

AN ACT Relating to notifications and effective dates for department of revenue administration of certain excise taxes; amending...

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

PART I

THE TARGETED UNDERDEVELOPED URBAN AREAS DEFERRAL

Sec. 1. RCW 82.92.010 and 2022 c 241 s 3 are each amended to read as follows:

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

(1) "Affordable homeownership housing" means housing intended for owner occupancy to low or moderate-income households whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income.

(2) "Affordable rental housing" means housing for very low or low-income households whose monthly housing costs, including utilities other than telephone, do not exceed 30 percent of the household's monthly income.

(3) "Applicant" means an owner of underdeveloped property.

(4) "City" means a city with a population of at least 135,000 and not more than 250,000 at the time the city initially establishes the program under this section.

(5) "Conditional recipient" means an owner of underdeveloped land granted a conditional certificate of program approval under this chapter, which includes any successor owner of the property.

(6) "County median price" means the most recently published quarterly data of median home prices by the Washington center for real estate research.

(7) "Eligible investment project" means an investment project that is located in a city and receiving a conditional certificate of program approval.

(8) "Fair market rent" means the estimates of 40th percentile gross rents for standard quality units within counties as published by the (~~(federal)~~) United States department of housing and urban development.

(9) "Governing authority" means the local legislative authority of a city having jurisdiction over the property for which a deferral may be granted under this chapter.

(10) "Household" means a single person, family, or unrelated persons living together.

(11) (a) "Initiation of construction" means the date that a building permit is issued under the building code adopted under RCW **19.27.031** for construction of the qualified building, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral.

(b) "Initiation of construction" does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(c) If the investment project is a phased project, "initiation of construction" applies separately to each phase.

(12) "Investment project" means an investment in multifamily housing, including labor, services, and materials incorporated in the planning, installation, and construction of the project. "Investment project" includes investment in related

facilities such as playgrounds and sidewalks as well as facilities used for business use for mixed-use development.

(13) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than 50 percent but is at or below 80 percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as reported by the United States department of housing and urban development.

(14) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than 80 percent but is at or below 115 percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area, where the project is located, as reported by the United States department of housing and urban development.

(15) "Multifamily housing" means a building or a group of buildings having two or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multifamily units may result from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings to multifamily housing.

(16) "Owner" means the property owner of record.

(17) "Underdeveloped property" means land used as a surface parking lot for parking of motor vehicles off the street or highway, that is open to public use with or without charge (~~(, as of June 9, 2022)~~).

(18) "Very low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below 50 percent of the median family income adjusted for family size, for the county, city, or metropolitan

statistical area, where the project is located, as reported by the United States department of housing and urban development.

Sec. 2. RCW 82.92.070 and 2022 c 241 S 9 are each amended to read as follows:

(1) Within 30 days of the issuance of a certificate of occupancy for an eligible investment project, the conditional recipient must file with the city the following:

(a) A description of the work that has been completed and a statement that the eligible investment project qualifies the property for a sales and use tax deferral under this chapter;

(b) A statement of the new affordable housing to be offered as a result of the new construction; and

(c) A statement that the work has been completed within three years of the issuance of the conditional certificate of program approval.

(2) Within 30 days after receipt of the statements required under subsection (1) of this section, the city must determine and notify the conditional recipient as to whether the work completed and the affordable housing to be offered are consistent with the application and the contract approved by the city, and the investment project continues to qualify for a tax deferral under this chapter. The conditional recipient must ~~((notify))~~ provide the department a copy of the city's determination within 30 days from receiving the city's determination to schedule an audit of the deferred taxes. The department must determine the amount of sales and use taxes qualifying for the deferral. If the department determines that purchases were not eligible for deferral it must assess interest, but not penalties, on the nonqualifying amounts.

(3) The city must notify the conditional recipient within 30 days that a tax deferral under this chapter is denied if the city determines that:

(a) The work was not completed within three years of the application date;

(b) The work was not constructed consistent with the application or other applicable requirements;

(c) The affordable housing units to be offered are not consistent with the application and criteria of this chapter; or

(d) The owner's property is otherwise not qualified for a sales and use tax deferral under this chapter.

(4) If the city finds that the work was not completed within the required time period due to circumstances beyond the control of the conditional recipient and that the conditional recipient has been acting and could reasonably be expected to act in good faith and with due diligence, the governing authority may extend the deadline for completion of the work for a period not to exceed 24 consecutive months.

(5) The city's governing authority may enact an ordinance to provide a process for a conditional recipient to appeal a decision by the city that the conditional recipient is not entitled to a deferral of sales and use taxes. The conditional recipient may appeal a decision by the city to deny a deferral of sales and use taxes in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within 30 days of notification by the city to the conditional recipient.

(6) A city denying a conditional recipient of a sales and use tax deferral under subsection (3) of this section must notify the department and taxes deferred under this chapter are immediately due and payable, subject to any appeal by the conditional recipient. The department must assess interest at the rate provided for delinquent taxes and penalties

retroactively to the date of deferral. A debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

Sec. 3. RCW 82.92.090 and 2022 c 241 S 11 are each amended to read as follows:

(1) A (~~conditional~~) recipient of a conditional certificate of program approval issued by the city must submit an application for a sales and use tax deferral certificate to the department before initiation of the construction of the investment project. In the case of an investment project involving multiple qualified buildings, applications must be made for, and before the initiation of construction of, each qualified building. The application must be made to the department in a form and manner prescribed by the department. The application must include a copy of the conditional certificate of program approval issued by the city detailing specifics of the investment project conditionally approved and clarifying any portions of the project not approved for a tax deferral, estimated construction costs, time schedules for completion and operation, and any other information required by the department. The department must (~~rule on~~) review the application for completeness and provide a tax deferral certificate within 60 days of receiving a complete application.

(2) The department must provide information to the conditional recipient regarding documentation that must be retained by the conditional recipient in order to substantiate the amount of sales and use tax actually deferred under this chapter.

(3) The department may not accept applications for the deferral under this chapter after June 30, 2032.

(4) The application must include a waiver by the conditional recipient of the four-year limitation under RCW 82.32.100.

(5) This section expires July 1, 2032.

PART II

LOCAL REAL ESTATE EXCISE TAX CHANGES

Sec. 4. RCW 82.46.080 and 1998 c 106 s 10 are each amended to read as follows:

~~A county, city, or town that imposes excise tax under this chapter must provide the county treasurer with a copy of the ordinance or other action initially authorizing the tax or altering the rate of the tax that is imposed at least sixty days before change becomes effective.~~

(1) A local real estate excise tax change may take effect
(a) no sooner than 75 days after the department is notified in
writing of the tax change and (b) only on the first day of
January, April, or July.

(2) A county or city making a real estate excise tax change
must notify the department and the county treasurer in writing
of the tax change and provide a copy of the signed ordinance,
resolution, or other action authorizing the tax change. If the
tax change results from an annexation, the written notification
must also include a copy of the complete ordinance containing a
legal description, a map specifying the boundaries of the
annexed territory, and a list of all included parcel numbers in
the annexed territory.

(3) For purposes of this section, "tax change" means
enactment or revision of local real estate excise taxes under

this chapter or any other statute, including changes resulting from referendum or annexation.

PART III
LODGING TAX CHANGES

NEW SECTION. Sec. 5. A new section is added to chapter 82.32 RCW to read as follows:

(1) A lodging tax change may take effect (a) no sooner than 75 days after the department is notified in writing of the tax change and (b) only on the first day of January, April, or July.

(2) A city, county, public facility district, or other authorized taxing authority, making a lodging tax change must notify the department in writing of the tax change and provide a copy of the signed ordinance, resolution, or other action authorizing the tax change. If the lodging tax change results from an annexation, the written notification must also include a copy of the complete ordinance containing a legal description, a map specifying the boundaries of the annexed territory, and a list of all included parcel numbers in the annexed territory.

(3) For purposes of this section, "lodging tax change" means enactment or revision of a tax or charge on the furnishing of lodging under chapters 36.100, 35.101, 67.28 RCW, or any other statute, including changes resulting from referendum or annexation.