

Chapter 84.68 RCW
RECOVERY OF TAXES PAID OR PROPERTY SOLD FOR TAXES

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RCW 84.68.010 Injunctions prohibited—Exceptions. Injunctions and restraining orders shall not be issued or granted to restrain the collection of any tax or any part thereof, or the sale of any property for the nonpayment of any tax or part thereof, except in the following cases:

- (1) Where the law under which the tax is imposed is void;
- (2) Where the property upon which the tax is imposed is exempt from taxation; or
- (3) Where the sale is a result of an error made by an officer or employee of the county, and the board of county commissioners or other legislative authority of the county issues an order. [2000 c 103 § 30; 1972 ex.s. c 84 § 3; 1961 c 15 § 84.68.010. Prior: 1931 c 62 § 1; RRS § 11315-1.]

RCW 84.68.020 Payment under protest—Claim not required. In all cases of the levy of taxes for public revenue which are deemed unlawful or excessive by the person, firm or corporation whose property is taxed, or from whom such tax is demanded or enforced, such person, firm or corporation may pay such tax or any part thereof deemed unlawful, under written protest setting forth all of the grounds upon which such tax is claimed to be unlawful or excessive; and thereupon the person, firm or corporation so paying, or their legal representatives or assigns, may bring an action in the superior court or in any federal court of competent jurisdiction against the state, county or municipality by whose officers the same was collected, to recover such tax, or any portion thereof, so paid under

protest: PROVIDED, That RCW 84.68.010 through 84.68.070 shall not be deemed to enlarge the grounds upon which taxes may now be recovered: AND PROVIDED FURTHER, That no claim need be presented to the state or county or municipality, or any of their respective officers, for the return of such protested tax as a condition precedent to the institution of such action. [1994 c 124 § 40; 1961 c 15 § 84.68.020. Prior: 1937 c 11 § 1; 1931 c 62 § 2; 1927 c 280 § 7; 1925 c 18 § 7; RRS § 11315-2.]

RCW 84.68.030 Judgment—Payment—County tax refund fund. In case it be determined in such action that said tax, or any portion thereof, so paid under protest, was unlawfully collected, judgment for recovery thereof and interest thereon at the rate specified in RCW 84.69.100 from date of payment, together with costs of suit, shall be entered in favor of plaintiff. In case the action is against a county and the judgment shall become final, the amount of such judgment, including interest at the rate specified in RCW 84.69.100 and costs where allowed, shall be paid out of the treasury of such county by the county treasurer upon warrants drawn by the county auditor against a fund in said treasury hereby created to be known and designated as the county tax refund fund. Such warrants shall be so issued upon the filing with the county auditor and the county treasurer of duly authenticated copies of such judgment, and shall be paid by the county treasurer out of any moneys on hand in said fund. If no funds are available in such county tax refund fund for the payment of such warrants, then such warrants shall bear interest in such cases and shall be callable under such conditions as are provided by law for county warrants, and such interest, if any, shall also be paid out of said fund. [1989 c 378 § 28; 1961 c 15 § 84.68.030. Prior: 1931 c 62 § 3; RRS § 11315-3.]

RCW 84.68.040 Levy for tax refund fund. Annually, at the time required by law for the levying of taxes for county purposes, the proper county officers required by law to make and enter such tax levies shall make and enter a tax levy or levies for said county tax refund fund, which said levy or levies shall be given precedence over all other tax levies for county and/or taxing district purposes, as follows:

(1) A levy upon all of the taxable property within the county for the amount of all taxes collected by the county for county and/or state purposes held illegal and recoverable by such judgments rendered against the county within the preceding twelve months, including legal interest and a proper share of the costs, where allowed, together with the additional amounts hereinafter provided for;

(2) A levy upon all of the taxable property of each taxing district within the county for the amount of all taxes collected by the county for the purposes of such taxing district, and which have been held illegal and recoverable by such judgments rendered against the county within the preceding twelve months, including legal interest and a proper share of the costs, where allowed.

The aforesaid levy or levies shall also include a proper share of the interest paid out of the county tax refund fund during said twelve months upon warrants issued against said fund in payment of such judgments, legal interests and costs, plus such an additional amount

as such levying officers shall deem necessary to meet the obligations of said fund, taking into consideration the probable portions of such taxes that will not be collected or collectible during the year in which they are due and payable, and also any unobligated cash on hand in said fund. [1961 c 15 § 84.68.040. Prior: 1937 c 11 § 2; 1931 c 62 § 4; RRS § 11315-4.]

RCW 84.68.050 Venue of action—Intercounty property. The action for the recovery of taxes so paid under protest shall be brought in the superior court of the county wherein the tax was collected or, for actions solely against one county, in any superior court permitted under RCW 36.01.050, or in any federal court of competent jurisdiction: PROVIDED, That where the property against which the tax is levied consists of the operating property of a railroad company, telegraph company or other public service company whose operating property is located in more than one county and is assessed as a unit by any state board or state officer or officers, the complaining taxpayer may institute such action in the superior court of any one of the counties in which such tax is payable, or in any federal court of competent jurisdiction, and may join as parties defendant in said action all of the counties to which the tax or taxes levied upon such operating property were paid or are payable, and may recover in one action from each of the county defendants the amount of the tax, or any portion thereof, so paid under protest, and adjudged to have been unlawfully collected, together with interest thereon at the rate specified in RCW 84.69.100 from date of payment, and costs of suit. [2023 c 81 § 2; 1989 c 378 § 29; 1961 c 15 § 84.68.050. Prior: 1937 c 11 § 3; 1931 c 62 § 5; RRS § 11315-5.]

Findings—Intent—2023 c 81: "The legislature finds that, in *Hardel Mut. Plywood Corp. v. Lewis Cty.*, 200 Wn.2d 199 (2022), the state supreme court held that RCW 36.01.050 did not apply to tax refund lawsuits against counties despite the legislature's intent that it apply to "all actions against any county." Therefore, the legislature finds it necessary to reaffirm the legislature's intent to provide all plaintiffs with actions against counties access to a neutral forum by clarifying that RCW 84.68.050 and 36.01.050 both apply to allow taxpayers a choice of venue in tax refund lawsuits. The legislature intends to make this amendment retroactively and prospectively to conform the venue provisions applying to tax refund lawsuits against counties to the original intent of the legislature." [2023 c 81 § 1.]

Application—2023 c 81: "The purpose of this act is curative and remedial, and it applies retroactively and prospectively to all actions filed under RCW 84.68.050, regardless of when they were filed. Any change in venue as a result of *Hardel Mut. Plywood Corp. v. Lewis Cty.*, 200 Wn.2d 199 (2022) may be reversed at the motion of the plaintiff." [2023 c 81 § 3.]

Effective date—2023 c 81: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 13, 2023]." [2023 c 81 § 4.]

RCW 84.68.060 Limitation of actions. No action instituted pursuant to this chapter or otherwise to recover any tax levied or assessed shall be commenced after the 30th day of the next succeeding June following the year in which said tax became payable. [1961 c 15 § 84.68.060. Prior: 1939 c 206 § 48; 1931 c 62 § 6; RRS § 11315-6.]

Limitation of action to cancel tax deed: RCW 4.16.090.

RCW 84.68.070 Remedy exclusive—Exception. Except as permitted by RCW 84.68.010 through 84.68.070 and chapter 84.69 RCW, no action shall ever be brought or defense interposed attacking the validity of any tax, or any portion of any tax: PROVIDED, HOWEVER, That this section shall not be construed as depriving the defendants in any tax foreclosure proceeding of any valid defense allowed by law to the tax sought to be foreclosed therein except defenses based upon alleged excessive valuations, levies or taxes. [1989 c 378 § 30; 1961 c 15 § 84.68.070. Prior: 1939 c 206 § 49; 1931 c 62 § 7; RRS § 11315-7.]

RCW 84.68.080 Action to recover property sold for taxes—Tender is condition precedent. Hereafter no action or proceeding shall be commenced or instituted in any court of this state for the recovery of any property sold for taxes, unless the person or corporation desiring to commence or institute such action or proceeding shall first pay, or cause to be paid, or shall tender to the officer entitled under the law to receive the same, all taxes, penalties, interest and costs justly due and unpaid from such person or corporation on the property sought to be recovered. [1961 c 15 § 84.68.080. Prior: 1888 c 22 (p 43) § 1; RRS § 955.]

Limitation of action to cancel tax deed: RCW 4.16.090.

RCW 84.68.090 Action to recover property sold for taxes—Complaint. In all actions for the recovery of lands or other property sold for taxes, the complainant must state and set forth specially in the complaint the tax that is justly due, with penalties, interest and costs, that the taxes for that and previous years have been paid; and when the action is against the person or corporation in possession thereof that all taxes, penalties, interest and costs paid by the purchaser at tax-sale, the purchaser's assignees or grantees have been fully paid or tendered, and payment refused. [1994 c 124 § 41; 1961 c 15 § 84.68.090. Prior: 1888 c 22 (p 44) § 2; RRS § 956.]

RCW 84.68.100 Action to recover property sold for taxes—Restrictions construed as additional. The provisions of RCW 84.68.080 and 84.68.090 shall be construed as imposing additional conditions upon the complainant in actions for the recovery of property sold for taxes. [1961 c 15 § 84.68.100. Prior: 1888 c 22 (p 44) § 3; RRS § 957.]

RCW 84.68.110 Small claims recoveries—Recovery of erroneous taxes without court action. Whenever a taxpayer believes or has

reason to believe that, through error in description, double assessments, or manifest errors in assessment which do not involve a revaluation of the property, he or she has been erroneously assessed or that a tax has been incorrectly extended against him or her upon the tax rolls, and the tax based upon such erroneous assessment or incorrect extension has been paid, such taxpayer may initiate a proceeding for the cancellation or reduction of the assessment of his or her property and the tax based thereon or for correction of the error in extending the tax on the tax rolls, and for the refund of the claimed erroneous tax or excessive portion thereof, by filing a petition therefor with the county assessor of the county in which the property is or was located or taxed, which petition shall legally describe the property, show the assessed valuation and tax placed against the property for the year or years in question and the taxpayer's reasons for believing that there was an error in the assessment within the meaning of RCW 84.68.110 through 84.68.150, or in extending the tax upon the tax rolls and set forth the sum to which the taxpayer desires to have the assessment reduced or the extended tax corrected. [2013 c 23 § 378; 1961 c 15 § 84.68.110. Prior: 1939 c 16 § 1; RRS § 11241-1.]

RCW 84.68.120 Small claims recoveries—Petition—Procedure of county officers—Transmittal of findings to department of revenue.

Upon the filing of the petition with the county assessor that officer shall proceed forthwith to conduct such investigation as may be necessary to ascertain and determine whether or not the assessment in question was erroneous or whether or not the tax was incorrectly extended upon the tax rolls and if he or she finds there is probable cause to believe that the property was erroneously assessed, and that such erroneous assessment was due to an error in description, double assessment, or manifest error in assessment which does not involve a revaluation of the property, or that the tax was incorrectly extended upon the tax rolls, he or she shall endorse his or her findings upon the petition, and thereupon within ten days after the filing of the petition by the taxpayer forward the same to the county treasurer. If the assessor's findings be in favor of cancellation or reduction or correction he or she shall include therein a statement of the amount to which he or she recommends that the assessment and tax be reduced. It shall be the duty of the county treasurer, upon whom a petition with endorsed findings is served, as in RCW 84.68.110 through 84.68.150 provided, to endorse thereon a statement whether or not the tax against which complaint is made has in fact been paid and, if paid, the amount thereof, whereupon the county treasurer shall immediately transmit the petition to the prosecuting attorney and the prosecuting attorney shall make such investigation as he or she deems necessary and, within ten days after receipt of the petition and findings by him or her, transmit the same to the state department of revenue with his or her recommendation in respect to the granting or denial of the petition. [2013 c 23 § 379; 1975 1st ex.s. c 278 § 208; 1961 c 15 § 84.68.120. Prior: 1939 c 16 § 2; RRS § 11241-2.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

RCW 84.68.130 Small claims recoveries—Procedure of department of revenue. Upon receipt of the petition, findings and recommendations the state department of revenue shall proceed to consider the same, and it may require evidence to be submitted and make such investigation as it deems necessary and for such purpose the department of revenue shall be empowered to subpoena witnesses in order that all material and relevant facts may be ascertained. Upon the conclusion of its consideration of the petition and within thirty days after receipt thereof, the department of revenue shall enter an order either granting or denying the petition and if the petition be granted the department of revenue may order the assessment canceled or reduced or the extended tax corrected upon the tax rolls in any amount it deems proper but in no event to exceed the amount of reduction or correction recommended by the county assessor. [1975 1st ex.s. c 278 § 209; 1961 c 15 § 84.68.130. Prior: 1939 c 16 § 3; RRS § 11241-3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

RCW 84.68.140 Small claims recoveries—Payment of refunds—Procedure. Certified copies of the order of the department of revenue shall be forwarded to the county assessor, the county auditor and the taxpayer, and the taxpayer shall immediately be entitled to a refund of the difference, if any, between the tax already paid and the canceled or reduced or corrected tax based upon the order of the department with interest on such amount from the date of payment of the original tax. Upon receipt of the order of the department the county auditor shall draw a warrant against the county tax refund fund in the amount of any tax reduction so ordered, plus interest at the rate specified in RCW 84.69.100 to the date such warrant is issued, and such warrant shall be paid by the county treasurer out of any moneys on hand in said fund. If no funds are available in the county tax refund fund for the payment of such warrant the warrant shall bear interest and shall be callable under such conditions as are provided by law for county warrants and such interest, if any, shall also be paid out of said fund. The order of the department shall for all purposes be considered as a judgment against the county tax refund fund and the obligation thereof shall be discharged in the same manner as provided by law for the discharge of judgments against the county for excessive taxes under the provisions of RCW 84.68.010 through 84.68.070 or any act amendatory thereof. [1989 c 378 § 31; 1975 1st ex.s. c 278 § 210; 1961 c 15 § 84.68.140. Prior: 1939 c 16 § 4; RRS § 11241-4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

RCW 84.68.150 Small claims recoveries—Limitation as to time and amount of refund. No petition for cancellation or reduction of assessment or correction of tax rolls and the refund of taxes based thereon under RCW 84.68.110 through 84.68.150 may be considered unless filed within three years after the year in which the tax became payable or purported to become payable, unless the reduction or correction is the result of a manifest error and the county

legislative authority authorizes a longer period for a refund of the claim. The maximum refund under the authority of RCW 84.68.110 through 84.68.150 for each year involved in the taxpayer's petition is two hundred dollars. Should the amount of excess tax for any such year be in excess of two hundred dollars, a refund of two hundred dollars must be allowed under RCW 84.68.110 through 84.68.150, without prejudice to the right of the taxpayer to proceed as may be otherwise provided by law to recover the balance of the excess tax paid by him or her. [2015 c 174 § 3; 2013 c 23 § 380; 1961 c 15 § 84.68.150. Prior: 1949 c 158 § 1; 1941 c 154 § 1; 1939 c 16 § 5; Rem. Supp. 1949 § 11241-5.]