



EXPEDITED RULE MAKING

CR-105 (June 2004)
(Implements RCW 34.05.353)
EXPEDITED RULE MAKING ONLY

Agency: Department of Revenue

Title of rule and other identifying information: WAC 458-16-110 (Rule 110) *Applications—Who must file, initial applications, annual declarations, appeals, filing fees, penalties, and refunds* explains the procedures property owners must follow to apply for and renew real and personal property tax exemptions and leasehold excise tax exemptions.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

Name: Marilou Rickert
Agency: Department of Revenue
Address: Post Office Box 47453
Olympia, Washington 98504-7453
E-mail: MarilouR@DOR.WA.GOV

AND RECEIVED BY: November 1, 2010

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The Department proposes to amend Rule 110 to:

- recognize section 305 of E2SHB 1597 (Chapter 106, Laws of 2010), which adds property of hospitals established under chapter 36.62 RCW to the property tax exemption for “hospitals”;
- recognize sections 301, 303, and 304 of SB 5468 (Chapter 111, Laws of 2007), which:
 - adds property of hospitals established under chapter 36.62 RCW to the property tax exemption for hospitals,
 - allows electronic filing,
 - replaces affidavits with certifying statements,
 - removes application and renewal fees, and
 - makes physical inspection of exempt premises discretionary with the Department;
- remove obsolete language and references.

Copies of draft rules are available for viewing and printing on our website at:

<http://dor.wa.gov/content/FindALawOrRule/RuleMaking/agenda.aspx>

Reasons supporting proposal: To recognize recent legislation, and to update and remove obsolete information.

Statutory authority for adoption: RCW 84.08.010, RCW 84.08.070, and RCW 84.36.865

Statute being implemented: RCW 84.36.815, RCW 84.36.825; and RCW 84.36.830

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Date August 31, 2010

Name (Type or print)

Alan R. Lynn

Signature

Title Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: August 31, 2010

TIME: 10:11 AM

WSR 10-18-075

Name of proponent: (person or organization) Washington State Department of Revenue

- Private
- Public
- Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting.....	Marilou Rickert	1025 Union Ave. SE. Ste # 544, Olympia ,WA	(360) 570-6115
Implementation....	Brad Flaherty	1025 Union Ave. SE. Ste #200, Olympia ,WA	(360) 570-5860
Enforcement.....	Brad Flaherty	1025 Union Ave. SE. Ste #200, Olympia ,WA	(360) 570-5860

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

This rule draft is being proposed under an expedited rule-making process that does not require the agency to hold public hearings. Under no circumstances is this proposed rule to be used as a basis for determining tax liability or eligibility for a tax deduction, exemption, or credit.

AMENDATORY SECTION (Amending WSR 02-02-009, filed 12/20/01, effective 1/20/02)

WAC 458-16-110 Applications--Who must file, initial applications, annual declarations, appeals, filing fees, penalties, and refunds. (1) **Introduction.** This rule explains the procedures property owners must follow to apply for and renew all real and personal property exemptions or leasehold excise tax exemptions under chapter 84.36 RCW for which the taxpayer must apply in order to receive. It also specifies the ~~((fee that must be submitted with each initial application or renewal declaration for exemption, as well as the))~~ late filing penalty that is due whenever an application or renewal declaration is received after the filing deadline.

(2) **Application required.** All foreign national governments, cemeteries, nongovernmental nonprofit corporations, organizations, or associations, soil and water conservation districts, a hospital established under chapter 36.62 RCW and a public hospital district established under chapter 70.44 RCW seeking a property tax exemption or a leasehold excise tax exemption under chapter 84.36 RCW must submit an application for exemption and supporting documentation to the state department of revenue (department). Unless otherwise exempted by law, no real or personal property or leasehold interest is exempt from taxation until an application is submitted and an exemption is granted.

(3) **Where to obtain application and annual renewal declaration forms.** Applications for exemption may be obtained from any county assessor's office, the department's property tax division, or on the internet at ~~((<http://dor.wa.gov/index.asp>))~~ <http://dor.wa.gov> under Property Tax, "Forms." Annual renewal declaration forms are mailed by the department to all entities receiving a property tax or leasehold excise tax exemption except for certain cemeteries, military housing providers and tribal governments. If such a form is not received in the mail, an annual renewal declaration may be obtained from the department's property tax division ~~((or an application form may be obtained and adapted for use as an annual renewal declaration))~~.

(4) **Initial application, filing deadlines, and other requirements.** In general, initial applications for exemption must be filed with the department on or before March 31st to

exempt the property from taxes due in the following year. However, an initial application may be filed after March 31st if the property is acquired or converted to an exempt use after that date, if the property may qualify for an exemption under chapter 84.36 RCW. In this situation, the application must be submitted within sixty days of acquisition or conversion of the property to an exempt use. If an initial application is not received within this sixty day period, the late filing penalty described in subsection (12) of this rule is imposed.

~~((A))~~) The following requirements apply to all initial applications:

~~((i))~~ ~~A filing fee of thirty-five dollars must be submitted with each application for exemption. The department will not process any application unless this fee is paid;~~

~~((ii))~~) (a) The application must be made on a form prescribed by the department and signed by the applicant or the applicant's authorized agent;

~~((iii))~~) (b) One application can be submitted for all real property that is contiguous and part of a homogeneous unit. If exemption is sought for multiple parcels of real property, which are not contiguous nor part of a homogeneous unit, a separate application for each parcel must be submitted. However, multiple applications are not required for church property with a noncontiguous parsonage or convent.

~~((A))~~) (i) "Contiguous property" means real property adjoining other real property, all of which is under the control of a single applicant even though the properties may be separated by public roads, railroads, rights of way, or waterways.

~~((B))~~) (ii) "Homogeneous unit" means the property is controlled by a single applicant and the operation and use of the property is integrated with and directly related to the exempt activity of the applicant.

(5) Documentation a nonprofit organization must submit with its application for exemption. Unless the following information was previously submitted to the department and it is still current, in addition to the application for exemption, a nonprofit organization, corporation, or association must also submit:

(a) Copies of the articles of incorporation or association, constitution, or other establishing documents, as well as all current amendments to these documents, showing nonprofit status;

(b) A copy of the bylaws of the nonprofit entity, if requested by the department;

(c) A copy of any current letter issued by the Internal Revenue Service that exempts the applicant from federal income taxes. This letter is not usually, but may be, required if the nonprofit entity applying for an exemption is part of a larger organization, association, or corporation, like a church or the

Boy Scouts of America, that was issued a group 501 (c)(3) exemption ruling by or is otherwise exempt from filing with the Internal Revenue Service; and

(d) The information required in subsection (6) of this rule.

(6) **Other documentation a nonprofit entity, foreign national government, hospital established under chapter 36.62 RCW, hospital owned and operated by a public hospital district, or soil and water conservation district must submit with its initial application for exemption.** In addition to the initial application for exemption, a nonprofit entity, foreign national government, and public hospital district established under chapter 70.44 RCW, or soil and water conservation district must submit the following information regarding the real or personal property for which exemption is sought, unless it was previously submitted to the department and it is still current:

(a) An accurate description of the real and personal property;

(b) An accurate map identifying by dimension the use or proposed use of all real property that shows buildings, building sites, parking areas, landscaping, vacant areas, and if requested by the department, floor plans of the buildings. The map will be used to determine whether the property is entitled to a total or partial exemption based upon the use of the total area;

(c) A legal description of all real property, listing the county tax parcel number, and if the property is owned by the applicant, a copy of the current deed; and

(d) If the property is rented or loaned to or from another property owner, a copy of the rental agreement or other document explaining the terms of the lease or loan. This documentation must describe:

(i) What property is rented or loaned;

(ii) The amount of the rent or other consideration paid or received;

(iii) The name of the party from whom and the name of the party to whom the property is rented or loaned;

(iv) How the property is being used; and

(v) The monthly amount of maintenance and operation costs related to rented or loaned property if a nonprofit entity is claiming an exemption for property leased to another party.

(7) **Department's review of the application and notice of its determination.** Upon receipt of an application for exemption, the department will review the application and all supporting documentation. Additional information may be requested about the ownership and use of the property, if the department needs this information to determine if the exemption should be granted. An application for exemption is not considered complete until all required and requested information

is received by the department.

(a) Physical inspection. The department (~~will~~) may physically inspect the property as part of the application review process.

(b) Deadline. If a complete application is received by March 31st for that assessment year, the department will issue a determination about the application by August 1st. If a complete application is not received by March 31st, the determination will be made within thirty days of the date the complete application is received by the department or by August 1st, whichever is later.

(c) Notice to applicant. The department will mail a written determination about the exemption application to the applicant. An application may be approved or denied, in whole or in part. If the application is denied for any portion of the property covered by the application, the department must clearly explain its reason for denial in its written determination.

(d) Notice to assessor. Once the department makes its determination about the application for exemption, it will notify the assessor of the county in which the property is located about the determination made. In turn, the assessor takes appropriate action so that the department's determination is reflected on the county's assessment roll(s) for the years covered by the determination.

(8) **Effective date of the exemption.** If an application is approved, the property is exempt from property taxes due the year immediately following the year the application for exemption is submitted.

(a) For example, if an application for exemption is submitted to the department in (~~2000~~) 2010 and the application is approved (~~in~~) for assessment year (~~2000~~) 2010, the property will be exempt from taxes due in (~~2001~~) 2011.

(b) Retroactive applications for exemption for previous years are accepted, up to a maximum of three years from the date taxes were (~~paid~~) due on the property, if the applicant provides the department with acceptable proof that the property qualified for exemption during the pertinent assessment years and pays the (~~initial application filing fee, renewal declaration fees, and~~) late filing penalties.

(9) **Annual renewal declaration.** To retain a property tax exemption, each nonprofit entity (except nonprofit cemeteries), foreign national government, public hospital district, and soil and water conservation district receiving an exemption must annually submit a renewal declaration certifying that the use and exempt status of the real and personal property has not changed. The renewal declaration is a form (~~prepared~~) provided by the department.

(a) On or before January 1st each year, the department mails a renewal declaration to the entity receiving an exemption

for the property at the entity's last known address. Within sixty days of changing its mailing address, the exempt entity must notify the department about the change.

(b) The renewal declaration, signed by the exempt entity or the exempt entity's authorized agent, (~~and renewal fee of eight dollars and seventy five cents~~) must be (~~submitted~~) mailed or delivered to the department or submitted electronically using the department's on-line service no later than March 31st each year. (~~The department will not process a renewal declaration unless this fee is paid.~~)

(i) The renewal declaration must include information about any change of use of the exempt property and a (~~certification as to~~) statement certifying the truth and accuracy of the information listed.

(ii) The renewal declaration is due on or before March 31st even if the department fails to mail the declaration to the exempt entity. If an exempt entity does not receive a renewal declaration, (~~an application form may be submitted to the~~) a replacement renewal declaration form may be requested from the department to renew the exemption or the exempt entity may use the department's on-line system to submit the declaration.

(c) If the renewal declaration and renewal fee are not received by March 31st, the department will mail a second notice to the exempt entity at the entity's last known mailing address. If the exempt entity fails to respond to the second notice, the department will remove the exemption from the property and notify the assessor of the county in which the property is located that the exemption has been (~~cancelled~~) canceled.

(d) Real property, which was previously exempt from taxation, is assessed and taxed as provided in RCW 84.40.350 through 84.40.390 when it loses its exempt status.

(i) Property that no longer retains its exempt status is subject to a pro rata portion of the taxes allocable to the remaining portion of the year after the date the property lost its exempt status.

(ii) The assessor lists and assesses the property with reference to its true and fair value on the date the property lost its exempt status.

(iii) RCW 84.40.380 sets forth the dates upon which taxes are payable when property loses its exempt status. Taxes due and payable under RCW 84.40.350 through 84.40.390 constitute a lien on the property that attaches on the date the property loses its exempt status.

(10) **Failure to submit an annual renewal declaration and reapplication for exemption.** If property loses its exempt status because the annual renewal declaration (~~and renewal fee were~~) was not submitted and subsequently the owner wishes to reapply for the property tax exemption:

(a) If the owner reapplies within the same assessment year

during which the exemption is (~~cancelled~~) canceled, the owner must submit the annual renewal declaration and pay the (~~renewal fee and any~~) required late filing penalties; or

(b) If the owner reapplies after the assessment year during which the exemption is cancelled, the owner must submit an initial application and pay the (~~initial application fee, any unpaid renewal fees for the intervening years, and~~) required late filing penalties.

(11) **Initial application and renewal declaration procedures regarding cemeteries.** There are several types of cemeteries. The initial application for exemption and renewal declaration procedures are specific as to the type of cemetery at issue.

(a) The assessor shall consider the following types of cemeteries exempt from property tax, no initial application or renewal declaration is required for:

(i) Cemeteries owned, controlled, operated, and maintained by a cemetery district authorized by RCW 68.52.090; or

(ii) Indian cemeteries, which are considered to be held by the tribe or held in trust for the tribe by the United States.

(b) An initial application is submitted to the department, but no renewal declaration is required, for:

(i) Family cemeteries;

(ii) Historical cemeteries;

(iii) Community cemeteries; and

(iv) Cemeteries belonging to nonprofit organizations, associations, or corporations.

(c) An initial application for exemption and a renewal declaration must be submitted by all for-profit cemeteries seeking a property tax exemption.

(12) **Late filing penalty.** When an initial application or renewal declaration is submitted after the due date, a late filing penalty of ten dollars is due for every month, or portion thereof. This penalty is calculated from the date the application or renewal declaration was due until the postmark date shown on the application or declaration or the date the application or declaration is given to the department.

(13) **Refund of filing (~~fee or~~) penalty.** No (~~filing fees or~~) late filing penalty (~~are~~) is refunded after a determination on the application is issued by the department. However, (~~filing fees and~~) the late filing penalty will be refunded under the following circumstances:

(a) When a duplicate application or renewal declaration for the same property is submitted during the same calendar year;

(b) When an application or renewal declaration is received by the department and the department has no authority to grant the exemption requested; or

(c) When a written request to withdraw the application is received before the department issues a determination. The withdrawal request must be signed by the owner or the owner's

authorized agent.

(14) **Appeals.** Any applicant that receives a negative determination from the department on either an initial application or a renewal declaration may appeal this determination to the state board of tax appeals (BTA). Similarly, any assessor who disagrees with the department's determination may appeal the determination to the BTA. See WAC 458-16-120 for specific information about the appeal process.