

PRELIMINARY DRAFT--FOR DISCUSSION PURPOSES

AMENDATORY SECTION: (Amending Order PT 68-6, filed 4/29/68.)

WAC 458-12-060 (~~(Listing of personalty -- Burden on taxpayer to list.)~~) **Listing of personal property.** (~~Every person, firm or corporation regardless of residency who owns or controls personal property not specifically exempted by law located in this state as of 12 noon on the first day of January shall be required to annually submit a personal property listing and statement. Such listing and statement shall be due regardless of whether or not the assessor has provided notice of such listing to the individual taxpayer. (RCW 84.40.190.)~~) **(1) Introduction.** This rule provides information about the listing of personal property subject to ad valorem taxation, including specific information about the listing of personal property by corporations, unincorporated organizations, trusts, estates, and by agents on behalf of persons required to make a listing of personal property. This rule also provides information about the listing of personal property by manufacturers. For information about the listing of ships and vessels subject to property taxation, refer to chapter 458-17 WAC.

(2) Who is required to list personal property with the county assessor? Every person is required to list all taxable (i.e., nonexempt) personal property in the person's ownership, possession, or control. RCW 84.40.185 and 84.40.190. Every person required to list personal property must deliver to the county assessor a form (commonly referred to as a "statement" or "affidavit"), signed and verified under penalty of perjury, listing all of the taxable personal property that was located in the county as of 12:00 p.m. on January 1st of the assessment year. For purposes of this rule, the term "person" includes natural persons and artificial persons such as partnerships, corporations, limited liability companies, associations, trusts, and estates.

(a) What if the owner of personal property moves to another county or into this state after January 1st? The owner of taxable personal property who moves from one county to another

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between January 1st and July 1st will be assessed in the county whose assessor first calls upon the owner to make a listing. The owner of personal property who moves into this state from another state between January 1st and July 1st must make a listing of taxable personal property that the person owned on January 1st of the assessment year with the assessor in the county in which the person resides.

If the owner of personal property moves to another county or into this state after January 1st and can satisfy the assessor that the owner's property has been assessed and will be held liable for the tax on the current year in another state or county, the owner cannot be assessed again for the current year. RCW 84.44.080.

(b) **How should property be identified on the personal property affidavit?** Each item of taxable personal property must be listed on the affidavit, and each category of personal property must be separately identified. For example, office equipment must be separately identified as computers, desks, facsimile machines, etc. If deemed practicable, the assessor may permit consolidation of items of personal property with a total value of \$1,000 or less in one entry on the affidavit under the heading, "Miscellaneous Items of Personal Property." When this consolidation is made, the cost reported by the taxpayer must be identified as "Miscellaneous Tools and Equipment," "Miscellaneous Machinery" or by similar designation indicating the category of property reported.

(c) **What other information must be included in the personal property affidavit?** In addition to a listing of all items of taxable personal property identified by category, a personal property affidavit must also include:

(i) The date of acquisition for each item of personal property; and

(ii) The total original cost of each item of personal property. For purposes of listing taxable personal property, the total original cost of an item includes all costs associated with making the property operational but excludes sales tax. For

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example, installation, freight, and engineering charges are costs that may be incurred while placing property into operation. The value of any trade-in is to be included as part of the acquisition cost.

(d) **How do the exemptions for household goods, furnishings, and personal effects and for the head of a family affect listing?** RCW 84.36.110 provides exemptions for the head of a family and for household goods, furnishings, and personal effects. Information about these exemptions and their effect on listing is provided in WAC 458-16-115.

(e) **What if the affidavit is not signed and verified?** A personal property affidavit must contain a written declaration that any person signing the affidavit and knowing it to be false is subject to the penalties of perjury. RCW 84.40.335. The assessor may not accept an affidavit that is not signed and which is not verified under penalty of perjury. RCW 84.40.060 provides that any personal property affidavit that is not signed and verified under penalty of perjury will not be considered in any way to constitute compliance, or an attempt at compliance, with the listing requirements of chapter 84.40 RCW.

(f) **What if the assessor believes that an incomplete or inaccurate listing has been made?** When the assessor believes that an incomplete or inaccurate listing has been made, the assessor has the following remedies:

(i) If the assessor believes that a person listing personal property for himself or herself, or on behalf of a principal (e.g., another person, company, or corporation) has not made a full, fair, and complete listing of such property, the assessor may examine the person under oath in regard to the amount of the property the person is required to list. If the person refuses to answer under oath, the assessor may list the property of that person, or of that person's principal, according to the assessor's best judgment and information. RCW 84.40.110. Any oath authorized to be administered under Title 84 RCW may be administered by any assessor or deputy assessor, or by any other officer having authority to administer oaths. Any person

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wilfully making a false list, schedule, or statement under oath is subject to the penalties of perjury. RCW 84.40.120.

(ii) For the purpose of verifying any list, statement, or schedule required to be furnished to the assessor by any taxpayer, any assessor or the assessor's trained and qualified deputy may visit, investigate, and examine any personal property at any reasonable time. For the purposes of this verification, the records, accounts, and inventories, which will aid in determining the amount and valuation of the property, will also be subject to visitation, investigation, and examination. The visitation, investigation, and examination may be performed at any office of the taxpayer in this state, and the taxpayer is required to furnish or make available all the information pertaining to property in this state to the assessor even though the records may be maintained at any office outside this state. RCW 84.40.340.

(g) **When are personal property affidavits due?** Affidavits of personal property are due on or before the last day of April. RCW 84.40.040. A penalty will be added to the amount of tax assessed if a statement is not filed by the due date. RCW 84.40.130. Refer to WAC 458-12-110 for detailed information about the penalties imposed under RCW 84.40.130.

(3) **Assessor's duty to maintain list of persons liable to assessment.** Assessors must maintain an alphabetical list of the names and last known addresses of all property owners in the county who are subject to assessment of personal property. On or before January 1st of each year, the assessor is required to mail a notice to such persons that a listing is required along with an affidavit. The notice and affidavit must be in accordance with forms prescribed by the department of revenue. If practicable, the notice and affidavit mailed to each taxpayer must include a copy of the previous year's affidavit. RCW 84.40.040. Furthermore, a copy of the taxpayer's previous year's affidavit must be provided to the taxpayer upon the taxpayer's request.

(a) **What if I do not receive an affidavit from the assessor?** Property owners who are subject to assessment of personal

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property and any other person required to list personal property are responsible for filing a personal property affidavit regardless of whether or not the person receives an affidavit in the mail from the assessor.

(b) **What are the assessor's duties upon receipt of a signed and verified affidavit?** Upon receipt of a signed and verified affidavit, the assessor will determine the true and fair value of the property listed in the affidavit and enter one hundred percent of the true and fair value of the property on the assessment roll opposite the name of the party assessed (i.e., the owner of the property). The assessor may, after giving written notice of the action to the person assessed, add to the assessment list any taxable property that should have been included in the list but was omitted by the taxpayer. RCW 84.40.040.

A copy of the completed personal property affidavit containing the assessor's determination of the true and fair value of the property assessed must be provided to the person assessed, or to the person listing the property. RCW 84.40.200.

(4) **Filing personal property affidavits by corporations, unincorporated organizations, trusts, estates, or by an agent.** This subsection provides information about the filing of personal property affidavits by corporations, unincorporated organizations, trusts, estates, or by an agent acting on behalf of a person required to make and provide an affidavit.

(a) **Corporations.** A personal property affidavit required to be submitted by a corporation must be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized to so act. RCW 84.40.190.

(b) **Unincorporated organizations.** A personal property affidavit required to be submitted by a partnership or other unincorporated organization must be signed by a partner or a responsible and duly authorized member or officer having knowledge of the organization's affairs. RCW 84.40.190.

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(c) **Trusts or estates.** A personal property affidavit required to be submitted by a trust or estate must be signed by the fiduciary. RCW 84.40.190. A "fiduciary" means a person having a duty, created by the person's undertaking, to act primarily for another's benefit in matters connected with such undertaking. For example, a trustee of a trust or a personal representative of an estate is a fiduciary.

(d) **Agents.** A personal property affidavit may be made and signed by an agent on behalf of a principal if the agent is authorized to do so by a power of attorney executed by the principal and filed with the assessor. RCW 84.40.190. A "principal" is someone who has permitted or directed another (i.e., an agent) to act for the principal's benefit and who is subject to the direction or control of the principal. If properly executed, the assessor must accept the power of attorney and keep a copy of it on file. The power of attorney will be effective until it expires or is revoked. An agent can make and sign a personal property affidavit on behalf of a principal who is a corporation, unincorporated organization, trust, estate, or other person required to submit an affidavit to the assessor. For example, a corporation may authorize an employee of an accounting firm to prepare and sign a personal property affidavit for the corporation by executing a power of attorney and filing it with the assessor.

In the case of corporations, unincorporated organizations, trusts, or estates, it is not necessary for an individual identified in subsection (4)(a), (b), or (c) of this rule to file a power of attorney with the assessor. The act of the individual will be considered that of the corporation, unincorporated organization, trust, or estate that the individual represents for purposes of the penalties found in RCW 84.40.130 without the necessity of filing a power of attorney. For example, a president of a corporation may submit a personal property affidavit to the assessor for the corporation without having to file a power of attorney with the assessor.

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(i) "Power of attorney" includes any written authorization to prepare and sign a personal property affidavit executed by an authorized officer or the board of directors of a corporation or by a partner, owner, or fiduciary. "Authorized officer," as used in the preceding sentence, means a person who has been appointed by the board of directors to designate, by name or title, an employee or agent to execute and file personal property affidavits on behalf of the corporation.

(ii) When the assessor believes that a full, fair, and complete listing of property has not been made on behalf of a principal, the assessor may require the agent to provide evidence of his or her authority.

(iii) When any list, schedule, statement, or affidavit is made and signed by an agent, the principal required to make out and deliver the list, schedule, statement, or affidavit will be responsible for the contents and the filing thereof and will be liable for the penalties imposed under RCW 84.40.130. Refer to WAC 458-12-110 for detailed information about the penalties imposed under RCW 84.40.130.

(5) **Listing of personal property by manufacturers.** A manufacturer must make and deliver to the assessor a personal property affidavit. The listing is made in the county where the business is located. The affidavit must include the manufacturer's stock, engines, machinery, and other non-exempt personal property, together with the date of acquisition and total original cost for each item. Detailed information about the cost of personal property is contained in subsection (2)(c)(ii) of this rule. Manufacturer's stock that constitutes "business inventories," as that term is defined in RCW 84.36.477, is exempt from ad valorem taxation and need not be included in the personal property affidavit.

Fixtures considered by the assessor as part of any parcel of real property should not be included in a manufacturer's personal property affidavit. For detailed information about fixtures or trade fixtures, refer to WAC 458-12-005 and 458-12-010.

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(a) **Who is a "manufacturer"?** A "manufacturer" is any person who purchases, receives, or holds personal property of any description for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials with the view of making gain or profit by so doing. RCW 84.40.210.

(b) **What is "manufacturer's stock"?** "Manufacturer's stock" includes all articles purchased, received, or otherwise held for the purpose of being used in whole or in part in any process or processes of manufacturing, combining, rectifying, or refining.

(c) **What if property listed in the affidavit has also been listed and assessed as part of any parcel of real property?** On receipt of the manufacturer's personal property affidavit, the assessor will delete from the assessment the value of any engines and machinery that the assessor knows to have been assessed as part of any parcel of real property (i.e., as a fixture). A copy of the corrected assessment will be provided to the manufacturer.