

# Working Families Tax Credit Proposed Rule 458-20-285 Public Hearing

October 25, 2022

Begins: 2:00pm PT

Facilitator: Chelsea Brenegan (she/her)

# Introductory Items

Things to keep in mind:

- This public hearing is being recorded
- Please turn off your video and mute yourself when you are not speaking
- You may turn on live captions by going to the More option [...] at the top-right of your screen and clicking on 'Turn on live captions' from the list
- We will NOT answer questions or respond to comments from the chat – you must verbally state all comments and feedback
- If you do not wish to voice your comments during this hearing, please email your comments to Chelsea Brenegan (she/her) at [Chelseab@dor.wa.gov](mailto:Chelseab@dor.wa.gov)

# Introduce Yourself 😊

When your name is called, please unmute yourself state the following for the record:

- Your name
- Who you are representing (if applicable)
- If you plan to make comments during this public hearing

# What to Expect at this Public Hearing

We will be going through the updates made to the proposed draft rule for the Working Families Tax Credit (WFTC) chronologically and will stop to ask for comments after each slide.

- Please wait until comments are requested before providing your comment
- If you have a comment, please use the raise hand feature (located under Reactions at the top-right of your screen)
- When your name is called, please unmute yourself (the Mic icon at the top-right of your screen), identify yourself, and provide your comment
- When finished providing your comment, please mute yourself

# How Updates Are Marked

- Updates that were made to the proposed WFTC draft rule will be marked as follows:
  - Added words will be underlined
  - Deleted or removed words will have a ~~strikethrough~~

Copies of the rule may be found on our website (link is in the chat) – we will begin on page 5 of the document

# Part I: Eligibility Requirements

# Section 1(d) Residency

- This section was updated to clarify that the primary applicant on the WFTC application must meet the residency requirement
  - Reason for change: To clarify that the primary applicant must fulfill the residency requirement, but either spouse may be the primary applicant if filing under the married filing jointly status.
- The word “for” was added in describing the number of days required for residency.
  - Reason for change: Grammar and clarity.
- Section updates: The primary applicant on the WFTC application (which may be either you or your spouse, if you are filing married filing jointly on your federal income tax return) must be a resident of Washington for at least 183 days during the tax year for which the refund is being claimed;

## Question 2B: What is a valid ITIN? (1 of 3)

- Answer 2B, 1<sup>st</sup> paragraph, 2<sup>nd</sup> sentence: Clarified that a “valid” ITIN also cannot be revoked.
  - Reason for change: To align with IRS requirements for “valid” ITINs.
  - Sentence updates: A valid ITIN for WFTC eligibility purposes is one that is not expired or revoked.



## Question 2B: What is a valid ITIN? (2 of 3)

- Answer 2B, 2<sup>nd</sup> paragraph, 2<sup>nd</sup> sentence: Provides that applicants must notify the department that they have applied for and are waiting to receive an ITIN or ITIN renewal rather than provide proof they have done so.
  - Reason for change: Clarifies expectations and requirements for applicants.
  - Sentence updates: If you, your spouse, or any of your qualifying children do not have a valid ITIN and are waiting for an ITIN or an ITIN renewal from the IRS, ~~provide proof~~ you must notify to the department that you have applied for and are waiting to receive an ITIN or an ITIN renewal from the IRS when you submit your WFTC application.

## Question 2B: What is a valid ITIN? (3 of 3)

- Answer 2B, 2<sup>nd</sup> paragraph starting with 3<sup>rd</sup> sentence: Clarified and updated procedures for applicants awaiting IRS approval for their ITINs –
  - Applicants must submit their completed WFTC application on or before the December 31<sup>st</sup> due date, even if the IRS has not fully processed their request for a new or renewed ITIN.
  - The Department will consider a new or renewed ITIN as valid as of the IRS issuance date as long as this issuance date is before the December 31<sup>st</sup> due date, even if notification of issuance is received after WFTC application deadline.
    - For new ITINs, the IRS issuance date is the date the Form W-7 was received by the IRS.
    - For renewed ITINs, the IRS issuance date is the date the original ITIN was issued.
  - Reason for change: To clarify the Department's procedures for processing WFTC applications for those with ITINs.

# Question 4E: Are there any other federal EITC requirements that could potentially disqualify me from receiving the WFTC?

- Answer 4E: Updated \$10,000 investment income limit for 2021 to \$10,300 to reflect investment income limit for 2022.
  - Reason for change: Updated to reflect 2022 figures and promote accuracy.

# Question 5D: What if my spouse is not a Washington resident but I am and we file under the married filing jointly status on our federal income tax return, are we eligible for the WFTC refund?

- Answer 5D: Updated to clarify that the primary applicant on the WFTC application must meet the residency requirement.
  - Reason for change: To clarify that the primary applicant must fulfill the residency requirement, but either spouse may be the primary applicant if filing under the married filing jointly status.
  - Section updates: Yes. If you and your spouse are filing married filing jointly on your federal income tax return and your spouse does not meet the definition of a Washington resident, you may both still qualify to receive a joint refund so long as ~~one of you~~ the primary applicant on the WFTC application meets the definition of a Washington resident.

# Question 5E: What if I am experiencing homelessness, can I still qualify for the WFTC refund?

- Answer 5E, Subsection (c): Updated to clarify that those experiencing homelessness need only submit a letter rather than an affidavit and that attestation is not required.
  - Reason for change: Updated to reflect previous changes that were not fully incorporated into prior rule draft.
  - Subsection (c) updates: The individual has resided in this area at least 183 days during the period for which the credit is being claimed. If an individual or their families are experiencing homelessness and move frequently as a result, the letter ~~or affidavit~~ may state attest that the individual has resided within a general geographic area or areas (i.e., town, city, county, etc.) within the state of Washington for at least 183 days during the period for which the refund is being claimed.

# Part 2: Application Process

# Section 8 What additional items do I need to include for the department to process my WFTC application?

- Removal of photo identification requirement.
  - Reason for change: Based on the comments received, the department will no longer require photo identification from applicants or the applicant's spouse.
  - Updates to section: Removal of all mention of a photo identification, related documents, and the requirement to include a photo identification with WFTC application.

## Question 8A: What happens if I do not provide the ~~additional required documents~~ my complete federal income tax return with my WFTC application?

- Updated Question 8A to read as indicated (added words are underlined, see above).
  - Reason for change: Updated to reflect change in policy that the department no longer requires photo identification from applicants or their spouses.



# Question 8B: What does it mean to have a “complete” WFTC application?

- Answer 8B: Removed photo identification requirement and clarified that a copy of the filed federal income tax return must be submitted with WFTC application.
  - Reason for change: Updated to reflect departmental policy change and to better clarify application requirements.
  - Subsections (a) – (c) updates:
    - (a) A filled-out and signed WFTC application (your spouse must also sign the WFTC application if you are filing married filing jointly on your federal income tax return); and
    - ~~(b) Your~~ A copy of your complete federal income tax return that was filed with the federal government.; and
    - ~~(c) Proof of your identity.~~

# Part 3: Refund Amount

# Question 10D: What is the reduced federal income threshold and how does it affect my WFTC refund amount? (1 of 2)

- Answer 10D: Included refund reduction percentages in subsections (a) through (d) applicable to 2022 tax year and included statement clarifying this update from the original statutory amounts.
  - Reason for change: Updated for 2022 refund reduction percentages.

# of Children in Household	Statutory Rates	2022 Rates (in proposed rule draft)
0	18% (or \$0.18)	12% (or \$0.12)
1	12% (or \$0.12)	12% (or \$0.12)
2	15% (or \$0.15)	18% (or \$0.18)
3+	18% (or \$0.18)	24% (or \$0.24)

# Question 10D: What is the reduced federal income threshold and how does it affect my WFTC refund amount? (2 of 2)

- Removal of sentence in paragraph after subsection (d) noting that annual adjustments will be published in an Excise Tax Advisory separate from this rule.
  - Reason for change: Updated to better reflect potential methods for sharing future annual adjustments.

# Question 10E: How does the department calculate my WFTC refund?

- Answer 10E: Figures in tables and example were updated to reflect 2022 amounts. Both the federal threshold amounts and WFTC refund reduction percentages have been updated.
  - Reason for change: To provide a clearer and more accurate example of how to calculate the WFTC refund for the 2022 tax year.
- Answer 10E, Example 3, Conclusion: The Department will update the final calculated WFTC refund amount in the example from \$590.64 to \$591 to reflect statutory rounding requirements for calculated WFTC refund amounts.
  - Reason for change: To provide a clearer understanding of how the Department will calculate and round WFTC refund amounts.
  - Sentence updates: John and Mary's WFTC refund amount is \$590.64, which will be rounded to \$591.

# Question 10G: How do I determine whether a person is a “qualifying child”?

- Answer 10G, subsection (d)(ii): Before the rule is finalized, the Department will update the language in this subsection to clarify that individuals who are not yet 24 may be a qualifying child.
  - Reason for change: The current language of “no older than 24” seems to imply that the child may be 24 years old and still qualify, but the requirement is that they must be under 24 years of age. Will update to better clarify requirements.
  - Subsection (d) updates:

(d) The child must be younger than you (and your spouse, if you are filing married filing jointly on your federal income tax return) and:

...

(ii) Is a student who is not yet ~~no older than~~ 24 years old at the end of the year for which you are claiming the refund; ...

# Question 10K: Will the WFTC refunds be adjusted for inflation?

- Removal of sentence in 2<sup>nd</sup> paragraph noting that annual adjustments will be published in Excise Tax Advisory.
  - Reason for change: Updated to better reflect potential methods for sharing future annual adjustments.

# Question 11C: How long do I have to amend my WFTC application?

- Answer 11C: Added bracket underneath chart to indicate the years during which applicants may amend their timely-filed WFTC application.
  - Reason for change: Updated to better indicate amendment period as shading was not possible.

Year 1	Year 2	Year 3	Year 4	Year 5
2022 – Sales/use tax paid	2023 – Applicant files 2022 WFTC application			2026 – Final year to submit amended application

Period you may amend your WFTC application



# Part 4: General Administration and Review

# Question 13A: For what types of issues may I seek informal review?

- Answer 13A, subsection (c): Removed the term “adverse” in letter ruling.
  - Reason for change: Updated to clarify that a letter ruling need not necessarily be adverse for a WFTC applicant to seek informal review of that decision.
  - Subsection updates: You received an ~~adverse~~ letter ruling from the department.
- Answer 13A, paragraph after subsection (c): Before finalizing the proposed draft rule, the Department will remove the word “here”.
  - Sentence updates: You may find additional details regarding letter rulings on the department's website ~~here~~.

# Question 13B: How do I request an informal review?

- Answer 13B: Reworded to clarify that applicants must petition the department regarding its decision on one the of the actions listed under Answer 13A.
  - Reason for change: Updated to better clarify which departmental actions may allow an applicant to request an informal review.
  - Sentence updates: All informal review requests must be submitted in writing to the department within 30 days of the date the department issues a decision on the preliminary decision was issued one of the above actions listed under Answer 13A.

# Question 14B: Can the department assess penalties on WFTC overpayments?

- Answer 14B, last paragraph: Added sentence that timeline example only reflects when interest and penalties may be first assessed and that it is not reflective of all potential assessment situations or circumstances.
  - Reason for change: Updated to clarify what timeline is intended to demonstrate.
  - Paragraph updates: Below is an example of how interest and penalties may be assessed if you received a larger WFTC refund than you were entitled to receive and are required to pay the overpayment back. This example is to only demonstrate when interest and penalties may be first assessed and is not reflective of all potential assessment situations or circumstances:

# Next steps in the rulemaking process

- The department will review the comments made today and those comments received in writing
  - Deadline for all comments: October 28<sup>th</sup>, 2022
  - Please send written comments to [Chelseab@dor.wa.gov](mailto:Chelseab@dor.wa.gov)
- Additional, non-substantive changes may be made before the final revised rule is filed for adoption
- The final filing of a rule is not a public process
- Once filed, the rule will become effective 31 days after filing for adoption

Thank you for attending!