

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 99-18-008, filed 8/19/99, effective 9/19/99)

WAC 458-16-280 Art, scientific, and historical collections. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.060 to art, scientific, or historical collections.

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

(a) "Governmental entity" means any political unit or division of the federal, state, city, county, or municipal government.

(b) "Property" means all real and personal property exclusively used to secure, maintain, and exhibit art, scientific, or historical collections.

(3) **Exemption for existing property.** All art, scientific, or historical collections owned by associations maintaining and exhibiting the collections to the general public and not for profit, together with all real and personal property owned by these associations and used exclusively to secure, maintain, and exhibit the collections, shall be exempt from taxation under the following conditions:

(a) An organization, association, or corporation must be organized and operated exclusively for artistic, scientific, or historical purposes.

(b) The organization, association, or corporation organized and operated for artistic, scientific, or historical purposes must receive a substantial part of its income from a governmental entity or through direct or indirect contributions of money, real or personal property, or services from the general public. Admission or entrance fees derived from exercising or performing its purpose or function shall not be included within the figures used to calculate "a substantial part" of the organization's, association's, or corporation's income.

(i) For example, an art museum may receive support from a city government and from donations made by the general public in addition to general admission fees paid by visitors. When determining whether the art museum receives a substantial part of its income from a governmental entity or through contributions from the general public, the admission fees may

not be considered as contributions from the general public.

(ii) Any organization, association, or corporation that relies on services donated by the general public for a substantial part for its support must maintain records identifying the individuals who donate their services and the number of hours they donate. The value of donated time will be calculated by using the federal minimum wage standard.

(4) **Exemption for property under construction or soon to be used for an exempt purpose.** Property that is being constructed, remodeled, or otherwise prepared to maintain and exhibit art, scientific, or historical collections, may qualify for exemption under certain circumstances. A nonprofit organization, association, or corporation seeking an exemption for property not currently being used for an exempt purpose may qualify if the property will be used for an exempt purpose within a reasonable period of time and proof is submitted that a reasonably specific and active program is being carried out to enable the property to be used to maintain and exhibit an art, scientific, or historical collection.

(a) Acceptable proof of a specific and active building or remodeling program shall include, but is not limited to, the following items:

(i) Affirmative action by the board of directors, trustees, or governing body of the nonprofit organization, association, or corporation endorsing and underwriting the construction or remodeling;

(ii) Itemized reasons for the proposed construction or remodeling;

(iii) Clearly established plans for financing the construction or remodeling; and

(iv) Building permits necessary to begin or continue the construction or remodeling.

(b) Property under construction shall not qualify for exemption during this interim period if the property is used by, loaned to, or rented to a for-profit organization or business enterprise.

(5) **Use of exempt property by entities not entitled to a property tax exemption.** As a general rule, exempt property may not be used by an entity not entitled to receive a property tax exemption under this chapter. The use of exempt property by an ineligible entity will nullify the exemption for the assessment year. However, the property exemption will not be nullified if:

(a) The property is used by entities not entitled to a property tax exemption under this chapter for periods of not more than fifty days in a calendar year;

(b) The property is not used for pecuniary gain or to promote business for more than fifteen of the fifty days in a calendar year; and

(c) The property is used for:

(i) Artistic, scientific, or historic purposes;
(ii) The production and performance of musical, dance, artistic, dramatic, or literary works; or
(iii) Community gatherings or assembly, or meetings.
(d) The fifty and fifteen day limitations set forth in (a) and (b) of this subsection do not include the days the exempt property is used for setup and takedown activities preceding or following a meeting or other event by an entity using the property as described in this subsection.

(6) Additional requirements. Any organization, association, or corporation (~~that applies~~) applying for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 sets forth additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.060.

AMENDATORY SECTION (Amending WSR 99-18-008, filed 8/19/99, effective 9/19/99)

WAC 458-16-282 Musical, dance, artistic, dramatic and literary associations. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.060 to organizations, associations, or corporations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works.

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

(a) "Governmental entity" means any political unit or division of the federal, state, county, city, or municipal government.

(b) "Property" means all real and personal property exclusively used to produce or perform musical, dance, artistic, dramatic, or literary works.

(3) **Exemption.** All real and personal property owned by or leased to a nonprofit organization, association, or corporation engaged in the production and performance of musical, dance, artistic, dramatic, or literary works for the benefit of the general public and not for profit shall be exempt from taxation under the following conditions:

(a) The property must be used exclusively to produce or perform musical, dance, artistic, dramatic, or literary works.

(b) An organization, association, or corporation must be organized and operated exclusively for musical, dance, artistic,

dramatic, literary, or educational purposes.

(c) The organization, association, or corporation organized and operated for musical, dance, artistic, dramatic, literary, or educational purposes must receive a substantial portion of its income from a governmental entity or from direct or indirect contributions of money, real or personal property, or services from the general public. Admission or entrance fees derived from producing or performing musical, dance, artistic, dramatic, literary, or educational works shall not be included within the figures used to calculate "a substantial part" of the organization's, association's or corporation's income.

(i) For example, a theater may receive support from a city government and from donations made by the general public in addition to ticket sales for admission to its performances. When determining whether the theater receives a substantial part of its income from a governmental entity or through contributions from the general public, the ticket sales may not be considered as contributions from the general public.

(ii) Any organization that relies on services donated by the general public for a substantial portion of its support must maintain records identifying the individuals who donate their services and the number of hours they donate. The value of donated time will be calculated by using the federal minimum wage standard.

(4) **Exemption for property under construction or soon to be used for an exempt purpose.** Property that is being constructed, remodeled, or otherwise prepared to be used by associations engaged in the production and performance of musical, dance, artistic, dramatic, literary, or educational works, may qualify for exemption under certain circumstances. A nonprofit organization, association, or corporation seeking an exemption for property not currently being used for an exempt purpose, may qualify if the property will be used for an exempt purpose within a reasonable period of time and proof is submitted that a reasonably specific and active program is being carried out to enable the property to be used by associations engaged in the production and performance of musical, dance, artistic, dramatic, literary, or educational works.

(a) Acceptable proof of a specific and active building or remodeling program shall include, but is not limited to, the following items:

(i) Affirmative action by the board of directors, trustees, or governing body of the nonprofit organization, association, or corporation endorsing and underwriting the construction or remodeling;

(ii) Itemized reasons for the proposed construction or remodeling;

(iii) Clearly established plans for financing the construction or remodeling; and

(iv) Building permits necessary to begin or continue the construction or remodeling.

(b) Property under construction shall not qualify for exemption during this interim period if the property is used by, loaned to, or rented to a for-profit organization or business enterprise.

(5) **Use of exempt property by entities not entitled to a property tax exemption.** As a general rule, exempt property may not be used by an entity not entitled to receive a property tax exemption under this chapter. The use of exempt property by an ineligible entity will nullify the exemption for the assessment year. However, the property exemption will not be nullified if:

(a) The property is used by entities not entitled to a property tax exemption under this chapter for periods of not more than fifty days in a calendar year;

(b) The property is not used for pecuniary gain or to promote business for more than fifteen of the fifty days in a calendar year; and

(c) The property is used for:

(i) Artistic, scientific, or historic purposes;

(ii) The production and performance of musical, dance, artistic, dramatic, or literary works; or

(iii) Community gatherings or assembly, or meetings.

(d) The fifty and fifteen day limitations set forth in (a) and (b) of this subsection do not include the days the exempt property is used for setup and takedown activities preceding or following a meeting or other event by an entity using the property as described in this subsection.

(6) **Additional requirements.** Any organization, association, or corporation (~~that applies~~) applying for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 sets forth additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.060.