

This rule was adopted on September 21, 2006, and becomes effective October 22, 2006. It may be used to determine tax liability on and after the effective date, until the codified version is available from the code reviser's office.

AMENDATORY SECTION (Amending WSR 94-07-008, filed 3/3/94, effective 4/3/94)

**WAC 458-16-180 Public burying grounds or cemeteries.** (1) **Introduction.** This section explains the property tax exemption available under ~~((the provisions of))~~ RCW 84.36.020 to public burying grounds or cemeteries.

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

~~(a) ("Burial" means the placement of uncremated human remains in the ground.~~

~~(b) "Dedicated" means a written declaration of dedication of the property to which the exemption is to be applied has been filed with the county auditor in the county where the property is located, dedicating the property exclusively as a public burying ground or cemetery.~~

~~(c) "Entombment" means the placement of uncremated human remains in a crypt in a mausoleum.~~

~~(d) "Interment" means the disposition of human remains by cremation and inurnment, entombment, or burial in a place used, or intended to be used, and dedicated, for a public burying ground or cemetery.~~

~~(e) "Inurnment" means placing cremated remains in an urn or other container.~~

~~(f) "Necessary administration and maintenance" means those administrative and maintenance functions necessary to administer and maintain the cemetery and the necessity of which would be nonexistent but for the presence of the cemetery.~~

~~(g) "Public burying grounds or cemeteries" means places used, and dedicated, for the interment of human remains, and also includes:~~

~~(i) An "abandoned cemetery," "historical cemetery," and "historic grave" as defined in chapter 68.60 RCW;~~

~~(ii) Indian graves as protected under chapter 27.44 RCW; and~~

~~(iii) Nonprofit cemeteries owned or operated by any recognized religious denomination or any of its churches that qualifies for a property tax exemption under the provisions relating to churches under the provisions of RCW 84.36.020.~~

(3) **Exemption.** The following property shall be exempt from taxation when used without discrimination as to race, color, national origin, or ancestry:

~~(a) All lands used, or to the extent used, exclusively for public burying grounds or cemeteries.~~

~~(b) All buildings required for and used, or to the extent~~

~~used, exclusively for necessary administration and maintenance of public burying grounds or cemeteries including, but not limited to, the groundskeeping or maintenance building and the administration building. This exemption does not generally include a residential building; however, a caretaker's residence may be exempt if the following conditions are met:~~

~~(i) The caretaker's duties include regular surveillance and patrolling of the property;~~

~~(ii) The size of the residence is reasonable and appropriate in light of the caretaker's duties and the size of the exempt property;~~

~~(iii) The caretaker, or the caretaker's substitute, is required on the premises at all hours the cemetery is closed or at least during the time when vandalism or other damage is most likely to occur; and~~

~~(iv) The caretaker receives the use of the residence as part of his or her compensation and does not pay rent. Reimbursement of utilities expenses created the caretaker's presence will not be considered as rent.~~

~~(4) **Applications and annual certifications.** Nonprofit cemetery corporations or associations are only required to file an initial application for exemption as described in WAC 458-16-110. For profit cemetery corporations or associations shall file renewal applications and annual certifications as required by WAC 458-16-110.)~~ "Burial" means the placement of human remains in a grave.

(b) "Cemetery" means any one, or a combination of more than one, of the following in a place actually used, or to the extent actually used, for the placement of human remains and dedicated for cemetery purposes:

(i) A "burial park," for earth interments, that is a tract of land actually used for the burial of human remains in the ground;

(ii) A "mausoleum," for crypt interments, that is a building or structure for the entombment of human remains in crypts, which are spaces in which human remains are placed; and

(iii) A "columbarium," for permanent niche interments, that is a structure, room, or other space in a building or structure containing niches in which cremated human remains are placed.

(c) "Cremation" or "cremated" means the reduction of human remains to bone fragments in a crematory by means of incineration. The end products of cremation are "cremated human remains."

(d) "Crematory" means a building or area of a building that houses one or more cremation chambers actually used for the cremation of human remains.

(e) "Crematory and columbarium" means a building or structure containing both a crematory and a columbarium.

(f) "Crypt" means a space in a mausoleum for the placement

of human remains.

(g) "Dedicated" means a written declaration dedicating the property exclusively as a public burying ground or for cemetery purposes was filed with the auditor of the county in which the property is located.

(h) "Entombment" means the placement of human remains in a crypt.

(i) "Grave" means a space of ground in a burial park actually used, or to the extent actually used, for burials.

(j) "Human remains" or "remains" means the body of a deceased person and includes cremated human remains.

(k) "Interment" means the placement of human remains in a cemetery.

(l) "Inurnment" or "inuring" means placing cremated human remains in a cemetery.

(m) "Necessary administration and maintenance" means those functions necessary to administer and maintain the cemetery or public burying grounds and the necessity of which would be nonexistent but for the presence of the cemetery or public burying grounds.

(n) "Public burying grounds" means places actually used and dedicated for the interment or inurnment of human remains, and also includes:

(i) An "abandoned cemetery," "historical cemetery," and "historic grave" as defined in chapter 68.60 RCW (see RCW 68.60.010);

(ii) Native Indian burial grounds and historic graves protected under chapter 27.44 RCW; and

(iii) Nonprofit cemeteries owned or operated by any recognized religious denomination or any of its churches that qualifies for a property tax exemption as a church under RCW 84.36.020.

(o) "Scattering garden" means a designated area in a cemetery for the scattering of cremated human remains in any lawful manner.

(3) **Exemption.** There are several types of public burying grounds or cemeteries that are exempt from property tax under RCW 84.36.020. Public burying grounds or cemeteries operated by both nonprofit and for profit organizations are eligible for this exemption. Even though Title 68 RCW mentions the exemption of cemeteries from taxation, that portion of the Revised Code of Washington relates generally to the operation of cemeteries. Qualification for an exemption from property taxation is controlled by the specific provisions of RCW 84.36.020. The following property is exempt from taxation when used without discrimination as to race, color, national origin, or ancestry:

(a) All lands actually used, or to the extent actually used, exclusively for public burying grounds or cemeteries.

(b) All buildings and personal property required for and

actually used, or to the extent actually used, exclusively for the necessary administration and maintenance of public burying grounds or cemeteries. Buildings and personal property that may be exempt include an/a:

(i) Administration or office building;

(ii) Art and statuary, in place, that decorate or enhance the esthetics of the public burying ground or cemetery;

(iii) Burial park;

(iv) Columbarium;

(v) Grounds keeping or maintenance building;

(vi) Items used exclusively for the general upkeep and operation of the public burying ground or cemetery. These items may include, but are not limited to, lawn mowers, unlicensed mobile equipment, tools, machinery, office equipment, and equipment used to dig graves;

(vii) Mausoleum; and

(viii) Scattering garden.

(4) **Caretaker's on-site residence - possibly exempt.** This exemption does not generally include a residential building. However, a caretaker's residence may be exempt if all of the following conditions are met:

(a) The caretaker's duties include regular surveillance and patrolling of the property;

(b) The size of the residence is reasonable and appropriate in light of the caretaker's duties and the size of the exempt property;

(c) The presence of the caretaker, or the caretaker's substitute, is required on the premises at all hours the cemetery is closed or at least during times when vandalism or other damage is most likely to occur; and

(d) The caretaker receives the use of the residence as part of his or her compensation and does not pay rent. Reimbursement of utilities expenses created by the caretaker's presence will not be considered as rent.

(5) **What property is not exempt?** The exemption conferred by RCW 84.36.020 does not extend to the following:

(a) A chapel, funeral home, or mortuary in which funeral services are conducted;

(b) A crematory;

(c) Equipment and supplies of any funeral home or mortuary located on or adjacent to the exempt property of a public burying ground or cemetery;

(d) Statuary, grave markers, headstones, and other items for sale; and

(e) Items used to promote sales (i.e., samples or displays) of graves, urns, caskets, headstones, and other items generally sold in connection with a public burying ground, cemetery, funeral, cremation, grave, or burial site.

(6) **Applications and annual declarations.** Nonprofit

cemetery corporations or associations are only required to file an initial application for exemption as described in WAC 458-16-110. For profit cemetery corporations or associations must file renewal applications and annual declarations as required by WAC 458-16-110.