

July 8, 2009

Legislative Update – Changes in the Property Tax Exemption for Museums and Performing Arts Facilities

Senate Bill 5680 was passed by the 2009 Legislature and takes effect on July 26, 2009. This measure amended RCW 84.36.060 and provides changes in the way these exempt properties may be shared with individuals or organizations that are not eligible for exemption.

Museums

RCW 84.36.060(1)(a) provides a property tax exemption for the real and personal property owned by nonprofit organizations and used exclusively to exhibit and maintain art, scientific, or historical collections.

Performing Arts

RCW 84.36.060(1)(b) provides a property tax exemption for the real and personal property owned by or leased to nonprofit associations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works for the benefit of the general public.

Senate Bill 5680 revised these two exemptions in four important ways:

- 1. Use of exempt property by others.**
It increased the number of days that museums or performing arts facilities may be loaned or rented to individuals or organizations that are not eligible for property tax exemption. That upper limit on the number of days was increased from 25 days to 50 days in the calendar year.
- 2. Use of property for pecuniary gain or to promote business activities.**
Within the 50-day limit described in #1, the upper limit on how many days the property could be used for pecuniary gain or the promotion of business activities was increased from 7 days to 15 days.
- 3. Limit on the rent/donations paid for the use of exempt property.**
The requirement that such payment be reasonable and not exceed the cost of maintenance and operation is removed. The museum or performing arts facility may freely negotiate rental payments or donations for the use of the property.
- 4. Set-up and takedown days.**
Days which may be used for set-up or takedown activities that immediately precede or follow an event do not count against the 50 and 15-day limitations discussed above.

These new limits on certain uses will be applied as we count the activities that occur in the 2009 calendar year and affect the exemption of the property from taxes due and payable in 2010. WAC 458-16-280 (Museums) and WAC 458-16-282 (Performing Arts Facilities) will be revised in the upcoming weeks to reflect these statutory changes.

Conclusion

These changes only apply to the exemptions discussed above. Other nonprofit exemptions granted under chapter 84.36 RCW, such as those provided for churches, schools, colleges, hospitals, public assembly halls, and others, have very different limitations on shared use of the property and business activities. Most exempt property remains subject to the requirement that a rental charge must not exceed the costs of maintenance and operation associated with that rental. The appropriate statute and rules should be consulted for each of those exemptions.

Questions

If you have questions or need additional information about these changes or any other nonprofit exemption issues, please contact Sindy Armstrong at (360) 570-5870 or SindyA@dor.wa.gov. You may also contact the Property Tax Division at (360) 570-5900 and ask for a nonprofit exemption staff member.