

## **CHAPTER 7**

### **REAL ESTATE EXCISE TAX**

I. OVERVIEW .....	2
II. COLLECTION .....	2
III. MOBILE HOMES EXCISE TAX OR OTHER TAXES.....	4
Retail Sales/Use Tax .....	4
Excise Tax .....	5
Liability .....	5
Excise Tax Affidavits .....	5
Evidence of Payment.....	6
Timing of Payment.....	6
Refunds.....	6
Exemptions .....	6
Tax Rate .....	7
Table of Local Option Taxes.....	8
Minimum \$10.00 Fee .....	9
IV. DISTRIBUTION OF TAXES COLLECTED.....	10
Document Submission.....	10
Collection Fee.....	10
Real Estate Excise Tax Technology Fee .....	10
State Funds .....	12
Local Funds .....	12
Forms.....	12

## **I. OVERVIEW**

All conveyances of real property in this state are subject to the real estate excise tax unless specifically exempted by statute. The rate charged is the combination of a state tax imposed under [RCW 82.45](#) and a local tax authorized under [RCW 82.46](#). The ‘real property’ or ‘real estate’ subject to this tax is broadly defined in the statutes as:

...“any interest, estate, or beneficial interest in land or anything affixed to land, including the ownership interest or beneficial interest in any entity which itself owns land or anything affixed to land. The term includes used mobile homes, used park model trailers, used floating homes, and improvements constructed upon leased land.” [RCW 82.45.032]

Rules governing the implementation of the real estate excise tax are contained in [Washington Administrative Code Chapter 458-61A](#). Real estate transactions are often complex and reference to these rules is an everyday occurrence. The rules are categorized under three main headings:

1. General Information and Taxability of Transfers
2. Exemptions and Exclusions
3. Collection and Administration

## **II. COLLECTION**

Real Estate Excise Tax (REET) is due at the time the conveyance of property occurs. The tax must be collected before the transfer of ownership which is documented by recording the new deed transferring. In most counties the tax is collected by the county treasurer who acts as agent for the Department of Revenue ([RCW 82.45.090](#)) when the seller or seller’s agent presents the sale documents evidencing conveyance, deed, grant, assignment, quit claim, or transfer of title. The office of responsibility for processing the documents and collecting the tax varies in charter counties. Many counties also electronically process REET, which is sometimes referred to as eREET.

Current rates by county & city can be found at this site:

<https://dor.wa.gov/find-taxes-rates/other-taxes/real-estate-excise-tax>

In the case of a transfer of a controlling interest (sale of stock/partnership interest) [[WAC 458-61A-101](#)], the transaction is handled by the Department of Revenue who collects the applicable tax.

When conveyance documents are presented to the county treasurer they are accompanied by the [real estate excise tax affidavit](#). This form is prescribed and furnished by the Department of Revenue ([RCW 82.45.150](#)) and is the instrument used for the processing of the collection of real estate excise tax. The affidavit is a four-part form with copies for:

- 1) The county treasurer,
- 2) The county assessor,
- 3) The Department of Revenue and
- 4) The taxpayer

If the form is in electronic format, then the four-part form may not be necessary.

The tax is computed by multiplying the combined state and local tax rates in effect at the time of sale by the selling price. The county agent stamps the instrument of sale or conveyance prior to its recording as evidence that the tax has been paid or that an exemption from the tax was claimed. The stamp references the affidavit number, date, and payment of or exemption from tax, as required by [WAC 458-61-301\(5\)](#)

If the conveyance is transferred by recording a Community Property Agreement or a Death Certificate no excise tax affidavit is required. However, some conveyances do not have documents to be recorded with the Auditor's office but still require an excise tax affidavit to be processed. For example, the conveyance from the unprobated estate of a deceased person to heirs done by a Lack of Probate Affidavit would require a REETA. If they do not meet the documentation requirements of [458-61A-202](#), these transactions would be taxable. Currently DOR has provided verbal acceptance to calculating the excise tax based on the assessed valuation (half if it is from deceased spouse to remaining spouse) of the year the person died. If there is no date of disposition on the death certificate, then the date of death is used. While WACS do not specifically address this, DOR has had no problems with this date chosen for these scenarios.

The affidavit and conveyance documents must not be stamped if a continuance of use has been applied for but not approved by the county assessor under [Chapter 84.33](#) or [84.34 RCW](#); or if compensating or additional tax is due but has not been paid as required by [RCW 84.33.086](#), [84.33.140](#) (5)(c), [84.34.108](#) (1)(c), [84.36.812](#), or [84.26.080](#).

The county auditor will not file or record the instrument of conveyance until the documents are stamped by the treasurer that all taxes due under this section have been paid or the transfer is determined to be exempt in which case the treasurer stamps the documents for recording. [[WAC 458-61A-201](#)]

The Department of Revenue is charged with the responsibility to annually conduct audits of transactions and affidavits filed. In addition, the county treasurer is required to retain the affidavit and any supplemental statements for at least four years [[WAC 458-61A-302\(5\)\(e\)](#)]

However, most county treasurers view the affidavit as having significant historical value. As such, many keep either the original affidavits or images of the affidavits as a permanent record. The retention schedule promulgated by the Washington State Archives indicates a minimum retention period of 6 years with a notation that these documents have archival value.

There are numerous exemptions to the real estate excise tax – some of which require the addition of a supplemental form or other documentation. Exemptions to REET, include gifts,

inheritance, divorce, condemnation, bankruptcy and foreclosure, to name a few. The exemptions are described in [WAC 458-61A-200](#) through 219.

In addition, affidavits not filed in a timely manner are subject to penalties and interest. These items require a technical description beyond the scope of this discussion. For a better understanding of these areas, it is **strongly recommended** that you review [Chapter 458-61A](#) of the Washington Administrative Code.

### **III. MOBILE HOMES EXCISE TAX OR OTHER TAXES**

Not only is the County Treasurer responsible for collecting real or personal property taxes from mobile (manufactured) homes, but there is also the added responsibility to collect certain taxes and fees from the conveyance of the mobile home. The conveyance of a mobile home is subject to (or exempt from) one of the following taxes:

1. Retail sales tax ([RCW 82.04.050](#)) or use tax ([RCW 82.12.020](#)) or;
2. Real estate excise tax ([RCW 82.45.080](#)).

A transfer of ownership of the mobile home is not subject to all three taxes. The County Treasurer's Office collects the real estate excise tax. Retail sales tax or use taxes are paid to the Department of Licensing. Designated Personnel in the Treasurer's office can collect use tax on such transfers, upon approval of the County Auditor. Before the retail sales tax or use tax can be paid and the title transferred a verification that all property taxes have been paid in full needs to be provided by the Treasurer's office to the Auditors or Dept. of Licensing. A Treasurer's Tax Clearance form must be signed by the Treasurer's office attesting that all property taxes that are due have been paid in full.

The Department of Licensing is prohibited from transferring a certificate of ownership until it has verified that:

1. The excise tax on the transfer, if due, has been paid; or
2. The sales or use tax, if due, has been paid; and
3. Any property taxes, whether real or personal, which are due on the mobile home have been paid.

For the County Treasurer the decision whether to collect the real estate excise tax versus the retail sales or use tax should be made without considering the mobile home's status as real or personal property on the assessment rolls. Both taxes apply to the transfers of property, and it is the characteristics of the transfer, not the classification of the mobile home, that determines which tax to apply.

#### **Retail Sales/Use Tax**

The retail sales tax applies to the following mobile (manufactured) home sales:

1. Initial retail sale; or
2. A sale from a dealer's lot of either a new or used unit as part of the inventory of the dealer (not a consignment).

Sales Tax should be collected by a mobile home dealer from the buyer and remitted to the Department of Revenue. There are some dealers that choose not to collect sales tax on certain sales, especially on used mobile homes in their dealer's lot and shift the responsibility of paying the proper tax to the buyer when the buyer transfers the title. The transfer of new/used mobile homes will be subject to use tax on the following mobile home transfers:

1. Sale of a used MH where it was not installed at the time of sale, or
2. Transfers between individuals when as part of the enforceable written agreement the unit is required to be moved, or
3. Purchases of used mobile homes from dealer lots where the dealer does not collect sales tax; or
4. Speculative Homes installed by dealers.
5. Converting an out of state title to a WA Title (some exceptions).

### **Excise Tax**

The transfers of a used mobile home will be subject to the real estate excise tax ([Chapter 82.45 RCW](#)) on the following transactions:

1. Transfers between individuals, and there is no *enforceable written* requirement that the unit will be moved.
2. Transfer from individual to dealer (trade-in), and there is no enforceable *written* agreement that the unit be moved.
3. Transfer from a dealer to individual, and there is no *enforceable written* agreement that the unit be moved. Dealer may be allowed credit for excise tax if unit was taken in trade, was not moved, and resale occurred within nine months.
4. The subsequent sale of a Spec Home after Use Tax has been paid.

### **Liability**

Payment of the excise tax is the liability of the seller. However, since unpaid excise tax can become a lien on the real property this liability may shift to include the buyer if the transaction goes unreported for more than thirty days to the county treasurer or to the Department of Revenue. Payment of a sales or use tax on a conveyance subject to excise tax does not relieve the grantor or grantee of the obligation to still pay outstanding excise tax. The payer of the incorrect sales or use tax is entitled to be refunded back their tax payment upon proper payment of excise tax. You may find mobile home dealers who will deliberately charge their buyers sales tax when they purchase a Speculative Home, even though the sale was not subject to sales tax. Per DOR, excise tax is still due on this conveyance and will continue to be a lien on the parcel until paid. (See Section IV Tax Rates for amount to collect.)

### **Excise Tax Affidavits**

The County Treasurer is empowered to require the use of Mobile Home Excise Tax Affidavits on any conveyance that includes a used mobile home (even title eliminated). See DOR website:

[http://dor.wa.gov/content/getaformorpublication/formbysubject/forms\\_reet.aspx](http://dor.wa.gov/content/getaformorpublication/formbysubject/forms_reet.aspx)

Many counties have links on their own websites for the excise tax affidavit forms and supplemental statements. Depending on the needs of the Assessor's office, the Mobile Home Excise Tax affidavit has vital sections that require detailed information of what mobile home is being sold.

### **Evidence of Payment**

The county treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit (*or mobile home excise tax affidavit*) in the case of used mobile home sales. A receipt issued by the county treasurer for the payment of the tax imposed under this chapter shall be evidence of the satisfaction of the lien imposed hereunder and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax shall be accepted by the county auditor for filing or recording until the tax shall have been paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be so accepted until suitable notation of such fact has been made on the instrument by the treasurer. ([RCW 82.45.090](#))

### **Timing of Payment**

The real estate excise tax is due on the date of the sale (date of the deed or contract of sale) and if not paid within one month thereafter shall bear interest from the time of sale until the date of payment. Examples of the computation are in [WAC 458-61A-306](#) (3) (Interest imposed before January 1, 1999, shall be computed at the rate of one percent per month. Interest imposed after December 31, 1998, shall be computed on a monthly basis at the rate as computed under RCW [82.32.050](#)(2) as noted in the [Department of Revenue's summary](#). The rate so computed shall be adjusted on the first day of January of each year for use in computing interest for that calendar year. The Department of Revenue shall provide written notification to the county treasurers of the variable rate on or before December 1 of the year preceding the calendar year in which the rate applies. ([RCW 82.45.100](#))

If the excise taxes are more than thirty, sixty, or ninety days past due there is a five, ten and twenty percent penalty on the tax respectively. ([RCW 82.45.100](#))

### **Refunds**

Refunds of the tax may be issued up to four years after the date of sale. The process to petition for refund needs to start at the County Treasurer's office of the county where the tax was originally paid. See a link for Department of Revenue Forms at the end of this chapter.

### **Exemptions**

For claims of tax exemption, the Real Estate (or Mobile Home) Excise Tax Affidavit must show the exemption title and the WAC number of the tax exemption being claimed. All exemptions and exclusions can be found under [WAC 458-61A](#) and are available for review on the Washington State Legislature's website at: <https://app.leg.wa.gov/WAC/>

## **Tax Rate**

The state portion of the real estate excise tax rate is imposed upon each sale of real property through December 31, 2019, at the rate of **one and twenty-eight one hundredths of a percent (1.28%)**.

(a) January 1, 2020, through December 31, 2022, except as provided in (c) [[RCW 82.45.060](#)], the rate imposed is as follows:

<b>For the portion of the selling price that is:</b>	<b>Real Estate Excise Tax Rate</b>
Less than or equal to \$500,000	1.1%
Greater than \$500,000 and less than or equal to \$1,500,000	1.28%
Greater than \$1,500,000 and less than or equal to \$3,000,000	2.75%
Greater than \$3,000,000	3.0%

(b) Beginning January 1, 2023, except as provided in (c) [[RCW 82.45.060](#)], the rate imposed is as follows:

<b>For the portion of the selling price that is:</b>	<b>Real Estate Excise Tax Rate</b>
Less than or equal to \$525,000	1.1%
Greater than \$525,000 and less than or equal to \$1,525,000	1.28%
Greater than \$1,525,000 and less than or equal to \$3,025,000	2.75%
Greater than \$3,025,000	3.0%

(c) The sale of real property that is classified as timberland or agricultural land is subject to the tax imposed under this section at a rate of 1.28 percent of the selling price.

State statutes authorize cities, within their incorporated boundaries, and counties, in the unincorporated areas, to impose local real estate excise taxes for different purposes. These ‘local option’ taxes are enacted by ordinance or resolution by the local legislative authority.

The cities are required to furnish a copy of the enacting legislation to the county treasurer and the Department of Revenue at least sixty days prior to the effective date of the collection of the tax. [[RCW 82.46.080](#)]

Each of these ‘local optional’ taxes may or may not be available to all jurisdictions, each is authorized by statute for a particular purpose, and each has its own rules and restrictions. Where the statute does not require the tax to be authorized by a vote of the electorate, these local option taxes may be subject to voter referendum. There are five different ‘local option’ taxes authorized under [Chapter RCW 82.46](#).

## **Table of Local Option Taxes:**

- 1a)** Up to one-fourth of one percent (0.25%) [RCW 82.46.010](#) (2)  
**Purpose:** Projects Identified in a Capital Improvement Plan or local capital improvements  
**Who:** Small Cites & Counties (pop 5,000 and under) and Cities & Counties NOT under Growth Management Act (GMA)  
**Enacted by:** Local Legislative Authority  
**Disposition:** *Capital Improvement Fund – BARS 318.34*
- 1b)** Up to one-fourth of one percent (0.25%) [RCW 82.46.010](#) (2)  
**Purpose:** Capital Projects in the Comprehensive Plan and/or Housing Relocation Assistance  
**Who:** Large Cites & Counties (pop over 5,000) and Cities & Counties UNDER Growth Management Act (GMA)  
**Enacted by:** Local Legislative Authority
- 2)** Up to one-half of one percent (0.5%) [RCW 82.46.010](#)(3)  
**Purpose:** Unrestricted  
**Who:** Any City or County  
**Enacted by:** Local Legislative Authority  
**RESTRICTION:** IN LIEU of ½ Cent Sales Tax under [RCW 82.14.030](#)(2)  
**Disposition:** *Capital Projects under Comprehensive Plan – BARS 318.34*
- 3a)** Up to one-fourth of one percent (0.25%) [RCW 82.46.035](#) (2)  
**Purpose:** Capital Projects in the Comprehensive Plan -- Limited to street, street lighting, traffic signals, bridges, domestic water, storm or sanitary sewer water systems, or park improvements  
**Who:** Counties & Cities REQUIRED to plan under GMA  
**Enacted by:** Local Legislative Authority  
**Disposition:** *Restricted Capital Projects in Comprehensive Plan – BARS 318.35*  
*\*After December 31, 2023, funds must be deposited in separate account.*
- 3b)** Up to one-fourth of one percent (0.25%) [RCW 82.46.035](#) (2)  
**Purpose:** Capital Projects in the Comprehensive Plan  
**Who:** Counties & Cities who VOLUNTARILY plan under GMA  
**Enacted by:** Local Legislative Authority ONLY AFTER voter approval  
**Disposition:** *Restricted Capital Projects in Comprehensive Plan – BARS 318.35*  
*\*After December 31, 2023, funds must be deposited in a separate account*



4) Up to one percent (1.0%) [RCW 82.46.070](#)

**Purpose:** To acquire & maintain conservations areas.

**Who:** Counties

**Enacted by:** Local Legislative Authority ONLY AFTER voter approval

**Special Note:** Tax is the obligation of the purchaser

**Disposition:** *BARS 318.37*

5) Up to one-half of one percent (0.5%).RCW [82.46.075](#)

**Purpose:** Acquire, build, & maintain affordable housing for low income

**Statutory Restriction:** – Only available if county imposed 1.0% Conservation tax

**((4) above)** before Jan. 1, 2003 [Only San Juan County Qualifies]

**Enacted by:** Local Legislative Authority ONLY AFTER voter approved rate & term

**Special Note:** At least ½ is the tax obligation of the purchaser

**Disposition:** *BARS 318.38*

### **Minimum \$10.00 Fee**

When the real estate excise tax affidavit is processed by the county treasurer, each affidavit is subject to a minimum fee of \$10.00. All tax-exempt transactions are subject to the \$10.00 fee. In addition, if the calculated tax due is less than \$5.00 then the minimum to be collected is also \$10.00. \$5.00 of the fee is the Technology Fee to be disbursed as per [82.45.180](#) 5(C) defined below. The other \$5.00 Collection Fee or the difference between the tax due and the \$5.00 fee is credited to the current expense fund Treasurers Collection Fee Account [RCW 82.45.180 (1)(a)] *General (Current Expense) Fund - BARS 341.42*

## **IV. DISTRIBUTION OF TAXES COLLECTED**

### **Document Submission**

DOR no longer requires the submittal of actual paper excise affidavits. However, DOR will accept the submittal of paper excise affidavits for audit when transactions are questionable.

The County Treasurer shall fax or electronically submit a copy of the affidavit batch transmittal with the monthly cash receipts journal summary to the State Treasurer's office by noon on the last working day of the month as documentation for the remittance of the Real Estate Excise Tax deposit. An alternative arrangement may be made with DOR to access your electronic storage system to retrieve any needed copies of documents.

### **Collection Fee**

Taxes collected by the county treasurer, both state taxes and local taxes, are subject to a collection fee of one percent (1.0%) of the funds collected. This collection fee is placed in the County Current Expense Fund to defray the costs incurred in processing the real estate excise tax. Effective 7/1/06 the collection fee only on the state portion of the excise tax changes to one and three-tenths percent (1.3%). *General (Current Expense) Fund - BARS 341.42*

### **Real Estate Excise Tax Technology Fee**

An additional fee of \$5.00 is charged per affidavit via [RCW 82.45.180](#). The original legislation was intended to provide funds eventually eliminate the need to submit paper copies of the REET affidavit to DOR and to transmit electronically data wanted by DOR to conduct audits of excise tax affidavits. Currently this is a voluntary process by the counties.

[RCW 82.45.180](#) 3(C) states that funds (REET Technology Fees) shall be placed in a special real estate excise tax electronic technology fund held by the county treasurer to be used exclusively for the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits. Funds may be expended to make the system compatible with the automated real estate excise tax system developed by the department and compatible with the processes used in the offices of the county assessor and county auditor. Any funds held in the account that are not expended by the earlier of: July 1, 2015, or at such time that the county treasurer is utilizing an electronic processing and reporting system for real estate excise tax affidavits compatible with the department and compatible with the processes used in the offices of the county assessor and county auditor, revert to the special real estate and property tax administration assistance account in accordance with subsection (5)(c) of this section.

In 2010 the RCW 82.45.180(4) was changed to refocus the funds collected as follows. Beginning July 1, 2010, through December 31, 2013, the county treasurer shall remit this fee

to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer shall place money from this fee in the annual property revaluation grant account created in RCW 84.41.170 (Expired July 1, 2014)

State Cash Receipts Journal Summary (A8-4)	Fund-Source-Sub
Real Estate Excise Tax.....	001-0157-01
Real Estate Excise Tax Interest.....	001-0157-02
Real Estate Excise Tax Penalty.....	532-0175-02
Real Estate and Prop Tax Admin Assist .....	16C

RCW 82.45.180(5)(b)(c) Beginning January 1, 2014, the county treasurer must continue to collect the additional five-dollar fee on all transactions required by this chapter, regardless of whether the transaction requires the payment of tax. The county treasurer shall deposit one-half of this fee in the special real estate and property tax administration assistance account in accordance with (c) of this subsection and remit the balance to the state treasurer at the same time the county treasurer remits funds to the state under subsection (1) of this section. The state treasurer must place money from this fee in the real estate and property tax administration assistance account. By the twentieth day of the subsequent month, the state treasurer must distribute the funds to each county treasurer according to the following formula: One-half of the funds available must be equally distributed among the thirty-nine counties; and the balance must be ratably distributed among the counties in direct proportion to their population as it relates to the total state's population based on most recent statistics by the office of financial management.

- (c) When received by the county treasurer, the funds must be placed in a special real estate and property tax administration assistance account held by the county treasurer to be used for:
  - (i) Maintenance and operation of an annual revaluation system for property tax valuation; and
  - (ii) Maintenance and operation of an electronic processing and reporting system for real estate excise tax affidavits.

## **State Funds**

Effective 7/1/06, excise tax receipts **DEPOSITED** through the close of business that is two working days before the last working day of the month are to be received by the State Treasurer before 12:00 p.m. on the last working day of each month. *BARS 317. (Note it is important that this number balance with the affidavits sent to Department of Revenue)*

Upon receipt the state treasurer deposits these funds as follows: 6.1% in the public works assistance account, 1.6% in the city-county assistance account, and the balance in the state general fund. RCW 43.155.050 eliminates these accounts as of June 30, 2011.

## **Local Funds**

Local excise tax receipts for the month are posted to the proper county fund at the close of the month. Excise tax receipts for cities are forwarded to the cities by the tenth day of the following month. *(See BARS Codes under 'TAX RATES')*

## **Forms**

As of 2010, the Department of Revenue no longer provides printed forms. The Department provides them through a PDF file at their link to forms online at <http://dor.wa.gov/content/forms/>. If you are a county that does not accept and process the on line forms because they are 8½ by 11 and are not carbon which would require all four copies to be stamped with the Excise Number, you will have to have them printed locally.