

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

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

~~WAC 458-12-050 ((Listing of real property--))~~ **Omitted property and omitted value.** ~~((Whenever any real property is omitted from the assessment rolls, the assessor shall have the right and duty to go back and separately value and list such property as omitted property. When improvements or land are omitted, the assessor shall check back for a period of three years and base his assessment on the value of the improvements as of the year or years omitted regardless of the reason why the improvements or land were omitted from the rolls. If it is found that a bona fide purchaser (third party) had purchased or acquired any interest in the property prior to the time such improvements are assessed and without knowledge that the property is omitted, then there shall be no assessment made. (RCW 84.40.080) If any question arises as to whether or not the improvement has in fact been omitted, the burden of proof shall be on the assessor to show that it has. (TCR 3 17 1953) Under no circumstances, however, is this section to be used for the purpose of revaluation or reassessment. (Wood Lbr. Company v. Whatcom County, 5 Wn.2d 63 (1940))~~

~~Once the omitted improvement assessment is made the taxpayer shall have one year from the date the tax for the current year becomes due to pay the back taxes without penalty or interest. (RCW 84.40.080.)~~ (1) **Introduction.** Under RCW 84.40.080, an assessor is required to add to the assessment roll any real or personal property omitted from the assessment roll for any preceding year, at the value for the preceding year. The assessor is also required to add to the assessment roll any omitted value of personal property. This rule explains the meaning of the terms "omitted property" and "omitted value." It also provides information about omitted property and omitted value assessments, including when the taxes on these assessments are due and the appeal rights of persons receiving an omitted property or omitted value assessment.

(2) **What is omitted property?** Omitted property includes all real and personal property that was not entered on the assessment roll. Omitted property does not include:

(a) Real or personal property that was listed on the assessment roll but improperly exempted from taxation in prior years; and

(b) Real or personal property that was accurately listed

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

but improperly valued by the assessor.

(3) What is omitted value? Omitted value includes all personal property that was assessed at less than its true and fair value due to inaccurate reporting by the taxpayer or person making the listing. Omitted value does not include:

(a) Personal property that was listed on the assessment roll but improperly exempted from taxation in prior years; and

(b) Personal property that was accurately listed but improperly valued by the assessor.

(4) What is the duty of the assessor upon discovery of omitted property or value? Whenever the assessor discovers or is made aware of omitted property or omitted value, the assessor is required to make an omitted property or omitted value assessment at the property's true and fair value for each year omitted, subject to the requirements of (a) and (b) of this subsection. The assessor is required to notify the property owner or taxpayer of the omitted property or value assessment for each year omitted and the value shall be stated separately from the value of any other year. The assessor must value real property for the years omitted in accordance with the revaluation cycle of the county. For an omitted value assessment, the assessor must provide the taxpayer with a copy of the amended personal property statement along with a letter of particulars informing the taxpayer of the assessor's findings. The assessor must also notify the property owner or taxpayer of the right to appeal an omitted value assessment to the board of equalization and the right to request the board be reconvened to act on the omitted property or omitted value assessment.

(a) Improvements omitted from the assessment roll. Where improvements have not been valued and assessed as a part of the real estate upon which the improvements are located, as evidenced by the assessment rolls, they may be separately valued and assessed as omitted property. No such omitted assessment can be made where a bona fide purchaser, encumbrancer, or contract buyer has acquired any interest in the property prior to the time the improvements are assessed. Thus, if a purchaser, encumbrancer, or contract buyer has acquired an interest in improvements that have been omitted from the assessment roll by giving valuable consideration, in good faith, and without actual or constructive knowledge of the omission of the assessment, the assessor is prohibited from making an omitted property assessment. However, if the assessment roll is still open in the year the omission is discovered, the improvements must be added to the assessment roll for that assessment year. If the assessment roll is closed for that

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

year, the improvements must be placed on the assessment roll in the following year.

**(b) Limitation period for omitted property or omitted value assessments.** No omitted property or omitted value assessment can be made for any period more than three years preceding the year in which the omission is discovered. RCW 84.40.085.

**(5) When are taxes on omitted property or omitted value assessments due?** When an omitted property or omitted value assessment is made, the taxes levied as a result of the assessment may be paid within one year of the due date of the taxes for the year in which the assessment is made without penalty or interest. An assessment is "made," for purposes of omitted property or omitted value assessments, when the assessor notifies the taxpayer in writing of the property and/or value that was previously omitted from the assessment roll. Taxes resulting from an omitted property or omitted value assessment are due on April 30th and cannot be timely paid in two installments, unlike taxes for the current tax year.

**(a) Penalties and interest.** If the taxes due on an omitted property or omitted value assessment are not paid by the due date, the penalties and interest provided in RCW 84.56.020 begin to accrue from the date the taxes become delinquent.

**(b) Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each actual situation must be determined after a review of all of the facts and circumstances.

(i) In April 2003, an assessor discovers an improvement that has never been valued, that is, the assessment roll shows no improvement on the property. Construction of the improvement was completed in June 2001. (This fact means the assessor should have added the improvement to the assessment roll by the end of August 2001 under the "new construction" statute, RCW 36.21.080.) No bona fide purchaser, encumbrancer, or contract buyer has acquired any interest in the improvement. The assessor values the improvement for 2001, 2002, and the current assessment year of 2003, and mails a valuation notice to the taxpayer. The taxes for the 2003 assessment year are due on April 30, 2004. If the amount due is fifty dollars or more, one-half of the tax due may be paid by April 30, 2004, and the balance may be paid by October 31, 2004. The taxes for the omitted property assessment covering the 2001 and 2002 assessment years are due in full by April 30, 2005, which is one year after the due date for the taxes for the assessment year in which the omitted property assessment is made. If the taxes for the omitted assessment are not paid in full by April 30, 2005,

**THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.**

the penalties and interest provided in RCW 84.56.020 begin to accrue as of May 1, 2005, on the unpaid amount.

(ii) In November 2002, after the assessment rolls are closed, an assessor discovers an improvement that has never been valued, that is, the assessment roll shows no improvement on the property. Construction of the improvement was completed in March 1998. No bona fide purchaser, encumbrancer, or contract buyer has acquired any interest in the improvement. The assessor adds the improvement to the assessment roll at true and fair value for 1999, 2000, 2001, and 2002, and mails a valuation notice to the taxpayer. Because the roll is closed for assessment year 2002, no taxes are due on the improvement in 2003. The taxes resulting from this omitted property assessment are due in full by April 30, 2004, which is one year after the due date for the taxes for the assessment year in which the omitted property assessment is made. (Although the roll is closed in 2002, the assessment is still "made" in 2002.) If the taxes for the omitted property assessment are not paid in full by April 30, 2004, the penalties and interest provided in RCW 84.56.020 begin to accrue as of May 1, 2004, on the unpaid amount. The taxes for the 2003 assessment year are due on April 30, 2004. If the amount due is fifty dollars or more, one-half of the tax due may be paid by April 30, 2004, and the balance may be paid by October 31, 2004.

(iii) In May 2004, an assessor audits a taxpayer's personal property records and discovers omitted value not reported by the taxpayer. The personal property was acquired by the taxpayer in 1997, and disposed of by the taxpayer in November 2003. The assessor values the property at true and fair value for assessment years 2001, 2002, and 2003, and notifies the taxpayer of the omitted value by forwarding a copy of the amended personal property statements along with a letter of particulars informing the taxpayer of the assessor's findings and of the taxpayer's right to appeal those findings to the board of equalization, and/or to request that the board of equalization be reconvened to act on the omitted value assessment. The taxes resulting from the omitted value assessment are due in full by April 30, 2006, which is one year after the due date for the taxes for the assessment year in which the omitted value assessment is made. If the taxes for the omitted value assessment are not paid in full by April 30, 2006, the penalties and interest provided in RCW 84.56.020 begin to accrue as of May 1, 2006, on the unpaid amount.

**(6) What are the appeal rights of taxpayers receiving an omitted property or omitted value assessment?** Upon request of either the taxpayer or the assessor, the county board of

THIS PROPOSED RULE IS SUBMITTED FOR PUBLIC COMMENTS AFTER INPUT FROM INTERESTED PARTIES AND IS TO BE USED SOLELY FOR DISCUSSION PURPOSES AT THE PUBLIC HEARING ON THE PROPOSED RULE. UNDER NO CIRCUMSTANCES IS THIS PROPOSED RULE TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

equalization may be reconvened to act on an omitted property or omitted value assessment. RCW 84.40.085. For additional information on reconvened boards of equalization, refer to WAC 458-14-127.