



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 26, 2019

TIME: 4:13 PM

WSR 19-10-042

Agency: Department of Revenue

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-22-074 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) WAC 458-16-340 Multipurpose senior citizen centers is a new rule that explains the requirements for the property tax exemption under RCW 84.36.670 for real and personal property owned by a senior citizen organization that is used for the operation of a multipurpose senior citizen center.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|--------------|------------|--|----------|
| June 6, 2019 | 10:00 A.M. | Conference Room 252 6400 Linderson Way SW Tumwater, Washington 98501 | |

Date of intended adoption: June 13, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Leslie Mullin, ITA Division

Address: PO Box 47453, Olympia, WA 98504-7453

Email: LeslieMu@dor.wa.gov

Fax: 360-534-1606

Other:

By (date) June 6, 2019

Assistance for persons with disabilities:

Contact Julie King or Renee Cosare

Phone: (360)704-5733 or (360) 704-5734

Fax:

TTY: 800-833-6384

Email:

Other:

By (date) _____

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed new rule will incorporate legislation from Substitute House Bill 1526, 2017 Regular Session (Chapter 301, Laws of 2017) and provide guidance to senior citizen organizations that operate a multipurpose senior citizen center.

Reasons supporting proposal: The proposed new rule is necessary to explain the application process and various exemption requirements to senior citizen organizations.

Statutory authority for adoption: RCW 84.36.865

Statute being implemented: RCW 84.36.670

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:

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

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

| |
|--|
| <input type="checkbox"/> Private |
| <input type="checkbox"/> Public |
| <input checked="" type="checkbox"/> Governmental |

Name of agency personnel responsible for:

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

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain: This rule is not a significant legislative rule as defined by RCW 34.05.328.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- RCW 34.05.310 (4)(b) (Internal government operations)
- RCW 34.05.310 (4)(c) (Incorporation by reference)
- RCW 34.05.310 (4)(d) (Correct or clarify language)
- RCW 34.05.310 (4)(e) (Dictated by statute)
- RCW 34.05.310 (4)(f) (Set or adjust fees)
- RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under RCW ____.

Explanation of exemptions, if necessary:

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated. The proposed rule language for this new property tax exemption clarifies the application of RCW 84.36.670. The proposed rule does not impose more than minor costs on businesses, as it does not propose any new requirements not already provided for in statute. The proposed rule does not impose fees, filing requirements, or recordkeeping guidelines that are not already established in chapter 84.36 RCW for the administration of property tax exemptions.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: April 26, 2019

Name: Kevin Dixon

Title: Program Manager

Signature:



NEW SECTION

WAC 458-16-340 Multipurpose senior citizen centers. (1) **Introduction.** This rule explains the real and personal property tax exemption available under RCW 84.36.670 to persons who operate a multipurpose senior citizen center.

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

(a) "Assessment year" means the calendar year preceding the tax year in which real and personal property is listed and valued by the assessor.

(b) "Farmers market" means a regular assembly of vendors at a location for the main purpose of promoting the sale of agricultural products grown, raised, or produced in this state directly to the consumer.

(c) "Multipurpose senior citizen center" means a community facility that provides a broad spectrum of services to senior citizens, whether provided directly by the nonprofit senior citizen organization that owns the facility or by another person. These services may include health, social, nutritional, and educational services and recreational activities.

(d) "Senior citizen" means a person age sixty or older.

(e) "Senior citizen organization" means a private organization that:

(i) Has a mission, in whole or in part, to support senior citizens;

(ii) Is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and

(iii) Operates a multipurpose senior citizen center.

(f) "Tax year" means the year in which property taxes are due.

(g) "Thrift store" means a retail establishment that:

(i) Is operated by a senior citizen organization;

(ii) Is located on the same parcel of real property as the senior citizen organization's multipurpose senior citizen center, or on a contiguous parcel of real property; and

(iii) Sells goods including, but not limited to, donated goods, as part of the senior citizen organization's fund-raising efforts for the operation of its multipurpose senior citizen center and for the provision of services and activities for senior citizens. If the thrift store sells nondonated goods, its gross annual sales of nondonated goods cannot exceed ten percent of its total combined gross annual sales of all goods.

(3) **Exemption availability.**

(a) Qualifying uses of property. Both real property (which may be located on contiguous parcels) and personal property owned by a senior citizen organization are exempt from property tax if the property is used for the actual operation of a multipurpose senior citizen center (center). Additionally, the following activities may be conducted at the center:

(i) Loan or rental. The center may be loaned or rented for either for-profit or not-for-profit purposes, if the rent and donations received for the use of the center are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the center being loaned or rented.

(ii) Fund-raising events. The center may be used for fund-raising events and activities, including the operation of a farmers market or a thrift store.

(A) If the center is used to conduct fund-raising events and activities for the purpose of providing financial support for the center or for services and activities for senior citizens, then no restrictions apply to the type of organization conducting the fund-raising event or to the amount of rents or donations received.

(B) If the center is used to conduct fund-raising events and activities for purposes other than to support services and activities for senior citizens, then the fund-raising events and activities must be conducted by a nonprofit organization eligible for exemption under chapter 84.36 RCW. Additionally, the rent and donations received for the use of the center must be reasonable and cannot exceed the maintenance and operation expenses attributable to the portion of the center loaned or rented for the fund-raising event.

Example. A 501(c)(3) nonprofit organization formed with the mission to support senior citizens owns real property that is used for the operation of a multipurpose senior citizen center. The center offers a broad spectrum of health, fitness, and nutrition services for senior citizens on a weekly basis and operates a thrift store. The thrift store is located within the center, is open four days each week, and sells donated items as part of the organization's fund-raising efforts for the operation of the center. The center is also rented on weekends, for a reasonable fee that does not exceed the maintenance and operations expenses attributable to the rented property, to the public for events such as weddings and family reunions. Based on the information provided, the center would qualify for the property tax exemption.

(b) Nonqualifying use of property. A pattern of use of the property in a manner inconsistent with the purpose of this exemption nullifies the exemption. A pattern of use is presumed when there is a use inconsistent with the purpose of operating a multipurpose senior citizen center and that use is repeated in the same assessment year or in two or more successive years. An example of a nonqualifying use that would be considered inconsistent with the purpose of operating a senior citizen center would be a commercial bakery that is open to the public and leases space, on a regular and on-going basis, from the center.

(c) The center must be available to all regardless of race, color, religion, creed, gender, gender expression, national origin, ancestry, the presence of any sensory, mental, or physical disability, marital status, sexual orientation, or honorably discharged veteran or military status.

(d) This exemption is not subject to the provisions of RCW 84.36.805.

(4) **Application and renewal.** This exemption is available beginning with property taxes levied in the 2017 assessment year (for collection in the 2018 tax year) through the 2026 assessment year (for collection in the 2027 tax year). RCW 82.32.805(1).

(a) Initial application. In order to be considered timely, initial applications must be received on or before:

(i) March 31st for taxes to be collected in the following year; or

(ii) Within sixty days of either acquiring the property or converting the property to an exempt use, whichever is later.

Under no circumstances is this proposed rule to be used to determine tax liability and/or exemptions.

(b) Retroactive application. Retroactive applications to claim the exemption for prior years will be accepted up to a maximum of three years from the date taxes were due on the property. The last day to file a retroactive application for this exemption is April 30, 2030, for taxes that were due in the 2027 tax year. The applicant must:

(i) Provide the department with acceptable proof that the property qualified for exemption during the pertinent assessment years; and

(ii) Pay the late filing penalties under RCW 84.36.825.

(c) Renewal application. After the department approves an initial or retroactive application, the exemption applies for one year and must be renewed by March 31st of each year to exempt the property from taxes due the following year. See WAC 458-16-110 *Applications—Who must file, initial applications, annual declarations, appeals, filing fees, penalties, and refunds*, for more information about procedures property owners must follow to apply for and renew property tax exemptions.

(5) **Loss of exemption.** If the property is used for a nonqualifying purpose, it is subject to property tax for the remaining part of the assessment year. See RCW 84.40.360.

DRAFT