



EXPEDITED RULE MAKING

CR-105 (December 2017) (Implements RCW 34.05.353)

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DATE: October 01, 2020

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WSR 20-20-059

Agency: Department of Revenue

Title of rule and other identifying information: (describe subject) WAC 458-16-110 Applications-Who must file, initial applications, annual declarations, appeals, filing fees, penalties, and refunds; WAC 458-16-150 Cessation of use-Taxes collectible for prior years; WAC 458-16-560 Housing for very low-income households.

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The department is amending these rules to incorporate 2020 legislation, Substitute House Bill 2384. This legislation changed the eligibility requirements for nonprofit organizations receiving this exemption to account for income growth in qualifying households.

Reasons supporting proposal: Updating these rules to provide the correct exemption requirements will provide accurate information to nonprofit organizations that apply for this exemption.

Statutory authority for adoption: RCW 84.36.865

Statute being implemented: RCW 84.36.560, RCW 84.36.815

Is rule necessary because of a:

- | | | |
|-------------------------|------------------------------|--|
| Federal Law? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Federal Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| State Court Decision? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

If yes, CITATION:

Name of proponent: (person or organization) Department of Revenue

- Private
 Public
 Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Leslie Mullin	6400 Linderson Way SW, Tumwater, WA	(360) 534-1589
Implementation:	John Ryser	6400 Linderson Way SW, Tumwater, WA	(360) 534-1605
Enforcement:	John Ryser	6400 Linderson Way SW, Tumwater, WA	(360) 534-1605

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4): The expedited rule-making process is appropriate for these rule updates because the Department is incorporating changes resulting from 2020 legislation.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

Name: Leslie Mullin
Agency: Department of Revenue
Address: PO Box 47467, Olympia, WA 98504-7467
Phone: (360) 534-1589
Fax: (360) 534-1606
Email: LeslieMu@dor.wa.gov
Other:

AND RECEIVED BY (date) December 7, 2020

Date: October 1, 2020	Signature: 
Name: Atif Aziz	
Title: Rules Coordinator	

AMENDATORY SECTION (Amending WSR 10-23-060, filed 11/12/10, effective 12/13/10)

WAC 458-16-110 (~~(Applications Who must file, initial applications, annual declarations, appeals, filing fees, penalties, and refunds.)~~) Initial application and renewal declaration. (1) Introduction. This rule explains the ~~((procedures))~~ requirements in RCW 84.36.815 that property owners must follow to apply for and renew all real and personal property exemptions or leasehold excise tax exemptions under chapter 84.36 RCW ~~((for which the taxpayer must apply in order to receive)).~~ It also ~~((specifies))~~ explains the late filing penalty that is due whenever an application or renewal declaration is received after the filing deadline.

(2) **Application required.** All foreign national governments~~((τ))~~; cemeteries~~((τ))~~; nongovernmental nonprofit corporations, organizations, or associations~~((τ))~~; soil and water conservation districts~~((τ a))~~; hospitals established under chapter 36.62 RCW; and ~~((a))~~ public hospital districts established under chapter 70.44 RCW seeking a property tax exemption or a leasehold excise tax exemption under chapter 84.36 RCW must submit an application for exemption ~~((and))~~ with supporting documentation to the ~~((state))~~ department of revenue (department). Unless otherwise exempted by law, no real or personal property or leasehold interest is exempt from taxation until an application is submitted and an exemption is granted.

(3) **Where to obtain initial application and ~~((annual))~~ renewal declaration forms.** An initial application~~((s))~~ for exemption may be obtained from any county assessor's office~~((, the department's property tax division,))~~ or on the ~~((internet at http://dor.wa.gov under Property Tax, "Forms." Annual))~~ department's website at dor.wa.gov. Renewal declaration forms are ~~((mailed))~~ provided by the department to all entities receiving a property tax or leasehold excise tax exemption, except for certain cemeteries, military housing providers and tribal governments. ~~((If such a form is not received in the mail, an annual renewal declaration may be obtained from the department's property tax division.))~~ Refer to subsection (8) of this rule for additional information on renewal declarations.

(4) **Initial application~~((, filing deadlines, and other requirements))~~.** ~~((In general))~~ Generally, initial applications for exemption must be filed with the department on or before March 31st to exempt the property from taxes due in the following year. However, an initial application may be filed after March 31st if the property is acquired or converted to an exempt use after that date, if the property may qualify for an exemption under chapter 84.36 RCW. ~~((In this situation))~~ For property acquired or converted after March 31st, the initial application must be submitted within sixty days of acquisition or conversion ~~((of the property))~~ to an exempt use. If an initial application is not received within this sixty day period, the late filing penalty described in subsection (12) of this rule is imposed.

The following requirements apply to all initial applications:

(a) The application must be made on a form prescribed by the department and signed by the applicant or the applicant's authorized agent;

(b) One application can be submitted for all real property that is contiguous and part of a homogeneous unit. If exemption is sought for multiple parcels of real property, which are not contiguous

~~((not))~~ or not part of a homogeneous unit, a separate application for each parcel must be submitted. However, multiple applications are not required for church property with a noncontiguous parsonage or convent.

(i) "Contiguous property" means real property adjoining other real property, all of which is under the control of a single applicant even though the properties may be separated by public roads, railroads, rights of way, or waterways.

(ii) "Homogeneous unit" means the property is controlled by a single applicant and the operation and use of the property is integrated with and directly related to the exempt activity of the applicant.

(5) **Documentation ~~((a nonprofit organization must submit with its))~~ required for initial application ((for exemption))**. Unless the following information was previously submitted to the department and ~~((it))~~ is still current, the applicant must submit the following in addition to the initial application ((for exemption, a nonprofit organization, corporation, or association must also submit)):

(a) ~~((Copies of the articles of incorporation or association, constitution, or other establishing documents, as well as all current amendments to these documents, showing nonprofit status;~~

~~(b-))~~ A legal description of all real property, listing the county tax parcel number;

(b) A copy of the deed for real property owned by the applicant or a copy of the lease agreement if the property is being leased. If leased, the applicant must also indicate how the property is being used, and the monthly amount of maintenance and operation costs related to rented or loaned property if a nonprofit entity is claiming an exemption for property leased to another party;

(c) A copy of the bylaws of the nonprofit entity, and articles of incorporation or association, constitution, or other establishing documents, as well as all current amendments to these documents showing nonprofit status, if requested by the department;

~~((e))~~ (d) A copy of any current letter issued by the Internal Revenue Service that exempts the applicant from federal income taxes ((. This letter is not usually, but may be, required if the nonprofit entity applying for an exemption is part of a larger organization, association, or corporation, like a church or the Boy Scouts of America, that was issued a group 501 (c) (3) exemption ruling by or is otherwise exempt from filing with the Internal Revenue Service)); and

~~((d))~~ The information required in subsection (6) of this rule.

~~(6) Other documentation a nonprofit entity, foreign national government, hospital established under chapter 36.62 RCW, hospital owned and operated by a public hospital district, or soil and water conservation district must submit with its initial application for exemption.~~ In addition to the initial application for exemption, a nonprofit entity, foreign national government, and public hospital district established under chapter 70.44 RCW, or soil and water conservation district must submit the following information regarding the real or personal property for which exemption is sought, unless it was previously submitted to the department and it is still current:

(a) An accurate description of the real and personal property;

~~(b-))~~ (e) An accurate map identifying by dimension the use or proposed use of all real property that shows buildings, building sites, parking areas, landscaping, vacant areas, and if requested by the department, floor plans of the buildings. The map will be used to determine whether the property is entitled to a total or partial exemption based upon the use of the total area((;

~~(c) A legal description of all real property, listing the county tax parcel number, and if the property is owned by the applicant, a copy of the current deed; and~~

~~(d) If the property is rented or loaned to or from another property owner, a copy of the rental agreement or other document explaining the terms of the lease or loan. This documentation must describe:~~

~~(i) What property is rented or loaned;~~

~~(ii) The amount of the rent or other consideration paid or received;~~

~~(iii) The name of the party from whom and the name of the party to whom the property is rented or loaned;~~

~~(iv) How the property is being used; and~~

~~(v) The monthly amount of maintenance and operation costs related to rented or loaned property if a nonprofit entity is claiming an exemption for property leased to another party).~~

~~((7) Department's review of the))~~ **(6) Initial application review and notice of ((its)) determination.** Upon receipt of an initial application for exemption, the department will review the application and all supporting documentation. Additional information may be requested by the department about the ownership and use of the property ~~((, if the department needs this information))~~ to determine if the exemption should be granted. An application for exemption is not considered complete until all required and requested information is received by the department.

(a) Physical inspection. The department may physically inspect the property as part of the application review process.

(b) Deadline. If a complete application is received by March 31st ~~((for that))~~ of the assessment year, the department will issue a determination about the application by August 1st of that same year. If a complete application is not received by March 31st, the determination will be made within thirty days of the date the complete application is received by the department or by August 1st, whichever is later.

(c) Notice to applicant. The department will ~~((mail))~~ issue a written determination about the exemption application to the applicant. An application may be approved or denied, in whole or in part. If the application is denied for any portion of the property covered by the application, the department must clearly explain its reason for denial in its written determination.

(d) Notice to assessor. Once the department makes its determination about the application for exemption, it will notify the assessor of the county in which the property is located ~~((about))~~ regarding the determination ~~((made. In turn,))~~. The assessor will then take ~~((s))~~ appropriate action so ~~((that))~~ the department's determination is reflected on the county's assessment ~~((roll(s) for the years covered by the determination))~~ roll.

~~((8))~~ **(7) Effective date of ((the)) exemption.** If an initial application is approved, the property is exempt from property taxes due the year immediately following the year the application for exemption is submitted.

~~((a))~~ For example, if an application for exemption is submitted to the department in ~~((2010))~~ 2020 and the application is approved for assessment year ~~((2010))~~ 2020, the property will be exempt from taxes due in ~~((2011))~~ 2021.

~~((b))~~ Retroactive initial applications for exemption for previous years are accepted, up to a maximum of three years from the date taxes were due on the property, if the applicant provides the depart-

ment with acceptable proof that the property qualified for exemption during the pertinent assessment years and pays the late filing penalties described in subsection (12) of this rule.

~~((9) Annual)~~ **(8) Renewal declarations.** ~~((To retain a property tax exemption, each nonprofit entity (except nonprofit cemeteries), foreign national government, public hospital district, and soil and water conservation district))~~ The renewal declaration is a form provided by the department and may be submitted electronically.

(a) Annual renewal declaration. Except as provided in (b) and (c) of this subsection, any entity receiving an exemption must annually submit a renewal declaration certifying that the use and exempt status of the real and personal property has not changed.

~~((The renewal declaration is a form provided by the department.))~~

(b) Other renewal declarations. Nonprofits receiving an exemption under RCW 84.36.560 must file a renewal declaration on or before March 31st of every third year following initial qualification for the exemption. Except for this renewal requirement, all other requirements in this rule apply to this exemption. Refer to WAC 458-16-560 Housing for qualifying households, for additional information about this exemption.

(c) No renewal declaration. Nonprofit cemeteries receiving an exemption under RCW 84.36.020 and nonprofit low-income housing developers receiving an exemption under RCW 84.36.049, are not required to file a renewal declaration. See subsection (11) of this rule for additional information on renewal declarations for cemeteries.

(9) Documentation required for renewal declaration. Unless otherwise indicated in subsection (8) of this rule, the following requirements apply to all renewal declarations:

(a) On or before January 1st of each year, the department ((mails a)) will send information about the renewal declaration to the entity receiving an exemption for the property ((at the entity's last known address)). If an entity changes its mailing or contact information at any time during the year, it must notify the department within sixty days ((of changing its mailing address, the exempt entity must notify the department)) about the change.

(b) The renewal declaration, signed by the exempt entity or the exempt entity's authorized agent, must be ((mailed or delivered)) submitted to the department ((or submitted electronically using the department's online service)) no later than March 31st of each year.

(i) The renewal declaration must include information about any change of use of the exempt property and a statement certifying the truth and accuracy of the information listed.

(ii) The renewal declaration is due on or before March 31st of each year even if the department fails to ((mail)) send the declaration to the exempt entity. ((If an exempt entity does not receive a renewal declaration, a replacement)) A renewal declaration form may be requested from the department to renew the exemption or the exempt entity may use the department's online system to submit the declaration.

(c) If the renewal declaration and renewal fee are not received by March 31st, the department will ((mail)) send a second notice to the exempt entity ((at the entity's last known mailing address)). If the exempt entity fails to respond to the second notice, the department will remove the exemption from the property and notify the assessor of the county in which the property is located that the exemption has been canceled.

(d) Real property, which was previously exempt from taxation, is assessed and taxed as provided in RCW 84.40.350 through 84.40.390 when it loses its exempt status.

(i) Property that no longer retains its exempt status is subject to a pro rata portion of the taxes allocable to the remaining portion of the year after the date the property lost its exempt status.

(ii) The assessor lists and assesses the property with reference to its true and fair value on the date the property lost its exempt status.

(iii) RCW 84.40.380 (~~(sets forth)~~) provides the dates (~~(upon which)~~) that taxes are payable when property loses its exempt status. Taxes due and payable under RCW 84.40.350 through 84.40.390 constitute a lien on the property that attaches on the date the property loses its exempt status.

(10) **Failure to submit (~~(an annual)~~) a renewal declaration (~~(and reapplication for exemption)~~)**. (~~(If)~~) When property loses its exempt status because the (~~(annual)~~) renewal declaration was not submitted and (~~(subsequently)~~) the owner wishes to reapply for the property tax exemption:

(a) If the owner reapplies within the same assessment year (~~(during which)~~) the exemption (~~(is canceled)~~) was removed, the owner must submit the (~~(annual)~~) renewal declaration and pay the required late filing penalties; or

(b) If the owner reapplies after the assessment year (~~(during which)~~) the exemption (~~(is cancelled)~~) was removed, the owner must submit an initial application and pay the required late filing penalties.

(11) **Initial application and renewal declaration procedures (~~(regarding)~~) for cemeteries**. There are several types of cemeteries. The initial application for exemption and renewal declaration procedures are specific as to the type of cemetery at issue.

(a) The assessor (~~(shall)~~) will consider the following types of cemeteries exempt from property tax, and no initial application or renewal declaration is required for:

(i) Cemeteries owned, controlled, operated, and maintained by a cemetery district authorized by RCW 68.52.090; or

(ii) Indian cemeteries, which are considered to be held by the tribe or held in trust for the tribe by the United States.

(b) An initial application is submitted to the department, but no renewal declaration is required, for:

(i) Family cemeteries;

(ii) Historical cemeteries;

(iii) Community cemeteries; and

(iv) Cemeteries belonging to nonprofit organizations, associations, or corporations.

(c) An initial application (~~(for exemption)~~) is submitted to the department, and a renewal declaration (~~(must be submitted)~~) is required annually by all for-profit cemeteries seeking a property tax exemption.

(12) **Late filing penalty**. When an initial application or renewal declaration is submitted after the due date, a late filing penalty of ten dollars is due for every month, or portion (~~(thereof)~~) of the month. This penalty is calculated from the date the initial application or renewal declaration was due until the postmark date shown on the application or declaration or the date the application or declaration is (~~(given to)~~) received by the department. RCW 84.36.825.

(13) **Refund of filing penalty.** No late filing penalty is refunded after a determination on the application is issued by the department. However, the late filing penalty will be refunded under the following circumstances:

(a) ~~((When))~~ A duplicate application or renewal declaration for the same property is submitted during the same calendar year;

(b) ~~((When))~~ An application or renewal declaration is received by the department and the department has no authority to grant the exemption requested; or

(c) ~~((When))~~ A written request to withdraw the application is received before the department issues a determination. The withdrawal request must be ~~((signed))~~ submitted by the owner or the owner's authorized agent.

(14) **Appeals.** Any applicant that receives a negative determination from the department on either an initial application or a renewal declaration may appeal this determination to the state board of tax appeals (BTA). Similarly, any assessor who disagrees with the department's determination may appeal the determination to the BTA. See WAC 458-16-120 Appeals, for specific information about the appeal process.

AMENDATORY SECTION (Amending WSR 02-02-009, filed 12/20/01, effective 1/20/02)

WAC 458-16-150 Cessation of use—Taxes collectible for prior years. (1) **Introduction.** This rule explains what occurs when property loses its tax exempt status and is placed back on the tax rolls. It also describes the back taxes and interest that are collected when an exempt use ceases, unless the property has been exempt for more than ten consecutive years or is otherwise exempt from the provisions of RCW 84.36.810. This rule does not apply to property that received an exemption as a nature conservancy under RCW 84.36.260 ~~((; see))~~. RCW 84.36.262 and WAC 458-16-290 ~~((for more))~~ Nature conservancy lands, provide additional information about the collection of back taxes ~~((in this situation))~~ for nature conservancies.

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

(a) "Back taxes" means the property taxes that would have been paid but for the existence of the property tax exemption during the three years immediately preceding the cancellation or removal of the exemption or during the life of the exemption, whichever is less, plus interest at the same rate and computed in the same way as delinquent property taxes. However, if the property was exempt under RCW 84.36.050(2), "back taxes" means the taxes that would have been collected but for the existence of the property tax exemption during the seven years immediately preceding the cancellation or removal of the exemption or during the life of the exemption, whichever is less.

(b) "Cessation of use" means that an owner or user of exempt real property has ceased to use the property for an exempt purpose. The term also refers to property that has lost its exempt status because it was transferred, loaned, or rented to an owner that is not entitled to an exemption.

(c) "Department" means the state department of revenue.

(d) "Relocation of the activity" means that a portion or all of an exempt use has been relocated from the original site to a new location. The term ~~((shall))~~ does not include undeveloped property of camp facilities.

(e) "Rollback" means the back taxes and interest imposed in accordance with RCW 84.36.810 because the exempt property has lost its exempt status and is now taxable. However, when an exemption granted to a nature conservancy under RCW 84.36.260 is ~~((cancelled))~~ canceled or removed different rollback procedures ~~((are applied,))~~ apply. See RCW 84.36.262 and WAC 458-16-290 Nature conservancy lands, for additional information.

(3) **Applicability of this rule.** Upon cessation of a use for which an exemption was granted under one of the statutes listed below, and if directed to do so by the department, the county treasurer ~~((shall))~~ must collect all taxes which would have been paid ~~((but))~~ if not for the existence of the property tax exemption. If the property was exempt for more than ten consecutive years, no back taxes or interest are due. Back taxes and interest will be collected only when ownership of property is transferred or when fifty-one percent or more of the total exempt property loses its exempt status.

(a) **Generally applied rollback - Three years of back taxes plus interest.** When the status of real property changes from exempt to taxable, all taxes that would have been collected ~~((but))~~ if not for the existence of the exemption during the three preceding years, or the life of the exemption, whichever is less, plus interest at the same rate and computed in the same way as that ~~((upon))~~ on delinquent property taxes are due. The rollback provisions of RCW 84.36.810 apply if the property was previously exempt from property tax under any of the following statutes:

TYPE OF EXEMPT ORGANIZATION	AUTHORIZING STATUTE
A nonprofit character building, benevolent, protective, or rehabilitative social service organization, association or corporation	RCW 84.36.030
A church camp owned by a nonprofit church, denomination, group of churches, or an organization or association, the membership of which is comprised solely of churches and/or their qualified representatives	RCW 84.36.030
A nonprofit organization or association engaged in character building of boys and girls under eighteen years of age or to serve boys and girls up to twenty-one years if the charter of the nonprofit organization or association requires it	RCW 84.36.030
An organization or society of veterans of any war of the United States	RCW 84.36.030

TYPE OF EXEMPT ORGANIZATION	AUTHORIZING STATUTE
Corporations formed under an act of Congress to furnish volunteer aid to members of the armed forces of the United States	RCW 84.36.030
Corporations formed under an act of Congress to carry on a system of national and international relief to mitigate and to prevent suffering caused by pestilence, famine, fire, floods, and other national calamities	RCW 84.36.030
Nonprofit organizations exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code that are guarantee agencies under the federal guaranteed student loan program or guarantee agencies that issue debt to provide or acquire student loans	RCW 84.36.030
Nonprofit organizations, associations or corporations in connection with the operation of a public assembly hall, public meeting place, community meeting hall, or community celebration facility	RCW 84.36.037
Nonprofit day care centers	RCW 84.36.040
Free public libraries	RCW 84.36.040
Nonprofit orphanages	RCW 84.36.040
Nonprofit homes for the sick or infirm or nonprofit hospitals for the sick	RCW 84.36.040
Nonprofit outpatient dialysis facilities	RCW 84.36.040
Public hospital district established under chapter <u>36.62</u> or 70.44 RCW for hospital purposes	RCW 84.36.040
Nonprofit homes for the aging	RCW 84.36.041
A nonprofit organization, corporation, or association providing housing for low income eligible persons with developmental disabilities	RCW 84.36.042
Nonprofit organizations providing emergency or transitional housing to low-income homeless persons or victims of domestic violence	RCW 84.36.043
A nonprofit organization, corporation, or association in connection with a nonprofit cancer clinic or center	RCW 84.36.046
Nonprofit schools or colleges	RCW 84.36.050

TYPE OF EXEMPT ORGANIZATION	AUTHORIZING STATUTE
Associations maintaining and exhibiting art, scientific or historical collections for the benefit of the general public and not for profit	RCW 84.36.060
Associations 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	RCW 84.36.060
Fire companies for preventing and fighting fires	RCW 84.36.060
Humane societies	RCW 84.36.060
Nonprofit organizations created for the solicitation or collection of gifts, donations, or grants for character building, benevolent, protective, or rehabilitative social services or for the distribution of funds to at least five other nonprofit organizations or associations that provide such social services	RCW 84.36.550
A nonprofit organization, corporation, or association providing rental housing for ((very low income)) <u>qualifying</u> households	RCW 84.36.560
A nonprofit organization, corporation, or association providing a demonstration farm with research and extension facilities, a public agricultural museum, and an educational tour site, which is used by a state university for agricultural research and education programs	RCW 84.36.570
<u>Nonprofit organizations soliciting or collecting donations, gifts, or grants for artists</u>	<u>RCW 84.36.650</u>

(b) **Exception to general rollback provision - Property exempt under RCW 84.36.050(2) - Seven years of back taxes plus interest.** If property owned by a not-for-profit foundation but leased to and used by an institution of higher education, as defined in RCW 28B.10.016, loses its exempt status and it has not been exempt for at least ten consecutive years under RCW 84.36.050(2), the county treasurer, if directed by the department to do so, will collect all taxes that would have been paid on the property but for the existence of the exemption during the seven preceding years, or the life of the exemption, whichever is less, plus interest at the same rate and computed in the same way as that ~~((upon))~~ on delinquent property taxes are due.

(c) **No rollback imposed.** Back taxes and interest are not imposed if the cessation of use results solely from any of the following:

(i) Transfer to a nonprofit organization, association, or corporation for a use that also qualifies for and is granted exemption under the provisions of chapter 84.36 RCW;

(ii) A taking through an exercise of the power of eminent domain;

(iii) A sale or transfer to an entity having the power of eminent domain in anticipation of the exercise of this power;

(iv) An official action by an agency of the state of Washington or by the county or city within which the exempt property is located that disallows the present exempt use of the property;

(v) A natural disaster (such as a flood, windstorm, earthquake, or other such calamity) that changes the use of the property;

(vi) Relocation of the activity and use of another location or site except for undeveloped properties of camp facilities exempt under RCW 84.36.030. This exemption does not apply to property leased to a state institution of higher education and exempt under RCW 84.36.050(2);

(vii) Cancellation of a lease on property previously exempt as:

(A) A nonprofit day care center;

(B) A library;

(C) An orphanage;

(D) A home for the sick or infirm;

(E) A hospital;

(F) An outpatient dialysis facility;

(G) A nonprofit home for the aging;

(H) A nonpermanent shelter for low-income homeless persons or victims of domestic violence;

(I) An organization that either produces or performs, or both, musical, dance, artistic, dramatic, or literary works;

(J) Housing for low-income eligible persons with developmental disabilities;

(K) A nonprofit cancer clinic or center; or

(L) Rental housing for (~~very low-income~~) qualifying households.

(viii) A change in the exempt portion of a home for the aging that is partially exempt from property tax, as long as some portion of the home remains exempt.

(4) Duty to notify.

(a) An owner of exempt property who knows of or who has information regarding a change in the use of exempt property (~~shall~~) must notify the department of this change. If any portion of the exempt property is loaned or rented, the owner is required to report this change to the department because the loan or rental may affect the taxable status of the property (~~(see)~~) RCW 84.36.813(~~+~~).

(b) Any other person who knows or has information regarding a change in use of exempt property is to notify the county assessor of any such change. The assessor(~~(, in turn,)~~) is required to report this information to the department.

(c) The department may physically inspect exempt property after being notified about a change in the use or ownership of exempt property. It may also conduct physical inspections at any time (~~that~~) it deems necessary to (~~ascertain~~) determine the exempt use of the property(~~(; this))~~ and may (~~include~~) conduct routine inspections.

(d) The department will determine whether the property may retain its exempt status or whether it will become taxable after a change in use is reported.

(5) Notice to owner. The department must notify the current owner and, in the case of a transfer, the previous legal owner of the exempt property that the cessation of use of the property for an exempt pur-

pose has changed the property's taxable status. The notice must address the applicability of the rollback provisions (~~(set forth)~~) in subsection (3) of this rule. Within thirty days of receiving this notice, the owner(s) may submit comments or information to the department as to why the exemption should not be removed or rollback provisions should not be applied. The department will then issue a final determination.

(6) **County treasurer.** The treasurer will (~~(compute)~~) calculate and collect the back taxes and interest due when the department notifies the treasurer that the property tax exemption is to be (~~(canceled)~~) canceled or removed. The interest will be computed at the same rate and in the same manner as that (~~(upon)~~) on delinquent property taxes. The back taxes collected are (~~(to be)~~) disbursed to the taxing districts impacted by the previous property tax exemption. The interest collected is (~~(to be)~~) placed in the county current expense fund.

AMENDATORY SECTION (Amending WSR 20-03-105, filed 1/15/20, effective 2/15/20)

WAC 458-16-560 Housing for (~~(very low-income)~~) qualifying households. (1)(a) **Introduction.** This rule explains the real and personal property tax exemption that may be claimed by nonprofit entities providing rental housing or lots for mobile homes within a mobile home park, mobile home park cooperative, or manufactured housing cooperative for occupancy by (~~(a very low-income household)~~) qualifying households in accordance with RCW 84.36.560.

(b) **Examples.** This rule includes examples that identify a number of facts and then state a conclusion. These examples should only be used as a general guide. The tax results of other situations must be determined after a review of all the facts and circumstances.

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

(a) "Group home" means a single-family dwelling financed, in whole or in part, by one or more of the sources listed in subsection (~~(3)~~) (4)(d) of this rule. A "group home" has multiple units occupied on a twenty-four-hour basis by persons who are not related by birth or marriage and who are not dependent upon each other financially. Residents of a "group home" typically receive financial assistance from the federal or state government, such as Social Security benefits or supplementary security insurance(~~(+)~~).

(b) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030(~~(+)~~).

(c) "Nonprofit entity" means a:

(i) Nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended;

(ii) Limited partnership in which a general partner is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority created under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2) (a);

(iii) Limited liability company in which a managing member is a nonprofit as defined in RCW 84.36.800 that is exempt from income tax under section 501(c) of the federal Internal Revenue Code, as amended, a public corporation established under RCW 35.21.660, 35.21.670, or 35.21.730, a housing authority established under RCW 35.82.030 or 35.82.300, or a housing authority meeting the definition in RCW 35.82.210 (2) (a); or

(iv) Mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030. A "mobile home park cooperative" and a "manufactured housing cooperative" are defined as real property consisting of common areas and two or more lots held out for placement of mobile homes, manufactured homes, or park models in which both the individual lots and the common areas are owned by an association of shareholders which leases or otherwise extends the right to occupy individual lots to its own members.

(d) "Occupied dwelling unit" means a living unit that is occupied by an individual or household as of December 31st of the first assessment year the rental housing or mobile home park becomes operational or is occupied by an individual or household on January 1st of each subsequent assessment year in which the claim for exemption is submitted(†).

(e) "Qualifying household" means:

(i) Until June 30, 2021, a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located. The median income level is that which is in effect as of January 1st of the year the application for exemption is submitted.

(ii) Beginning July 1, 2021, a single person, family, or unrelated persons living together whose income is at or below sixty percent of the median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located. The median income level is that which is in effect as of January 1st of the year the application for exemption is submitted.

(f) "Rental housing" means a residential housing facility or group home that is occupied, but not owned, by ~~(very low income households; and~~

~~(f) "Very low income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the rental housing or mobile home park is located. The median income level is that which is in effect as of January 1st of the year the application for exemption is submitted.~~

~~(3-)) qualifying households.~~

(3) Initial application and renewal declaration.

(a) Initial application. An initial application for exemption must be filed with the department on or before March 31st to exempt property from taxes due in the following year. However, an initial application may be filed after March 31st if the property is acquired or converted to an exempt use after that date, if the property may qualify for an exemption under chapter 84.36 RCW.

(b) Renewal declaration. In order to requalify for exempt status, a nonprofit entity receiving this exemption must file a renewal decla-

ration on or before March 31st of every third year following initial qualification for exemption.

(c) Additional information about the application and renewal requirements for this exemption can be found in WAC 458-16-110 Initial application and renewal declaration.

(4) Full exemption. Real and personal property is exempt from property taxes if:

(a) The property is owned or used by a nonprofit entity, as defined in subsection (2) of this rule, in providing rental housing for ~~((very low income))~~ qualifying households or used to provide a lot of land upon which a mobile home for a ~~((very low income))~~ qualifying household will be placed in a mobile home park;

(b) The benefit of the exemption is received by the nonprofit entity. That is, if the property is leased to or used by, but not owned by, a nonprofit entity, the reduction in property taxes due to the exemption is passed on to the nonprofit user either through a reduction in rent, reimbursement of rent, or property tax paid;

(c) At least seventy-five percent of the occupied dwelling units in the rental housing or lots in the mobile home park are occupied by ~~((very low income))~~ qualifying households; and

(d) The rental housing or lots in the mobile home park are insured, financed, or assisted, in whole or in part, through one or more of the following sources:

(i) A federal or state housing program administered by the department of commerce;

(ii) A federal housing program administered by a city or county government;

(iii) An affordable housing levy authorized under RCW 84.52.105;

(iv) The surcharges authorized by RCW 36.22.178 and 36.22.179 and any of the surcharges authorized in chapter 43.185C RCW; or

(v) The Washington state housing finance commission, provided that the financing is for a mobile home park cooperative or a manufactured housing cooperative, as defined in RCW 59.20.030, or a nonprofit entity.

~~((4))~~ (5) Partial exemption. If less than seventy-five percent of the occupied dwelling units within the rental housing or lots in the mobile home park are occupied by ~~((very low income))~~ qualifying households, the rental housing or mobile home park is eligible for a partial exemption on the real property and a total exemption on the housing's or park's personal property. The property must be owned or used by a nonprofit entity in providing rental housing for ~~((very low income))~~ qualifying households or used to provide a lot upon which a mobile home for a ~~((very low income))~~ qualifying household will be placed in a mobile home park.

(a) A partial exemption will be allowed for each dwelling unit in the rental housing or for each lot in the mobile home park occupied by a ~~((very low income))~~ qualifying household; and

(b) The amount of the real property exemption will be calculated by multiplying the assessed value of the property reasonably necessary to provide the rental housing or to operate the mobile home park by a fraction. The formula for determining the fraction is as follows:

(i) The numerator of the fraction is the number of dwelling units or lots occupied by ~~((very low income))~~ qualifying households as of December 31st of the first assessment year in which the rental housing facility or mobile home park becomes operational, or on January 1st of each subsequent assessment year in which the claim for exemption is submitted; and

(ii) The denominator of the fraction is the total number of dwelling units or lots occupied as of December 31st of the first assessment year in which the rental housing facility or mobile home park becomes operational, or on January 1st of each subsequent assessment year in which the claim for exemption is submitted.

~~((5))~~ **(6) Exempt facility with three or fewer units or a mobile home park with three or fewer lots with vacancy on January 1st.** If the rental housing or mobile home park is comprised of three or fewer dwelling units or lots and there are any unoccupied dwelling units or lots on January 1st, the department will determine the size of the exemption based on the number of occupied dwelling units or lots as of December 31st of the first assessment year the rental housing becomes operational, and on May 1st of each subsequent assessment year in which a claim for exemption is submitted. For example, if one-half of an exempt duplex is vacant on January 1st and it is the duplex's third year of operation, the department will determine the size of the exemption based on the number of occupied units on May 1st of that assessment year.

~~((6) Facilities with ten or fewer units or mobile home parks with ten or fewer lots)~~ **(7) Allowance for income growth.** Because the occupants of rental housing and mobile home parks granted an exemption under RCW 84.36.560 are generally attempting to improve their financial situation, the income of the household is likely to fluctuate during the time they occupy the rental housing unit or lot in the mobile home park.

(a) In an attempt to assist these households in improving their circumstances, the exemption will continue for specific rental housing units or mobile home lots ~~((when))~~ if the rental housing or mobile home park continues to meet the certification requirements in subsection (4)(d) of this rule, and if the household's income rises above ((fifty percent of median income under the following conditions:

~~(i) The currently exempt rental housing unit in a facility with ten or fewer units, or mobile home lots in a mobile home park with ten or fewer lots, was occupied by a very low-income household at the time the exemption was granted;~~

~~(ii) The household's income rises above fifty percent of the median income)) the applicable "qualifying household" threshold in subsection (2)(e) of this rule, but remains at or below eighty percent of the median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located; and~~

~~((iii) The rental housing or mobile home park continues to meet the certification requirements of a very low-income housing program listed in subsection (3)(d) of this rule; and))~~

(b) If a ~~((dwelling))~~ rental housing unit or mobile home lot receiving an exemption under ~~((this))~~ the exception in (a) of this subsection becomes vacant and is subsequently re-rented, the income of the household moving into the rental unit or onto the mobile home lot must ~~((be at or below fifty percent of the median income adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the rental housing or mobile home park is located))~~ meet the applicable median income requirements for a qualifying household as described in subsection (2)(e) of this rule to remain exempt from property tax.

(c) Example. If a rental unit is occupied by a qualifying household whose income rises up to ~~((sixty))~~ seventy percent of median income, the unit will retain its exempt status as long as the household

continues to occupy the rental unit and the household's income remains below eighty percent of median income. If the residents of ~~((this))~~ the rental unit move out on June 1st and the unit is subsequently rented to a qualifying household whose income is at or below ~~((fifty percent of median income,))~~ the median income threshold in subsection (2)(e) of this rule, the unit will retain its exempt status. Conversely, if the rental unit is rented to a household whose income is above ~~((fifty percent of))~~ the median income threshold in subsection (2)(e) of this rule, the unit becomes ineligible for exemption as of January 1st of the following year.

~~((7))~~ **(8) Group homes - Income of residents.** The income of the individual residents of a group home, as defined in subsection (2) of this rule, will not be combined so as to constitute the income of a single household. Each resident will be considered an independent household occupying a separate dwelling unit. In other words, the income of the residents of a group home will not be aggregated when the department determines the size of the exemption the group home is entitled to receive. For example, if there are six residents in a group home, the department will process the application for exemption as if there were six separate dwelling units and determine the size of the exemption on that basis. If three of the residents have income at or below ~~((fifty percent of))~~ the median income threshold in subsection (2)(e) of this rule, the group home will receive a fifty percent reduction in the property taxes due on the group home.

~~((8))~~ **(9) Eligibility of property unoccupied at the time of initial application or at any time after the exemption is granted.** Property that is unoccupied at the time of initial application or on January 1st of any subsequent year is still eligible for exemption if certain conditions are met. If the property is currently taxable, it may receive exempt status as of the assessment year in which the claim for exemption is submitted. If the property is currently exempt but the exempt use will cease or will be reduced because of renovations or repairs, the exempt status of the property may be continued for taxes payable the next year. The following conditions must be satisfied to receive an exemption under either of these circumstances:

(a) The rental housing or mobile home park will be used for the exempt purpose stated in RCW 84.36.560 within two assessment years;

(b) The nonprofit entity applying for or receiving the exemption has obtained a commitment for financing, in whole or in part, to acquire, construct, remodel, renovate, or otherwise convert the property to provide housing for ~~((very low income))~~ qualifying households from one or more of the sources listed in subsection ~~((3))~~ (4)(d) of this rule;

(c) The nonprofit entity has manifested its intent in writing to construct, remodel, renovate, or otherwise convert the rental housing or mobile home park to housing for ~~((very low income))~~ qualifying households; and

(d) If less than the entire facility or mobile home park will be used to provide rental housing or mobile home lots for ~~((very low income))~~ qualifying households, only that portion is entitled to an exemption under this rule.

~~((9))~~ **(10) Exclusive use required.** To be exempt under RCW 84.36.560, the property must be exclusively used to provide rental housing or mobile home lots for ~~((very low income))~~ qualifying households, except as provided in RCW 84.36.805.

~~((10))~~ **(11) Payments in-lieu of property tax will be accepted.** Any nonprofit entity that qualifies for a property tax exemption under

RCW 84.36.560 may agree to make payments to the city, county, or other political subdivision for the improvements, services, and facilities furnished by the city, county, or political subdivision for the benefit of the exempt rental housing facility or mobile home lots. However, these payments may not exceed the amount of property tax last levied as the annual tax by the city, county, or political subdivision (~~upon~~) on the property prior to the time the exemption was effective.