



# 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:** WAC 458-50-160 Exempt intangible property distinguished from other intangibles.

**Statutes authorizing the agency to adopt rules on this subject:**  
RCW 84.08.010, 84.08.070, and 84.36.865.

**Reasons why rules on this subject may be needed and what they might accomplish:**  
  
The Department is considering revisions to WAC 458-50-160 to clarify that the intangible personal property tax exemption provided by RCW 84.36.070 only applies to intangible personal property and not to attributes of property like location, view, zoning regulations, office organization, trained workforce, etc. These "attributes" of property can be considered by the appraiser in determining the fair market value of taxable property.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:**

**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 at dor.wa.gov .  
  
Written comments may be submitted by mail and should be directed to Jay Jetter at either of the following addresses: email: [jayj@dor.wa.gov](mailto:jayj@dor.wa.gov), or mailing address: Jay M. Jetter, ITA Division, PO Box 47453, Olympia, WA 98504-7453.  
  
Written and oral comments will be accepted at the public meeting.  
  
**Public meeting location:**  
Capital Plaza Building  
4<sup>th</sup> Floor Executive Conference Rm.  
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:** May 26, 2016 **Time:** 10:00 A.M.

**Date**  
April 15, 2016

**Name**  
Kevin Dixon

**Signature**  


**Title**  
Rules Coordinator

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STATE OF WASHINGTON  
FILED

**DATE: April 15, 2016**  
**TIME: 11:49 AM**  
**WSR 16-09-048**

AMENDATORY SECTION (Amending WSR 06-24-043, filed 11/30/06, effective 12/31/06)

**WAC 458-50-160 Exempt intangible property distinguished from other intangibles.** (1) **Distinction between property, and characteristics or attributes of property.** The statute (RCW 84.36.070) draws a distinction between intangible personal property and the characteristics or attributes of property, both real and personal. Intangible personal property is exempt from property taxation. However, some characteristics or attributes of property, even though intangible, may be considered in establishing the taxable value of tangible property.

(2) **What intangible personal property is exempt?** The listings of examples of intangible personal property contained in RCW 84.36.070(2) must be consulted, but those listings can be summarized as follows:

(a) Financial intangible property, such as moneys, credits, and publicly issued bonds and warrants, and the bonds, stocks, or shares of private corporations;

(b) Private personal service contracts and athletic or sports franchises, or sports agreements that do not pertain to the use or possession or any interest in tangible personal or real property; and

(c) Miscellaneous types of intangible personal property, such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, permits, core deposits of financial institutions, noncompete agreements, customer lists, patient lists, favorable contracts, favorable financing agreements, reputation, exceptional management, prestige, good name, integrity of a business, and other similar types of intangible personal property.

(3) **Identifying exempt intangible personal property.** (~~Intangible property is only exempt if it is personal property capable of being individually owned, used, transferred, or held separately from other property.~~) The market value of separate items of intangible personal property should not be identified or characterized solely using residual accounting methods, or other indirect techniques, such as isolating "excess earnings," from a total business valuation. Market value of exempt intangible personal property should be verifiable, to the extent possible, in an openly traded market where the value of comparable intangible properties can be observed and considered. Intangible assets that are separately identified and valued in reports filed with any state or federal regulatory agency, may be considered when identifying and valuing intangible personal property of the types listed in subsection (2)(c) of this section.

(4) **What intangible characteristics, attributes or other factors affect value and may be considered?** Nonproperty intangible characteristics or attributes are elements or components of value associated with a real or tangible asset. These characteristics or attributes are "intangible" but they are not "property" and therefore are not tax exempt intangible personal property. They are contingent and dependent upon other property and cannot be owned, used, transferred, or held separately from other property. To the extent that these characteristics, attributes, or other factors contribute to, or affect, the value of property, they must be appropriately considered when determining taxable value. They include the following types:

(a) Zoning, location, view, geographic features, easements, covenants, proximity to raw materials, condition of surrounding property, proximity to markets, or the availability of a skilled work force;

This draft is provided for discussion purposes only to determine what topics a possible proposed rule might address.  
This document draft is under no circumstances to be used to determine a tax liability and/or eligibility for tax exemptions.

- (b) Grants of licenses, permits, and franchises by a government agency that affect the use of the property being valued; and
- (c) Other characteristics of property, such as scarcity, uniqueness, adaptability, or utility as an integrated unit.

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