

Chapter 84.38 RCW
DEFERRAL OF SPECIAL ASSESSMENTS AND/OR PROPERTY TAXES

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RCW 84.38.010 Legislative finding and purpose. Savings once deemed adequate for retirement living have been rendered inadequate by increased tax rates, increased property values, and the failure of pension systems to adequately reflect such factors. It is therefore deemed necessary that the legislature, in addition to that tax exemption as provided for in RCW 84.36.381 through 84.36.389 as now or hereafter amended, allow retired persons to defer payment of special assessments on their residences, and to defer their real property tax obligations on their residences, an amount of up to eighty percent of their equity in said property. This deferral program is intended to assist retired persons in maintaining their dignity and a reasonable standard of living by residing in their own homes, providing for their own needs, and managing their own affairs without requiring assistance from public welfare programs. [1975 1st ex.s. c 291 § 26.]

RCW 84.38.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) (a) "Claimant" means a person who either elects or is required under RCW 84.64.050 to defer payment of the special assessments and/or real property taxes accrued on the claimant's residence by filing a declaration to defer as provided by this chapter.

(b) When two or more individuals of a household file or seek to file a declaration to defer, they may determine between them as to who the claimant is.

(2) "Devisee" has the same meaning as provided in RCW 21.35.005.

(3) "Equity value" means the amount by which the fair market value of a residence as determined from the records of the county assessor exceeds the total amount of any liens or other obligations against the property.

(4) "Heir" has the same meaning as provided in RCW 21.35.005.

(5) "Income threshold" means: (a) For taxes levied for collection in calendar years prior to 2020, a combined disposable income equal to \$45,000; and (b) for taxes levied for collection in calendar year 2020 and thereafter, a combined disposable income equal to the greater of the income threshold for the previous year, or 75 percent of the county median household income, adjusted every three years beginning August 1, 2023, as provided in RCW 84.36.385(8). Beginning with the adjustment made by August 1, 2023, as provided in RCW 84.36.385(8), if the income threshold in a county is not adjusted based on percentage of county median income as provided in this subsection, then the income threshold must be adjusted based on the growth of the consumer price index for all urban consumers (CPI-U) for the prior twelve-month period as published by the United States bureau of labor statistics. In no case may the adjustment be greater than one percent. The adjusted threshold must be rounded to the nearest one dollar. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply.

(6) "Local government" means any city, town, county, water-sewer district, public utility district, port district, irrigation district, flood control district, or any other municipal corporation, quasi-municipal corporation, or other political subdivision authorized to levy special assessments.

(7) "Real property taxes" means ad valorem property taxes levied on a residence in this state in the preceding calendar year.

(8) "Residence" has the meaning given in RCW 84.36.383.

(9) "Special assessment" means the charge or obligation imposed by a local government upon property specially benefited. [2023 c 147 § 4; 2019 c 453 § 4; 2006 c 62 § 2; 1997 c 93 § 1; 1996 c 230 § 1614; 1995 c 329 § 1; 1991 c 213 § 1; 1984 c 220 § 20; 1979 ex.s. c 214 § 5; 1975 1st ex.s. c 291 § 27.]

Tax preference performance statement exemption—Automatic expiration date exemption—2023 c 147: See note following RCW 84.36.381.

Application—Automatic expiration date and tax preference performance statement exemption—2019 c 453: See notes following RCW 84.36.381.

Application—2006 c 62: See note following RCW 84.36.383.

Effective date—1997 c 93: "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 21, 1997]." [1997 c 93 § 2.]

Part headings not law—Effective date—1996 c 230: See notes following RCW 57.02.001.

Applicability—1991 c 213: "Sections 1 and 2 of this act shall be effective for taxes levied for collection in 1991 and thereafter. Sections 3 and 4 of this act shall be effective for taxes levied for collection in 1992 and thereafter." [1991 c 213 § 6.]

RCW 84.38.030 Conditions and qualifications for claiming deferral. A claimant may defer payment of special assessments and/or real property taxes on up to eighty percent of the amount of the claimant's equity value in the claimant's residence if the following conditions are met:

(1) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381, other than the age and income limits under RCW 84.36.381.

(2) The claimant must be sixty years of age or older on December 31st of the year in which the deferral claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of disability as defined in RCW 84.36.383. However, any surviving spouse, surviving domestic partner, heir, or devisee of a person who was receiving a deferral at the time of the person's death qualifies if the surviving spouse, surviving domestic partner, heir, or devisee is fifty-seven years of age or older and otherwise meets the requirements of this section.

(3) The claimant must have a combined disposable income, as defined in RCW 84.36.383, equal to or less than the income threshold.

(4) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection, a residence owned by a marital community, owned by domestic partners, or owned by cotenants is deemed to be owned by each spouse, each domestic partner, or each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(5) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state in the claimant's equity value. However, if the claimant fails to keep fire and casualty insurance in force to the extent of the state's interest in the claimant's equity value, the amount deferred may not exceed one hundred percent of the claimant's equity value in the land or lot only.

(6) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available. [2019 c 453 § 5. Prior: 2015 3rd sp.s. c 30 § 3; 2015 c 86 § 313; 2008 c 6 § 702; 2006 c 62 § 3; 2004 c 270 § 3; 1995 c 329 § 2; 1991 c 213 § 2; 1988 c 222 § 11; 1984 c 220 § 21; 1979 ex.s. c 214 § 6; 1975 1st ex.s. c 291 § 28.]

Application—Automatic expiration date and tax preference performance statement exemption—2019 c 453: See notes following RCW 84.36.381.

Tax preference performance statement—Application—2015 3rd sp.s. c 30: See notes following RCW 84.36.381.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Application—2006 c 62: See note following RCW 84.36.383.

Applicability—1991 c 213: See note following RCW 84.38.020.

RCW 84.38.040 Declaration to defer special assessments and/or real property taxes—Filing—Contents—Appeal. (1) Each claimant electing to defer payment of special assessments and/or real property tax obligations under this chapter must file with the county assessor, on forms prescribed by the department and supplied by the assessor, a written declaration thereof. The declaration to defer special assessments and/or real property taxes for any year must be filed no later than thirty days before the tax or assessment is due or thirty days after receiving notice under RCW 84.64.050, whichever is later; however, for good cause shown, the department may waive this requirement.

(2) The declaration must designate the property to which the deferral applies, and must include a statement setting forth (a) a list of all members of the claimant's household, (b) the claimant's equity value in his or her residence, (c) facts establishing the eligibility for the deferral under the provisions of this chapter, and (d) any other relevant information required by the rules of the department. The declaration must be signed by the claimant subject to the penalties as provided in chapter 9A.72 RCW for false swearing. The first declaration to defer filed in a county must include proof of the claimant's age acceptable to the assessor.

(3) The county assessor must determine if each claimant is granted a deferral for each year but the claimant has the right to appeal this determination to the county board of equalization, in accordance with the provisions of RCW 84.40.038, whose decision is final as to the deferral of that year. [2020 c 139 § 51; 2013 c 23 § 353; 2001 c 185 § 10; 1994 c 301 § 34; 1984 c 220 § 22; 1979 ex.s. c 214 § 7; 1975 1st ex.s. c 291 § 29.]

Application—2001 c 185 §§ 1-12: See note following RCW 84.14.110.

RCW 84.38.050 Renewal of deferral—Forms—Notice to renew—Limitation upon special assessment deferral amount. (1) (a) Declarations to defer property taxes for all years following the first year may be made by filing with the county assessor no later than thirty days before the tax is due a renewal form, prescribed by the department of revenue and supplied by the county assessor, which affirms the continued eligibility of the claimant.

(b) In January of each year, the county assessor must send to each claimant who has been granted deferral of ad valorem taxes for the previous year renewal forms and notice to renew.

(2) Declarations to defer special assessments must be made by filing with the assessor no later than thirty days before the special assessment is due on a form to be prescribed by the department of revenue and supplied by the county assessor. Upon approval, the full amount of special assessments upon such claimant's residence must be

deferred but not to exceed an amount equal to eighty percent of the claimant's equity value in said property. [2020 c 139 § 52; 1979 ex.s. c 214 § 8; 1975 1st ex.s. c 291 § 30.]

RCW 84.38.060 Declaration of deferral by agent, guardian, etc.

If the claimant is unable to make his or her own declaration of deferral, it may be made by a duly authorized agent or by a guardian or other person charged with care of the person or property of such claimant. [2013 c 23 § 354; 1975 1st ex.s. c 291 § 31.]

RCW 84.38.070 Ceasing to reside permanently on property subject to deferral declaration. If the claimant declaring his or her intention to defer special assessments or real property tax obligations under this chapter ceases to reside permanently on the property for which the declaration to defer is made between the date of filing the declaration and December 15th of that year, the deferral otherwise allowable under this chapter is not allowed on such tax roll. However, this section does not apply where the claimant dies, leaving a spouse, domestic partner, heir, or devisee surviving, who is also eligible for deferral of special assessment and/or property taxes. [2019 c 453 § 6; 2008 c 6 § 703; 1975 1st ex.s. c 291 § 32.]

Application—Automatic expiration date and tax preference performance statement exemption—2019 c 453: See notes following RCW 84.36.381.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 84.38.080 Right to deferral not reduced by contract or agreement. A person's right to defer special assessments and/or property tax obligations on his or her residence shall not be reduced by contract or agreement, from January 1, 1976 onward. [2013 c 23 § 355; 1975 1st ex.s. c 291 § 33.]

RCW 84.38.090 Procedure where residence under mortgage or purchase contract. If any residence is under mortgage or purchase contract requiring accumulation of reserves out of which the holder of the mortgage or contract is required to pay real estate taxes, said holder shall cosign the declaration of deferral either before a notary public or the county assessor or his or her deputy in the county where the real property is located. [2013 c 23 § 356; 1975 1st ex.s. c 291 § 34.]

RCW 84.38.100 Lien of state, mortgage or purchase contract holder—Priority—Amount—Interest. Whenever a person's special assessment and/or real property tax obligation is deferred under the provisions of this chapter, the amount deferred and required to be paid pursuant to RCW 84.38.120 becomes a lien in favor of the state upon his or her property and has priority as provided in chapters 35.49, 35.50, 36.35, and 84.60 RCW. However, the interest of a

mortgage or purchase contract holder who is required to cosign a declaration of deferral under RCW 84.38.090, has priority to such deferred lien. This lien may accumulate up to eighty percent of the amount of the claimant's equity value in the property and must bear interest at the rate of five percent per year from the time it could have been paid before delinquency until said obligation is paid. However, when taxes are deferred as provided in RCW 84.64.050, the amount must bear interest at the rate of five percent per year from the date the declaration is filed until the obligation is paid or the date that the obligation is charged off as finally uncollectible. In the case of a mobile home, the department of licensing must show the state's lien on the certificate of title for the mobile home. In the case of all other property, the department of revenue must file a notice of the deferral with the county recorder or auditor. [2013 c 221 § 8; 2010 c 161 § 1168; 2006 c 275 § 1; 2000 c 103 § 26; 1988 c 222 § 12; 1984 c 220 § 23; 1981 c 322 § 1; 1975 1st ex.s. c 291 § 35.]

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Application—2006 c 275: "This act only applies to property tax deferrals granted under RCW 84.38.040 after June 7, 2006, for taxes levied for collection in 2007 and thereafter." [2006 c 275 § 2.]

Finding—DOR report to legislature—2006 c 275: "The legislature finds that the intent of the property tax deferral program is to assist retired persons in maintaining their dignity and a reasonable standard of living by residing in their own homes, providing for their own needs, and managing their own affairs without requiring assistance from public welfare programs. The department of revenue shall review the adequacy and appropriateness of the interest rate provided in RCW 84.38.100 in relation to these objectives. The department shall report its findings to the finance committee of the house of representatives and the ways and means committee of the senate by December 1, 2012." [2006 c 275 § 3.]

Effective date—1984 c 220: See note following RCW 84.38.120.

RCW 84.38.110 Duties of county assessor. The county assessor must:

(1) Immediately transmit a copy of each declaration to defer to the department of revenue. The department may audit any declaration and must notify the assessor as soon as possible of any claim where any factor appears to disqualify the claimant for the deferral sought.

(2) Transmit a copy of each declaration to defer a special assessment to the local improvement district which imposed such assessment.

(3) Compute the dollar tax rate for the county as if any deferrals provided by this chapter did not exist.

(4) As soon as possible notify the department of revenue and the county treasurer of the amount of real property taxes deferred for that year and notify the department of revenue and the respective treasurers of municipal corporations of the amount of special

assessments deferred for each local improvement district within such unit. [2020 c 139 § 53; 1984 c 220 § 24; 1975 1st ex.s. c 291 § 36.]

RCW 84.38.120 Payments to local improvement or taxing districts.

After receipt of the notification from the county assessor of the amount of deferred special assessments and/or real property taxes the department shall pay, from amounts appropriated for that purpose, to the treasurers of such municipal corporations said amounts, equivalent to the amount of special assessments and/or real property taxes deferred, to be distributed to the local improvement or taxing districts which levied the taxes so deferred: PROVIDED, That when taxes are deferred as provided in RCW 84.64.050, the department shall pay to the treasurer of the county the amount equivalent to all taxes, foreclosure costs, interest, and penalties accrued to the date the declaration to defer is filed. [2000 c 103 § 27; 1988 c 222 § 13; 1984 c 220 § 25; 1975 1st ex.s. c 291 § 37.]

Effective date—1984 c 220 § 23: *"Section 23 of this act shall take effect July 1, 1985." [1984 c 220 § 29.]

***Reviser's note:** Due to a Senate amendment to House Bill No. 1201 (1984 c 220), "section 23" became "section 25." During enrolling, "section 23" was renumbered as "section 25" under the mandate in the amendment to "renumber the sections consecutively and correct any internal references accordingly," but the internal reference to "section 23" was not changed. "Section 23 of this act" consists of the 1984 c 220 amendment to RCW 84.38.100. "Section 25 of this act" consists of the 1984 c 220 amendment to RCW 84.38.120.

RCW 84.38.130 When deferred assessments or taxes become payable.

Special assessments and/or real property tax obligations deferred under this chapter become payable together with interest as provided in RCW 84.38.100:

- (1) Upon the sale of property which has a deferred special assessment and/or real property tax lien upon it.
- (2) Upon the death of the claimant with an outstanding deferred special assessment and/or real property tax lien except a surviving spouse, surviving domestic partner, heir, or devisee who is qualified under this chapter may elect to incur the special assessment and/or real property tax lien, which is then payable by that spouse, domestic partner, heir, or devisee as provided in this section.
- (3) Upon the condemnation of property with a deferred special assessment and/or real property tax lien upon it by a public or private body exercising eminent domain power, except as otherwise provided in RCW 84.60.070.
- (4) At such time as the claimant ceases to reside permanently in the residence upon which the deferral has been granted.
- (5) Upon the failure of any condition set forth in RCW 84.38.030. [2019 c 453 § 7; 2008 c 6 § 704; 1984 c 220 § 26; 1975 1st ex.s. c 291 § 38.]

Application—Automatic expiration date and tax preference performance statement exemption—2019 c 453: See notes following RCW 84.36.381.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 84.38.140 Collection of deferred assessments or taxes. (1) The department must collect all the amounts deferred together with interest under this chapter. However, in the event that the department is unable to collect an amount deferred together with interest, that amount deferred together with interest must be collected by the county treasurer in the manner provided for in chapter 84.56 RCW. For purposes of collection of deferred taxes, the provisions of chapters 84.56, 84.60, and 84.64 RCW are applicable.

(2) When any deferred special assessment and/or real property taxes together with interest are collected the moneys must be deposited in the state general fund.

(3) The department may charge off as finally uncollectible any amount deferred under this chapter or chapter 84.37 RCW, including accrued interest, if the department is satisfied that there are no cost-effective means of collecting the amount due. [2013 c 221 § 9; 2001 c 299 § 18; 1984 c 220 § 27; 1975 1st ex.s. c 291 § 39.]

RCW 84.38.150 Election to continue deferral by surviving spouse or surviving domestic partner. (1) A surviving spouse, surviving domestic partner, heir, or devisee of the claimant may elect to continue the property in its deferred tax status if the property is the residence of the spouse, domestic partner, heir, or devisee of the claimant and the spouse, domestic partner, heir, or devisee meets the requirements of this chapter.

(2) The election under this section to continue the property in its deferred status by the spouse, the domestic partner, heir, or devisee of the claimant must be filed in the same manner as an original claim for deferral is filed under this chapter. Thereupon, the property with respect to which the deferral of special assessments and/or real property taxes is claimed must continue to be treated as deferred property. When the property has been continued in its deferred status by the filing of the spouse, the domestic partner, heir, or devisee of the claimant of an election under this section, the spouse, the domestic partner, heir, or devisee of the claimant may continue the property in its deferred status in subsequent years by filing a claim under this chapter so long as the spouse, domestic partner, heir, or devisee meets the qualifications set out in this section. [2019 c 453 § 8; 2008 c 6 § 705; 1975 1st ex.s. c 291 § 40.]

Application—Automatic expiration date and tax preference performance statement exemption—2019 c 453: See notes following RCW 84.36.381.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 84.38.160 Payment of part or all of deferred taxes authorized. Any person may at any time pay a part or all of the deferred taxes but such payment shall not affect the deferred tax status of the property. [1975 1st ex.s. c 291 § 41.]

RCW 84.38.170 Collection of personal property taxes not affected. Nothing in this chapter is intended to or shall be construed to prevent the collection, by foreclosure, of personal property taxes which become a lien against tax-deferred property. [1975 1st ex.s. c 291 § 42.]

RCW 84.38.180 Forms—Rules and regulations. The department of revenue of the state of Washington shall devise the forms and make rules and regulations consistent with chapter 34.05 RCW and the provisions of this chapter as shall be necessary or desirable to permit its effective administration. [1975 1st ex.s. c 291 § 43.]

RCW 84.38.900 Severability—1975 1st ex.s. c 291. See note following RCW 82.04.050.

RCW 84.38.910 Effective dates—1975 1st ex.s. c 291. See note following RCW 82.04.050.