



PROPOSED RULE MAKING

CR-102 (June 2012)

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Employment Security Department

- | | |
|---|--|
| <input checked="" type="checkbox"/> Preproposal Statement of Inquiry was filed as WSR 17-04-091 ; or | <input checked="" type="checkbox"/> Original Notice |
| <input type="checkbox"/> Expedited Rule Making--Proposed notice was filed as WSR _____; or | <input type="checkbox"/> Supplemental Notice to WSR _____ |
| <input type="checkbox"/> Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1). | <input type="checkbox"/> Continuance of WSR _____ |

Title of rule and other identifying information: (Describe Subject) WAC 192-320-036, regarding determining tax rates for employers who are delinquent on taxes or reports.

Hearing location(s):
Employment Security Department
Maple Leaf Conference Room, 2nd Floor
212 Maple Park Avenue
Olympia, WA

Date: June 8, 2017 Time: 10:30 a.m.

Submit written comments to:
Name: Juanita Myers
Address: Employment Security Department
PO Box 9046, Olympia WA 98507
e-mail jmyers@esd.wa.gov
fax (360)902-9605 by (date) June 7, 2017

Assistance for persons with disabilities: Contact
Teresa Eckstein, State EO Officer by June 7, 2017
TTY 711 or (360) 902-9354

Date of intended adoption: June 12, 2017
(Note: This is NOT the effective date)

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

RCW 50.29.010 gives the department the authority to waive the delinquent tax rate when an otherwise qualified employer acts in good faith and application of the delinquent tax rate would be inequitable. This rule will define good faith and inequitably with a more flexible, totality of the factors approach. It also clarifies the department's authority to retroactively apply the delinquent tax rate.

Reasons supporting proposal: Employers who make good faith efforts to repay and report their wages as required will not be subject to the delinquent tax rate imposed by RCW 50.29.025. The department will also consider whether application of the delinquent tax rate would be inequitable based on the totality of certain factors. Finally, the rule will eliminate confusion regarding the department's authority to retroactively apply the delinquent tax rate.

Statutory authority for adoption: RCW 50.12.010 and 50.12.040

Statute being implemented: RCW 50.29.010

- Is rule necessary because of a:**
- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
- If yes, CITATION:

DATE
April 19, 2017

NAME (type or print)
Dale Peinecke

SIGNATURE

TITLE
Commissioner

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 20, 2017

TIME: 12:28 PM

WSR 17-10-005

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

None.

Name of proponent: (person or organization) Employment Security Department

- Private
- Public
- Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Scott Michael	Olympia	(360) 902-9587
Implementation.... Brenda Westfall	Olympia	(360) 902-9554
Enforcement..... Brenda Westfall	Olympia	(360) 902-9554

Has a small business economic impact statement been prepared under chapter 19.85 RCW or has a school district fiscal impact statement been prepared under section 1, chapter 210, Laws of 2012?

Yes. Attach copy of small business economic impact statement or school district fiscal impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone () _____

fax () _____

e-mail _____

No. Explain why no statement was prepared.

By federal law, all businesses are subject to the same tax requirements regardless of size. There is no exception for small businesses.

Is a cost-benefit analysis required under RCW 34.05.328?

Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name: Juanita Myers

Address:

phone () _____

fax () _____

e-mail _____

No: Please explain: The rule does not impose additional costs on businesses in general, nor on small businesses in particular. The rule makes application of the delinquent tax rate more flexible and equitable, which should result in it being applied less frequently.