PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)
Do **NOT** use for expedited rule making

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DATE: November 13, 2025
TIME: 5:12 PM

WSR 25-23-046

Agency: Department of Revenue

Subject of possible rule making: WAC 458-16-350 (NEW) Multifamily property tax exemption-Audit program.

Statutes authorizing the agency to adopt rules on this subject: RCW 84.08.005 and 82.01.060

Reasons why rules on this subject may be needed and what they might accomplish: This rule explains the audit program for the multifamily property tax exemption under RCW 84.14.100. The Department of Commerce is required to audit properties receiving this exemption, so this rule provides relevant information to property owners and facilitates continued compliance.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: The Department of Commerce conducts the audits described in RCW 84.14.100, but the Department of Revenue has general oversight over Title 84 RCW. The Department of Commerce will attend the public meeting, provide responses to inquiries regarding the rule draft, and consider all comments if amending the rule draft.

Process for developing new rule (check all that apply):

☐ Negotiated rule making
☐ Pilot rule making
☐ Agency study
☒ Other (describe) Parties interested in the rulemaking may contact the individual listed below. The public may also participate by providing written comments throughout this rulemaking or giving oral testimony at the public meeting or public hearing.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

	(If necessary)
Name: Leslie Mullin	Name: Katherine Mitchell
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Other:	Other:

Additional comments: Written comments may be submitted by mail or email and should be directed to Leslie Mullin using one of the contact methods above.
Written and oral comments will be accepted at the Public Meeting.
Date: January 8, 2026
Time: 10:00 am
Public Meeting Location: Internet/Phone via Zoom

Date: 11/13/2025	**Signature:**
Name: Perry Stern	
Title: Rules Coordinator	

NEW SECTION

WAC 458-16-350 Multifamily property tax exemption—Audit program. (1) **Introduction.** This rule explains the multifamily property tax exemption (MFTE) audit program authorized under RCW 84.14.100. The program requires the department of commerce (department) to conduct audits for certain properties issued certificates of tax exemption and determine whether the properties meet MFTE requirements.

(2) **Definitions.** For purposes of this rule, the following definitions apply:

(a) **"Audit fee"** means a monetary fee authorized under RCW 84.14.100 that the department may impose to fund the audit program described in subsection (3)(a) of this rule.

(b) **"Certificate of tax exemption"** means a final document issued by a city or county with an MFTE program which is provided to the county auditor and confirms a property's eligibility for a property tax exemption in accordance with the conditions of chapter 84.14 RCW and local requirements.

(c) **"City or county managed audit or review program"** means an audit or review program operated by a city or county to ensure properties receiving a property tax exemption provide affordable housing as required by their MFTE contract consistent with the conditions of chapter 84.14 RCW and local requirements.

(d) **"Income-restricted unit"** means a unit where the monthly housing cost, including utilities, other than telephone, is no more than 30 percent of the area median income (AMI) level established in the MFTE contract. Only tenants making no more than the AMI level established for the unit are eligible to rent an income-restricted unit.

(e) **"MFTE contract"** means the agreement between the jurisdiction issuing the certificate of tax exemption and the owner of the property receiving the exemption. The agreement shall contain the number of units of affordable housing provided, for what time period, and at what AMI level. Jurisdictions may combine the certificate of tax exemption and MFTE contract into one document.

(f) **"Nonprofit"** means a group registered to operate in the state of Washington, under RCW 24.03A.010, for purposes other than generating profit, in which no part of the organization's income is distributed to its members, directors, or officers.

(g) **"Plan of correction"** means a document issued by the department following the completion of an audit under RCW 84.14.100 (3)(a), notifying the owner or operator of the property of:

(i) Substantial noncompliance with the MFTE program requirements; and

(ii) Corrective actions necessary to comply with the MFTE program requirements, which must be completed within six months of the document's issuance to avoid a recommendation of a sliding scale penalty or cancellation of the tax exemption by the jurisdiction.

(h) **"Qualifying household"** means a household which meets the income limits established in the MFTE program for an income-restricted unit.

(i) **"Sliding scale penalty"** means the monetary penalty imposed under RCW 84.14.100 (3)(b), which may not exceed an amount calculated by subtracting the amount of rental income the property owner or operator was authorized to collect under their MFTE program agreement with the city or county from the rental income the owner or operator collected.

(3) **MFTE program eligibility - Department audits.**

(a) **Audit program.** The department has established an audit program as required by RCW 84.14.100 to determine the compliance of properties receiving the MFTE. The program includes requirements for minimum number of units, rental rates, and tenant screening.

(i) Audits under this subsection (3) must occur at least once every five years, according to the following schedules:

(A) For properties receiving eight-year exemptions granted under RCW 84.14.020 (1)(a)(ii)(A), the audit occurs in year five of the exemption period.

(B) For properties receiving 12-year exemptions granted under RCW 84.14.020 (1)(a)(ii)(B), including those with an extension granted under RCW 84.14.020 (1)(c), the audit occurs in years five and 10 of the exemption period.

(C) For properties receiving 20-year exemptions granted under RCW 84.14.020 (1)(a)(ii)(C), the audit occurs in years five, 10, 15, and 20 of the exemption period.

(ii) The department will issue a notice of audit to a property granted a property tax exemption under MFTE in January of the calendar year in which an audit under this subsection (3) will occur. The department will send this notice via certified mail through the United States postal service to the property owner of record.

(iii) At the discretion of the department, audits under this subsection (3) may be completed virtually, or in person and on-site.

(iv) The following properties are not subject to audits under this subsection (3):

(A) Properties owned or operated by a nonprofit;

(B) Properties subject to an independent audit or review program administered by a city or county; and

(C) Properties not required to offer income-restricted units by their MFTE contract.

(b) **Records.** Records requested in advance by the department must be made available to the auditor by the time requested. Failure to be ready for the scheduled audit may result in a fee to recover the costs for audit staff travel and time. Records will include, at a minimum:

(i) The MFTE contract with the authorizing city or county;

(ii) All lease agreements for designated affordable units on the property;

(iii) Copy of lease payments for designated affordable units;

(iv) Copy of payment of households' monthly housing costs, including utilities other than telephone, for residents of designated affordable units;

(v) The documents verifying income of tenants for each income-restricted unit;

(vi) Any other documents necessary for supporting other city or county requirements under subsection (3)(c) of this rule;

(vii) Vacancy status for both income-restricted and market-rate units over the five-year audit period; and

(viii) Records from all previously completed audits.

(c) **Additional city or county requirements.** A city or county may impose additional requirements for MFTE eligibility within their jurisdiction. Audits conducted under subsection (3) of this rule may evaluate whether any additional city or local requirements are satisfied for purposes of MFTE eligibility.

(d) **Owner-occupied housing.** In cases where an owner-occupied income-restricted housing unit is due for an audit, the audit will include reviewing resale conditions, and if a sale has occurred, reviewing whether the resale conditions prevented the property from being resold at market rates.

(4) **Audit fees and penalties for noncompliance.**

(a) **Audit fees.** The owner or operator of any property subject to an audit under subsection (3) of this rule may be subject to an audit fee.

(i) The department may publish a fee schedule detailing potential audit costs by unit count and location prior to engaging in any audits for which a fee is charged. The department may elect not to charge fees for an audit.

(ii) Audit fees may not exceed the expected costs of the audit.

(iii) The property owner bears the costs of any additional audits necessary to confirm a plan for correction has been carried out. Property owners may be responsible for added costs of evaluating compliance with additional city or county requirements under subsection (3)(c) of this rule.

(b) **Noncompliance types.** Different occurrences of noncompliance have different impacts on the balance of public and private benefit. Noncompliance types include:

(i) Minor errors with nominal impacts on program requirements. Errors by property owners that result in minor impacts, not material on the amount of rent charged to tenants or the provision of income-restricted units, may result in the department requiring a property owner to follow a plan of correction and participate in a follow-up audit within six months of the prior audit to determine compliance. In these cases, the department recommends waiving any penalties unless these errors persist.

(ii) Major errors with significant impacts on program requirements. Errors by property owners that have a substantial effect on the provision of income-restricted units constitute substantial noncompliance and will result in a recommendation for penalties. In these cases, the department recommends:

(A) Imposing the sliding scale penalty under subsection (4)(d)(i) of this rule;

(B) Requiring the property owner or operator to follow a plan of correction under subsection (4)(d)(ii) of this rule; and

(C) Conducting a follow-up audit within six months of the prior audit to demonstrate compliance.

(iii) Bad faith noncompliance. In cases of willful noncompliance or fraud, such as the property owner intentionally failing to fulfill requirements under an MFTE program, the department recommends immediate cancellation of the exemption, with collection of penalties as per RCW 84.14.110 (1)(a).

(c) **Noncompliant projects.** Upon receiving the results of the audit, the department will review any noncompliance issues and provide plans of correction for addressing properties that do not properly meet the affordability requirements of the program. These penalties may range from outreach and education to cancellation of the exemption for the property. However, while the department can require follow-up auditing to confirm that corrective action has been taken, imposing penalties is the responsibility of the city or county that issued the certificate of tax exemption.

(d) **Audit penalties.** If the required audit for a given property finds that the owner or operator has made major errors with significant impacts on program requirements which constitute substantial noncompliance under subsection (4)(b) of this rule, the department must notify the city or county, and the city or county must impose and collect a sliding scale penalty. If a follow-up audit finds continued substantial noncompliance with the program requirements, the exemption certificate must be canceled pursuant to RCW 84.14.110.

(i) The penalty may not exceed an amount calculated by subtracting the amount of rents that would have been collected had the owner or operator complied with their income-restricted unit commitment from the amount of rents collected by the owner or operator for the income-restricted units, with consideration of the severity of the noncompliance.

(Noncompliant monthly rent amount - Compliant monthly rent amount) * Months out of compliance = Maximum penalty amount

(ii) Corrective actions to ensure compliance may be assigned through a plan of correction. These actions may include staff training, creation of forms and policies for tenant screening, affirmative marketing requirements, etc. Compliance with corrective actions will be evaluated through a follow-up audit under subsection (4)(b)(ii)(C) of this rule.

(5) **Audit programs managed by cities and counties.**

(a) **Standards for local audit programs.** A city or county may choose to conduct their own auditing program to provide oversight of program compliance.

(b) **Information provided.** The department encourages cities and counties to follow department audit standards and provide the results of the audit to the department when noncompliance is identified.