



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Revenue

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: WAC 458-50-160 explains the distinction between intangible personal property and the characteristics or attributes of property, both real and personal. Intangible personal property is exempt from property taxation per RCW 84.36.070. However, some characteristics or attributes of property, even though intangible, may be considered in establishing the taxable value of tangible property.

This rule has been revised to clarify that the intangible personal property tax exemption provided by RCW 84.36.070 only applies to intangible personal property and not to attributes of property like location, view, zoning regulations, office organization, trained workforce, etc. These "attributes" of property can be considered by the appraiser in determining the fair market value of taxable property.

Citation of existing rules affected by this order:

Repealed:

Amended: WAC 458-50-160 Exempt intangible property distinguished from other intangibles.

Suspended:

Statutory authority for adoption: RCW 84.08.010, 84.08.070, and 84.36.865.

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as **WSR 16-16-048 on July 26, 2016.**

Describe any changes other than editing from proposed to adopted version: **None.**

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: **An analysis was not prepared.**

Date adopted:

October 5, 2016

NAME

Kevin Dixon

SIGNATURE

TITLE

Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: October 05, 2016

TIME: 7:44 AM

WSR 16-20-100

Note: If any category is left blank, it will be calculated as zero.
No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

| | | | |
|---|-----|---------|------------|
| Federal statute: | New | Amended | Repealed |
| Federal rules or standards: | New | Amended | Repealed |
| Recently enacted state statutes: | New | Amended | 1 Repealed |

The number of sections adopted at the request of a nongovernmental entity:

| | | |
|-----|---------|----------|
| New | Amended | Repealed |
|-----|---------|----------|

The number of sections adopted in the agency's own initiative:

| | | | |
|-----|---------|---|----------|
| New | Amended | 1 | Repealed |
|-----|---------|---|----------|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | |
|-----|---------|----------|
| New | Amended | Repealed |
|-----|---------|----------|

The number of sections adopted using:

| | | | |
|---------------------------------------|-----|---------|----------|
| Negotiated rule making: | New | Amended | Repealed |
| Pilot rule making: | New | Amended | Repealed |
| Other alternative rule making: | New | Amended | Repealed |

AMENDATORY SECTION (Amending WSR 06-24-043, filed 11/30/06, effective 12/31/06)

WAC 458-50-160 Exempt intangible property distinguished from other intangibles. (1) **Distinction between property, and characteristics or attributes of property.** The statute (RCW 84.36.070) draws a distinction between intangible personal property and the characteristics or attributes of property, both real and personal. Intangible personal property is exempt from property taxation. However, some characteristics or attributes of property, even though intangible, may be considered in establishing the taxable value of tangible property.

(2) **What intangible personal property is exempt?** The listings of examples of intangible personal property contained in RCW 84.36.070(2) must be consulted, but those listings can be summarized as follows:

(a) Financial intangible property, such as moneys, credits, and publicly issued bonds and warrants, and the bonds, stocks, or shares of private corporations;

(b) Private personal service contracts and athletic or sports franchises, or sports agreements that do not pertain to the use or possession or any interest in tangible personal or real property; and

(c) Miscellaneous types of intangible personal property, such as trademarks, trade names, brand names, patents, copyrights, trade secrets, franchise agreements, licenses, permits, core deposits of financial institutions, noncompete agreements, customer lists, patient lists, favorable contracts, favorable financing agreements, reputation, exceptional management, prestige, good name, integrity of a business, and other similar types of intangible personal property.

(3) **Identifying exempt intangible personal property.** (~~Intangible property is only exempt if it is personal property capable of being individually owned, used, transferred, or held separately from other property.~~) The market value of separate items of intangible personal property should not be identified or characterized solely using residual accounting methods, or other indirect techniques, such as isolating "excess earnings," from a total business valuation. Market value of exempt intangible personal property should be verifiable, to the extent possible, in an openly traded market where the value of comparable intangible properties can be observed and considered. Intangible assets that are separately identified and valued in reports filed with any state or federal regulatory agency, may be considered when identifying and valuing intangible personal property of the types listed in subsection (2)(c) of this section.

(4) **What intangible characteristics, attributes or other factors affect value and may be considered?** Nonproperty intangible characteristics or attributes are elements or components of value associated with a real or tangible asset. These characteristics or attributes are "intangible" but they are not "property" and therefore are not tax exempt intangible personal property. They are contingent and dependent upon other property and cannot be owned, used, transferred, or held separately from other property. To the extent that these characteristics, attributes, or other factors contribute to, or affect, the value of property, they must be appropriately considered when determining taxable value. They include the following types:

(a) Zoning, location, view, geographic features, easements, covenants, proximity to raw materials, condition of surrounding property, proximity to markets, or the availability of a skilled work force;

This rule was adopted October 5, 2016 and becomes effective November 5, 2016. 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.

- (b) Grants of licenses, permits, and franchises by a government agency that affect the use of the property being valued; and
- (c) Other characteristics of property, such as scarcity, uniqueness, adaptability, or utility as an integrated unit.