



# 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:**

WAC 458-17-101, "Assessment and taxation of ships and vessels," explains the application of the personal property tax to ships and vessels. This rule is amended to incorporate legislation from the 2014 legislative session (2SSHB [2SHB] 2457) that imposes a new annual derelict vessel removal fee for commercial vessels subject to state property tax.

**Citation of existing rules affected by this order:**

- Repealed:
- Amended: WAC 458-17-101
- Suspended:

**Statutory authority for adoption:** RCW 84.08.010, 84.08.070, and 84.36.865.

**Other authority:** RCW 84.36.080, 84.40.065, and 84.56.440.

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 15-04-052 on January 29, 2015 .

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: A cost-benefit analysis was not prepared.

- Name: phone ( )
- Address: fax ( )
- e-mail

**Date adopted:** April 7, 2015

**NAME**

Dylan Waits

**SIGNATURE**

**TITLE**

Rules Coordinator

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: April 07, 2015**

**TIME: 11:21 AM**

**WSR 15-09-023**

**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:**

<b>Federal statute:</b>	New	Amended		Repealed
<b>Federal rules or standards:</b>	New	Amended		Repealed
<b>Recently enacted state statutes:</b>	New	Amended	1	Repealed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	New	Amended		Repealed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	New	Amended		Repealed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:**

<b>Negotiated rule making:</b>	New	Amended		Repealed
<b>Pilot rule making:</b>	New	Amended		Repealed
<b>Other alternative rule making:</b>	New	Amended		Repealed

AMENDATORY SECTION (Amending WSR 03-16-028, filed 7/29/03, effective 8/29/03)

**WAC 458-17-101 Assessment and taxation of ships and vessels.**

(1) **Introduction.** This rule explains the application of the ~~((personal))~~ state property tax to ships and vessels. Ships and vessels that are not subject to the excise tax imposed by chapter 82.49 RCW are either subject to the state property tax ~~((levy))~~ or are ~~((completely))~~ exempt from both the property tax and the excise tax. This rule covers only those ships and vessels subject to the property tax. See chapter 308-93 WAC for information regarding ships and vessels subject to the excise tax, which is administered by the department of licensing. This rule also discusses the annual derelict vessel removal fee that is imposed upon all persons required by RCW 84.40.065 to list any ship or vessel with the department of revenue for state property tax purposes (see RCW 79.100.180).

(2) **Which ships and vessels are subject to property taxation?** ~~((Under RCW 84.36.080,))~~ A ship or vessel is subject to the state ~~((portion of the))~~ property tax if the ship or vessel is:

(a) Used exclusively for commercial fishing purposes; or

(b) Primarily engaged in commerce and has or is required to have a valid marine document as a vessel of the United States. (See RCW 84.36.080).

Accordingly, such a ship or vessel is subject to assessment by the department of revenue for that portion of the property tax levied by the state for state purposes.

(3) **Which ships and vessels are exempt from property taxation?** The following are exempt from all property ~~((taxation))~~ taxes, including the state levy:

(a) A ship or vessel listed in the state or federal register of historical places (see RCW 84.36.080);

(b) A ship or vessel with an assessed value of less than five hundred dollars (see RCW 84.36.015); and

(c) A ship or vessel that is not within the scope of subsection (2) of this rule (see RCW 84.36.090).

(4) **What is the annual derelict vessel removal fee?** Except as otherwise provided in (a) of this subsection, an annual derelict vessel removal fee is imposed upon all persons required by RCW 84.40.065 to list any ship or vessel with the department of revenue for state property tax purposes.

(a) The derelict vessel removal fee does not apply in any year that a person required to list a ship or vessel does not owe the state property tax levied for collection in that year with respect to that ship or vessel.

(b) The annual derelict vessel removal fee is equal to one dollar per vessel foot measured by extreme length of the vessel, rounded up to the nearest whole foot.

(c) Each year the amount of the derelict vessel removal fee due for that calendar year will be provided in the tax statement required in RCW 84.40.065.

(d) The person listing a ship or vessel and the owner of the ship or vessel, if not the same person, are jointly and severally liable for the fee.

(e) The department of revenue will collect the derelict vessel removal fee and all property taxes upon ships and vessels listed with the department in accordance with RCW 84.40.065, and all applicable

interest and penalties on such taxes and fees. The taxes and derelict vessel removal fee are due and payable to the department on or before the thirtieth day of April and shall be delinquent after that date.

**(5) What happens if the property taxes and derelict vessel removal fees are delinquent or not paid?**

(a)(i) If payment of the tax, derelict vessel removal fee, or both, is not received by the department by the due date, a penalty of five percent of the amount of the unpaid tax and fee will be imposed;

(ii) If the tax and fee are not received within thirty days after the due date, a total penalty of ten percent of the amount of the unpaid tax and fee will be imposed;

(iii) If the tax and fee are not received within sixty days after the due date, a total penalty of twenty percent of the amount of the unpaid tax and fee will be imposed; and

(iv) No penalty listed in this subsection will be less than five dollars.

(b) Delinquent taxes under this section are subject to interest at the rate set forth in RCW 82.32.050 from the date of delinquency until paid. Delinquent derelict vessel removal fees are also subject to interest at the same rate and in the same manner as provided for delinquent taxes under RCW 82.32.050.

(c) If upon information obtained by the department it appears that any ship or vessel required to be listed according to the provisions of RCW 84.40.065 is not listed, the department will value the ship or vessel and assess against the owner of the vessel the taxes and derelict vessel removal fees found to be due and shall add thereto interest at the rate set forth in RCW 82.32.050 from the original due date of the tax and fee until the date of payment. The department will notify the vessel owner by mail of the amount, and it becomes due and payable by the vessel owner within thirty days of the date of the notice. If payment is not received by the department by the due date specified in the notice, the department will add a penalty of ten percent of the tax and fee found due. A person who willfully gives a false listing or willfully fails to list a ship or vessel as required by RCW 84.40.065 will be subject to the penalty imposed by RCW 84.40.130(2), which will be assessed and collected by the department.

**(6) What are a ship or vessel owner's obligations?** Under RCW 84.40.065, every individual, corporation, partnership, trust, and estate must list with the department (~~of revenue~~) any ship or vessel subject to that person's ownership, possession, or control (~~and~~) ~~that is~~ subject to property taxation under RCW 84.36.080. (~~This listing is subject to the same~~) The requirements, penalties, and liens provided in chapters 84.40 and 84.60 RCW for all other personal property apply to ships and vessels listed with the department.

The listed owner of a ship or vessel as of January 1st of the assessment year is responsible for payment of the property tax for that vessel in the following year.

Delinquent taxes and fees, along with all penalties and interest, will be collected by the department according to the procedures set forth in chapter 82.32 RCW for the filing and execution of tax warrants, including the imposition of warrant interest. In the event a warrant is issued by the department for the collection of taxes, derelict vessel removal fees, or both, the department will add a penalty of five percent of the amount of the delinquent tax and fee, but not less than ten dollars.

The department will also withhold the decals required under RCW 88.02.570(10) for failure to pay the state property tax or derelict vessel removal fee.

A ship or vessel is subject to property taxation even if it is temporarily not within the limits of the state on January 1st of the year in which the vessel is to be assessed. If ownership of a taxable ship or vessel is transferred after January 1st, the listed owner as of January 1st remains liable for payment of the full amount of tax payable in the following year. The full year's property tax may be abated only if the ship or vessel is damaged or destroyed and qualifies for a reduction in value under RCW 84.70.010.

For example, Seller A sells a taxable charter boat to Buyer B on August 14, ~~((2002))~~ 2013. Because Seller A was the listed owner as of January 1, ~~((2002))~~ 2013, Seller A is responsible for the entire year's property tax for the ~~((2002))~~ 2013 assessment year. That tax is due by April 30, ~~((2003))~~ 2014. Buyer B will be the listed owner for ~~((2003))~~ 2014 and responsible for the property tax for assessment year ~~((2003))~~ 2014, which is due by April 30, ~~((2004))~~ 2015.

~~((+5))~~ (7) **What happens if my ship or vessel is out of the state or being repaired during part of the year?** A qualifying ship or vessel, referred to as an "apportionable vessel," may have its assessed value reduced ~~((to reflect))~~ in certain circumstances. A reduction in assessed value ~~((also))~~ will reduce~~((s))~~ the amount of tax due.

(a) **What is an "apportionable vessel"?** Under RCW 84.40.036, an "apportionable vessel" is a ship or vessel that is:

(i) Engaged in interstate commerce, meaning the transporting of persons or property from one state or territory of the United States to another;

(ii) Engaged in foreign commerce, meaning the transporting of persons or property between a state or territory of the United States and a foreign country; or

(iii) Engaged exclusively in fishing, tendering, harvesting and/or processing seafood products on the high seas or waters under the jurisdiction of other states.

(b) **How is value apportioned?** An apportionable vessel has its value apportioned as provided in this subsection.

(i) The value is apportioned based on the number of days or fractions of days that the vessel was within the limits of the state during the calendar year preceding the calendar year in which the vessel is assessed. No value is apportioned to this state unless the vessel is within the limits of the state for more than one hundred twenty days. Days during which a ship or vessel leaves the limits of the state only while navigating the high seas ~~((in order))~~ to travel between points in this state are considered as days within this state. A ship or vessel that does not qualify as an apportionable vessel under subsection (5)(a) of this rule may not have its value apportioned, regardless of the number of days the ship or vessel is within or outside the limits of the state.

(A) A "fraction of a day" means more than sixteen hours in a calendar day.

(B) The "limits of the state" means the boundaries of the state of Washington abutting Canada, Oregon, and Idaho and three miles to the west of Washington's coast line.

(ii) Time during which an apportionable vessel is in the state exclusively for one or more of the following purposes is not considered as time within the limits of the state, if the length of time is reasonable to such purpose:

- (A) (~~Undergo~~) Undergoing maintenance, repair, or alteration;
- (B) (~~Take~~) Taking on or discharge cargo, passengers, or supplies; or
- (C) (~~Serve~~) Serving as a tug for a vessel under (b)(ii)(A) or (B) of this subsection (~~(+5)(b)(ii)~~).

A "reasonable length of time" includes a reasonable length of travel time to enter and leave the limits of the state exclusively for one of the purposes listed in (b)(ii)(A) through (C) (~~above~~) of this subsection. A ship or vessel engaging in any activity or use not described in (b)(ii)(A) through (C) (~~above~~) of this subsection, or merely being moored, is not considered to be within the state exclusively for the purposes described in this subsection.

(c) **Examples.** The following examples illustrate the application of the apportionment rules. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(i) Barge A loads cargo in Washington Port Z in eastern Washington. Loaded, Barge A embarks down the Columbia River to Vancouver, Washington and discharges its cargo. This activity does not qualify Barge A as an apportionable vessel because Barge A did not engage in interstate or foreign commerce. The barge would qualify as an apportionable vessel for the following assessment year if it had discharged its cargo at Portland, Oregon.

(ii) Charter Boat operates out of XYZ Charters, based in Anacortes, Washington. The charter begins in Anacortes and sails into Canadian waters for one month before returning to Anacortes to complete the charter. This activity does not qualify Charter Boat as an apportionable vessel because Charter Boat did not engage in foreign or interstate commerce; no persons or property were transported from one country or state to another.

(iii) Charter Boat operates out of XYZ Charters, based in Anacortes, Washington. Charter Boat is delivered to persons who board the vessel in Vancouver, British Columbia. Charter Boat cruises in Canadian waters for one month before returning to Anacortes where the passengers disembark, completing the charter. This transaction involves foreign commerce because persons were transported between another country and the United States. As a result, the vessel qualifies as an apportionable vessel and its value will be apportioned based upon the number of days the vessel is within the limits of the state during that calendar year.

(iv) (~~Charter Boat carries passengers from Seattle to Juneau, Alaska. Charter Boat then charts out of Alaska during the summer months. Charter Boat returns to Seattle in September for mooring and off-season repairs. The vessel qualifies as an apportionable vessel and its value will be apportioned to reflect the days the vessel is within the limits of the state during that calendar year. However, the days in Washington while the vessel is being repaired are not counted as days within the state, if reasonable in amount of time. On the other hand, the vessel's travel time within Washington waters while traveling to and from the state is counted as time within the state because the trip to this state was not exclusively for the purpose of repairs.~~

(~~v~~) Fishing Boat goes to Alaska each year to fish and returns to Seattle each fall for repair and maintenance. The vessel qualifies as an apportionable vessel and its value will be apportioned to reflect the days the vessel is within the limits of the state during that calendar year. The days in Washington for repair and maintenance

are not counted, if the amount of time is reasonable. Travel time to and from Washington is also not counted as time within the state because the trip was exclusively for the purpose of obtaining repair and maintenance services. As a result, none of the vessel's value will be apportioned to Washington in this instance.

((v)) (v) Charter Boat Owner A purchases a vessel on November 1, ((2001)) 2011. The boat had previously been used as a pleasure craft. The boat is first used in interstate commerce as a charter boat in January ((2002)) 2012 and spends half of the year outside of state waters in calendar year ((2002)) 2012. The boat is first listed in Owner A's name for tax purposes as of January 1, ((2002)) 2012. The vessel's entire value is assessed in ((2002)) 2012 because the vessel did not qualify as an apportionable vessel during calendar year ((2001)) 2011 (the calendar year preceding the assessment year). Owner A will first pay property taxes in the ((2003)) 2013 tax year based upon the vessel's value in the ((2002)) 2012 assessment year. The full amount of tax is due by April 30, ((2003)) 2013. The value for the ((2003)) 2013 assessment year will be apportioned based upon the boat's use in calendar year ((2002)) 2012 (50% of time within state waters). The amount of tax due for tax year ((2004)) 2014 will be based upon the ((2003)) 2013 assessed value and is due by April 30, ((2004)) 2014.