



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)
(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Department of Revenue

Subject of possible rule making:
Amend WAC 458-16-300 *Public meeting hall – Public meeting place – Community meeting hall.*

Statutes authorizing the agency to adopt rules on this subject:
RCW 84.36.865 *Rules and regulations.*

Reasons why rules on this subject may be needed and what they might accomplish:

WAC 458-16-300 provides administrative guidance regarding criteria of eligibility for nonprofit organizations applying for a property tax exemption under RCW 84.36.037 (*Nonprofit organization property connected with operation of public assembly hall or meeting place*). Amending WAC 458-16-300 will update language due to the passage of SB 6405 (2014), which standardizes criteria for non-exempt uses of tax exempt property owned by nonprofit organizations; SHB 2402 (2010), which allows tax exempt property to be used to conduct a farmers market; and SHB 1510 (2006), which allows certain uses of property located in counties with a population of less than twenty thousand. Amending WAC 458-16-300 will also provide clarity for nonprofit organizations on the types of qualifying uses allowable for this exemption.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: None.

Process for developing new rule (check all that apply):
 Negotiated rule making
 Pilot rule making
 Agency study
 Other (describe) Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:
A preliminary draft of possible rule changes is available via the Department’s online [Rules Agenda](#).

Written comments may be submitted by mail and should be directed to Leslie Mullin at either of the following addresses:
email: LeslieMu@dor.wa.gov, or mailing address: Leslie Mullin, ITA Division, PO Box 47453, Olympia, WA 98504-7453.

Written and oral comments will be accepted at the public meeting.

Public meeting location:
Capitol Plaza Building
4th Floor Exec Conference Room
1025 Union Avenue SE
Olympia, Washington

Assistance for persons with disabilities:
Contact Mary Carol LaPalm (360) 725-7499 or Renee Cosare (360) 725-7514 no later than 10 days before the meeting date.
For Hearing Impaired please contact us via the Washington Relay Operator at (800) 833-6384.

Call in option can be provided upon request no later than 3 days before the meeting date.

Date: March 4, 2015 **Time:** 10:00 A.M.

Date January 20, 2015

Name
Dylan Waits

Signature

Title
Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 20, 2015
TIME: 3:00 PM

WSR 15-03-083

AMENDATORY SECTION (Amending WSR 98-18-006, filed 8/20/98, effective 9/20/98)

WAC 458-16-300 Public meeting hall—Public meeting place—Community meeting hall. (1) **Introduction.** This ~~((section))~~ rule explains the property tax exemption available under the provisions of RCW 84.36.037 for real and personal property owned by a nonprofit organization, association, or corporation and used exclusively as a public meeting hall, public meeting place, or community meeting hall.

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

(a) ~~((("Inadvertent use or inadvertently used" means any unintentional or accidental use of exempt property by an individual, organization, association, or a corporation for pecuniary gain or to promote business activities through either carelessness, lack of attention, lack of knowledge, mistake, surprise, or neglect.~~

~~((b)))~~ "Public gathering" means any ~~((social function that the general public could, if invited, attend. For example, a public gathering includes, but is not limited to, a wedding, reception, funeral, reunion, or meeting of any organization, association, or corporation that is open to nonmembers. The term does not mean a meeting to which only members of a specific organization, association, or corporation are allowed to attend.~~

(c) ~~"Maintenance and operation expenses" means items of expense allowed under generally accepted accounting principles to maintain and operate the loaned or rented portion of the exempt facility.~~

(d) ~~"Owner" means a nonprofit organization, association, or corporation.~~

~~((e)))~~ gathering that is open to the general public. A gathering that is open to the general public occurs if anyone can attend the event and not just those individuals who are members of the organization or association hosting the event.

(i) When determining whether a gathering was open to the general public, the department may also take into consideration whether the event:

(A) Was advertised in an online or print publication readily available to the general public;

(B) Required an invitation; and

(C) Had any other limitations that prevented the general public from attending.

(ii) The department may also consider a limited category of events that may not be open to the general public as public gatherings, because those events retain characteristics of public gatherings. Examples include, but are not limited to:

(A) Weddings;

(B) Receptions;

(C) Funerals; and

(D) Reunions;

(b) "Property" means real or personal property owned by a nonprofit organization, association, or corporation.

(3) **Exemption.** Real and personal property owned by a nonprofit organization, association, or corporation and used exclusively as a public assembly hall, public meeting place, or community meeting hall ~~((shall))~~ may be exempt from taxation under the following conditions:

(a) Exclusive use. The property is used exclusively for public gatherings and is available to any individual, organization, association, or corporation that may desire to use the property. Membership in ~~((a particular))~~ the organization, association, or corporation ~~((shall))~~ that owns the property is not ~~((be))~~ required to rent or use the property.

(b) Exemption for real property - Area. The area of real property exempt under this ~~((section shall))~~ rule may not exceed one acre ~~((This area shall include))~~ including the building(s), the land under the building(s), and any additional area needed for parking.

(c) Statement of availability and fees required. The owner of the property ~~((shall))~~ must prepare and make available upon request a schedule of fees, a policy on the availability of the facility, and any restrictions on the use of the facility. The owner may impose ~~((any))~~ conditions or restrictions reasonably necessary to safeguard the property and to comply with the purposes of this exemption.

(d) Annual summary required. The owner ~~((shall))~~ must provide the department of revenue with a detailed summary containing the following information regarding the manner in which the exempt property was used during the preceding year:

(i) The name of any person, organization, association, or corporation that used the property;

(ii) The date(s) on which the property was used;

(iii) The purpose for which the property was used;

(iv) Whether the event was a public gathering;

(v) The income derived from the rental of the property; and

~~((v))~~ (vi) The expenses incurred relating to the use of the property.

~~((Entities that schedule regular meetings. Any))~~ Qualifying use of property. Property owned by a nonprofit organization, association, or corporation ~~((that schedules regular meetings of its members or shareholders will also))~~ may qualify for this exemption if ~~((+~~

~~((i) The owner meets the conditions set forth in (a) through (d) of this subsection;~~

~~((ii) The owner does not use the property more than twenty five percent of the useable time; and~~

~~((iii) The facility is used an equal number or greater number of times for public gatherings than the number of times it is used by the owner for gatherings not open to the general public.~~

~~((f) Loan or rental of property. The tax exempt status of the property will not be affected if it is loaned or rented and the amount of rent or donations collected for the use, loan, or rental of the exempt property;~~

~~((i) Is reasonable; and~~

~~((ii) Does not exceed the maintenance and operation expenses that are created by the corresponding use, loan, or rental.~~

~~((g) Property not included within this exemption. Property that is used more than fifty percent of the time by a nonprofit organization, association, or corporation that allows only members to attend its activities does not qualify for this exemption))~~ the total number of public gatherings at the property meets or exceeds the total number of nonpublic gatherings, regardless of whether the owner or renter is using the property. For example, if the total number of gatherings held in a calendar year is fifty, then at least twenty-five of those must be public gatherings.

(4) Use of property for pecuniary gain or to promote business activities. If a public meeting hall, public meeting place, or community

meeting hall exempt under subsection (3) of this ~~((section))~~ rule is used for pecuniary gain or to promote business activities, the property tax exemption will be lost for the affected portion of the property for that assessment year ~~((following the year in which the exempt property is so used))~~. However, the exemption will not be lost if:

(a) The exempt property is used for pecuniary gain or to promote business activities ~~((seven))~~ fifteen days or less in an assessment year; ~~((or))~~

(b) In a county with a population of less than ~~((ten))~~ twenty thousand people, the exempt property is used to promote the following business activities: Dance lessons; art classes; or music lessons ~~((or~~

~~(c) The exempt property is inadvertently used by an individual, organization, association, or a corporation for pecuniary gain or to promote business activities if the inadvertent use is not a pattern of use. A "pattern of use" is presumed when an inadvertent use of the property for pecuniary gain or to promote business activities is repeated within the same assessment year or within two or more successive assessment years)). The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented;~~

~~(c) The exempt property is used to conduct a farmers market, as defined in RCW 66.24.170, for fifty-three days or less each assessment year. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; or~~

~~(d) All income received from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation expenses of the exempt property, or for exempt purposes.~~

(5) **Additional requirements.** Any nonprofit organization, association, or corporation that applies for a property tax exemption under this ~~((section))~~ rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 ~~((sets forth))~~ provides additional conditions and requirements that must be ~~((complied with))~~ satisfied to obtain a property tax exemption pursuant to RCW 84.36.037.