.52.010) one percent limit; the statutory dollar rate limit for the various taxing districts; and the aggregate dollar rate limit contained in RCW 84.52.043.

(i) The levy limit set forth in RCW 84.55.010 does not apply to the county tax refund fund levy, regardless of which taxing district is involved (see RCW 84.55.070). Therefore, a taxing district(s) can levy the amount to be refunded even if that amount will cause the total levy of the taxing district to exceed the levy limit. For example, a court orders County A to refund \$10,000 to a Taxpayer. The proper county officials in County A must determine what portion of the \$10,000 is attributable to Taxing District No. 1. For purposes of this example, Taxing District No. 1 owes the Taxpayer \$1,000. Taxing District No. 1's levy last year was \$30,000. Without considering new construction, improvements to property, ((and)) increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, the levy for this year under the levy limit would be \$30,300. However, Taxing District No. 1's levy for this year, including the refund fund levy, can be \$31,300.

(ii) The constitutional one percent limit, the statutory dollar rate limit, and the aggregate dollar rate limit apply to any refund

fund levy. Consequently, any refund fund levy must be contained within the maximum dollar rate authorized by law for any taxing district. For example, if under the levy limit, the county current expense levy rate is \$1.80/\$1,000 and the refund fund levy rate is $\$((-10/\$1,000))$ 0.10/\$1,000 A.V., then only \$1.70 may go to the current expense fund. Similarly, if the current expense levy rate, as limited by the levy limit, is \$1.50/\$1,000 A.V., then the $\$((-10/\$1,000))$ 0.10/\$1,000 is added to the \$1.50 making a levy rate that is \$1.60/\$1,000 A.V. Any combination is possible as long as the total of the two does not exceed the statutory dollar rate maximum of \$1.80/\$1,000 A.V. for levies made for county purposes. All moneys levied for the county tax refund fund levy are allocated first, without consideration of any delinquency, and then whatever balance is remaining goes to the district's operating fund.

(e) Refund fund's relationship to excess levies. Because the refund fund levy is the direct result of a court ordered judgment in a specific amount, it does not matter whether the judgment amount is derived from taxes paid on regular, excess, or bond levies, or any combination of these levies. The refund fund levy is separate and independent of the levies from which it arose. The levy includes an additional amount deemed necessary to meet the obligations of the county tax refund fund, taking into consideration the probable portions of the taxes that will not be collected or collectible during the year in which they are due and payable, as well as any unobligated cash in hand in this fund.

(f) Applicability to school district levies and state school levy. All taxing districts for which, and within which, taxes were collected unlawfully are required to levy for the refund fund. A refund fund for the school district would not be limited by a dollar rate limit. However, the school district refund fund levy would be subject to the constitutional one percent limit because the refund fund is a regular levy subject to all applicable limits. The state school levy will include a refund fund levy, which will be calculated by the department at the time it levies the state school levy. The state, as a taxing district itself, follows the same procedures that apply to any other taxing district, to the extent that those procedures are applicable.

(g) Separate account in county treasury. The county treasurer must keep a separate account for each district for which a refund fund is created and can only disburse money from that account to the taxpayer(s) entitled to receive a court ordered refund.

(3) **Administrative refunds under chapter 84.69 RCW.** Property taxes may be refunded on the order of the county treasurer before or after delinquency if the property taxes were paid under one of the circumstances listed in RCW 84.69.020. These circumstances include errors, changes in valuation or status by a county board of equalization or the state board of tax appeals, and delays in applying for a senior citizen exemption or deferral.

(a) The levy limit set forth in RCW 84.55.010 does not apply. RCW 84.55.070 states that the limitations contained in chapter 84.55 RCW do not apply to property tax refunds paid or to be paid under the provisions of RCW 84.69.180. Therefore, an amount necessary to fund any refund paid in accordance with RCW 84.69.020 may be added to the levy for a taxing district without regard to the levy limit. A refund (~~fund~~) levy is not subject to the levy limit. However, the statutory dollar rate limit still applies to each taxing district, as well as the five dollar and ninety cent limit set forth in RCW 84.52.043 and

the constitutional one percent limit set forth in Article VII, section 2 of the state Constitution and RCW 84.52.050.

(b) Refunds include interest. Refunds authorized under RCW 84.69.020 must include interest that is payable from the time the taxes were paid. The rate of interest is calculated in accordance with RCW 84.69.100, established annually by the department, and published in WAC 458-18-220.

(c) Taxing districts, other than the state, may levy a tax upon all the taxable property within the district for the purpose of:

(i) Funding refunds paid or to be paid under this chapter, except for refunds due to taxes paid more than once, RCW 84.69.020(1), including interest, as ordered by the county treasurer or county legislative authority within the preceding twelve months; and

(ii) Taxes that have been abated or canceled, offset by any supplemental taxes collected under Title 84 RCW other than amounts collected due to highly valued disputed property, RCW 84.52.018, within the preceding twelve months can be levied by taxing districts other than the state.

(iii) This subsection (3)(c)(ii) only applies to abatements and cancellations that do not require a refund under chapter 84.69 RCW. Cancellations that require a refund are included within the scope of (c)(i) of this subsection.

(d) Example 1. This example demonstrates net refunds, cancellations, and supplements that occurred within the past twelve months and the refund levy that can be requested by the taxing district:

Refunds		\$8,000
Cancellations	\$10,000	
Abatements	\$ 1,000	
Supplements	\$ 7,000	
Net cancellations and abatements offset by supplements		\$4,000
Net amount eligible for a refund levy		\$12,000

(e) Example 2. This example assumes that the base for computing the allowable levy is \$10,000 and refers to the county current expense levy rate that may not exceed one dollar and eighty cents per thousand dollars of assessed value in accordance with RCW 84.52.043.

(i) Statutory rate requested does not exceed the dollar rate allowable:

The allowable levy for the county current expense fund	\$10,000
Refunds paid or to be paid	<u>\$2,000</u>
Total amount of levy	\$12,000
Assessed value	\$7,000,000
Levy rate	\$1.714/\$1,000
The levy rate is within the statutory rate limit of \$1.80/\$1,000	

(ii) Statutory rate requested exceeds the dollar rate allowable:

Allowable levy	\$10,000
Refunds paid or to be paid	<u>\$2,000</u>
Total amount of levy	\$12,000

Assessed value	\$6,500,000
Levy rate	\$1.846/\$1,000
The dollar rate cannot exceed \$1.80/\$1,000; therefore, the maximum that can be levied is \$6,500,000 x \$1.80/\$1,000	\$11,700
Amount to be refunded	\$2,000
Amount to be credited to current expense	\$9,700

(f) The base for computing the following year's levy limit does not include the refund levy amount. In the preceding example, the base for the following year's levy limit calculation is \$10,000. However, when calculating the additional levy amount based on the value of new construction, improvements to property (~~and any~~), increases in the assessed value of state assessed property, and increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, the actual regular levy rate (including the refund levy) is used.

AMENDATORY SECTION (Amending WSR 02-24-015, filed 11/25/02, effective 12/26/02)

WAC 458-19-550 State levy—Apportionment between counties. (1)

Introduction. The department is charged with levying the state taxes authorized by law. As part of this task, the department apportions the amount of tax levied for state purposes among the counties in proportion to the value of taxable property in each county for the year to ensure that each county pays its due and just share of the state tax. This rule explains how the state property tax levy rate is determined, how the department adjusts the previous year's apportionment because of changes and errors in taxable values reported to the department after October 1 of the preceding year, and how the limit factor set forth in RCW 84.55.010 is applied to the state levy.

(2) **Calculation of state levy rate.** The levy rate for the state property tax levy is the lesser of:

(a) \$3.60 per thousand dollars of the (~~full~~) true and fair value of the taxable property in the state; or

(b) The rate that, when applied to the valuation figures specified in subsection (3) of this rule, will produce a total amount equal to the levy limit set forth in RCW 84.55.010. This levy limit equals the limit factor multiplied by the highest state property tax levy of the most recent three annual state levies, plus an amount calculated by multiplying (~~increases in value due to~~) the state levy rate for the preceding year by the increase in assessed value in the state resulting from:

(i) New construction(~~τ~~);

(ii) Improvements to (~~real~~) property(~~, and the~~);

(iii) Increases in the assessed value of (~~state assessed~~) state assessed property (~~by the state levy rate applicable in the year prior to the current year for which the tax levy is being computed~~); and

(iv) Increases in assessed value due to the construction of wind turbine, solar, biomass, and geothermal facilities, if such facilities generate electricity and the property is not included elsewhere under

chapter 84.55 RCW for purposes of providing an additional dollar amount. The property may be classified as real or personal property.

(3) **Apportionment between the counties - Adjustment for changes or errors.** When determining the amount of the state levy using the calculations set forth in subsection (2)(b) (~~above~~) of this rule, the dollar amount apportioned to each county is based upon the valuation figures reported to the department by each county by October 1 of the levy year. If use of the counties' certified assessed values for state levy purposes causes an erroneous apportionment among the counties because of later changes or later-identified errors in valuation within a county, the department will adjust the following year's levy apportionment to reflect these changes and (~~the~~) corrections (~~for these errors~~).

(a) For purposes of this rule, a change in taxable value includes any final adjustment made by a reviewing body (county board of equalization, state board of tax appeals, or court of competent jurisdiction) and may also include additions of omitted property, other additions to or deletions from the assessment or tax rolls, any assessment return submitted by a county to the department subsequent to December 1st, or a change in the indicated ratio of a county.

(b) Errors requiring adjustments under this rule include errors corrected by a final reviewing body or any other error that may have come to the department's attention and would otherwise be a subject for correction in the exercise of its supervisory powers.

(4) **Changes or errors in current levy - Adjust apportionment for the following year's levy.** If there are any changes or errors relating to the values used in apportioning the current levy, the apportionment for the following year's levy will be adjusted. For purposes of this apportionment, the department will recalculate the previous year's levy and the apportionment thereof to correct any changes or errors in taxable values reported to the department after October 1 of the preceding year. The department will adjust the apportioned amount of the current year's state levy for each county by the difference between the dollar amounts of state levy due from each county as shown by the original and revised levy computations for the previous year.

(5) **County required to correct any error upon discovery.** Nothing in this rule relieves a county from its obligation to correct any error immediately upon discovery when the correction may be timely made to avoid distortion in the true apportionment of the state levy between counties.