



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JULY 18, 2011

New Law Expands Property Management B&O Tax Exemption

Purpose

Beginning August 24, 2011, the existing business and occupation (B&O) tax exemption for property management companies (RCW 82.04.394) is repealed and replaced with a similar, broader deduction. (Senate Bill 5289, Chapter 26, Laws of 2011, 1st Special Session)

Under the new law, a deduction is available for gross wages, benefits, and payroll taxes paid to, or for, "personnel performing on-site functions" when received by:

- Nonprofit property management companies,
- For-profit property management companies working for a housing authority,
- For-profit property management companies working for a limited liability company (LLC) or Limited partnership (LP) if the sole managing member or sole general partner of the LLC or LP is a housing authority.

Under the repealed exemption, only nonprofit property management companies and for-profit property management companies working for a city or county housing authority were eligible.

Note: It is no longer required for the money to be paid from a property management trust fund account.

The bill also modified the definition of a "nonprofit property management company," which had been defined to mean a property management company exempt from federal income tax under section 501(c) of the Internal Revenue Code. Under the new law the term means:

- A property management company that is a public corporation established under RCW 35.21.730.
- A property management company exempt from federal income tax under section 501(c) of the Internal Revenue Code **but only when it is providing property management services for low-income housing that has qualified for a property tax exemption under RCW 84.36.560.**

The new deduction also allows for personnel to centrally perform on-site functions for the owner's property in addition to performing on-site functions at the owner's property. The following are examples of on-site functions that can be performed from a central location:

- Collecting rent
- Coordinating subcontractors
- Property leasing

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History

June 1, 2010 – August 23, 2011 – RCW 82.04.394 provides an exemption from B&O tax for gross wages and benefits paid directly to, or on behalf of, on-site personnel if the money is paid from a property management trust account required to be maintained under RCW 18.85.310 and the amounts are received by a:

- “Nonprofit property management company” from the owner of a property, or
- A property management company from a “housing authority.”

Before June 1, 2010, Washington law provided a B&O tax exemption for property management companies for amounts received from a property owner that are used to pay the wages and benefits of on-site personnel if the money is paid from a property management trust account required to be maintained under RCW 18.85.310.

For the exemption to apply, the on-site personnel must work under a written property management agreement where:

- Compensation of the on-site personnel is the ultimate obligation of the property owner and not the property manager.
- The property manager is liable for payment only as agent of the owner.
- The property manager is the agent of the owner with respect to the onsite personnel and all actions, including, but not limited to, hiring, firing, compensation, and conditions of employment, taken by the property manager with respect to the on-site personnel are subject to the approval of the property owner.
- The on-site personnel works primarily at the owner’s property.
- The on-site personnel’s duties include leasing property units, maintaining the property, collecting rents, or similar activities.

How do I report?

Gross income for providing property management services is subject to B&O tax under the service and other activities classification. For qualifying amounts received, an “other” deduction may be taken with the following explanation: “Property management deduction – SB 5289.”

Definitions

Personnel performing on-site functions (new) - are persons who meets all of the following conditions:

- The person works at the owner’s property or centrally performs on-site functions for the property;
- The person’s duties include leasing property units, maintaining the property, preparing tenant income certification paperwork or other compliance documents required to lease the unit, collecting rents, recording rents, or performing similar activities; and
- The property management company, for which the personnel performing on-site functions works, operates under a written property management agreement.

Nonprofit property management company (new) – is a property management company that:

- Provides property management services for low-income housing that has qualified for the property tax exemption under RCW 84.36.560, and is exempt from the tax under 26 U.S.C. Sec. 501(c) of the federal internal revenue code, as it exists on January 1, 2010.
- Is a public corporation established under RCW 35.21.730.

Housing authority (existing) - a housing authority created pursuant to chapter 35.82 RCW.

**For more
information**

Contact the Department's Telephone Information Center at 360-705-6705.