Chapter 458-16 WAC
PROPERTY TAX—EXEMPTIONS

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

458-16-010 Senior citizen and disabled persons exemption—Definitions. [Statutory Authority: RCW 84.36.389 and 84.36.-865. WSR 83-19-029 (Order PT 83-5), § 458-16-010, filed 9/14/83. Statutory Authority: RCW 84.36.389. WSR 81-05-018 (Order PT 81-6), § 458-16-010, filed 2/11/81; Order PT 76-1, § 458-16-010, filed 4/7/76; Order PT 74-6, § 458-16-010, filed 9/11/74.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-011 Senior citizen and disabled persons exemption—Gross income. [Statutory Authority: RCW 84.36.389. WSR 81-05-018 (Order PT 81-6), § 458-16-011, filed 2/11/81.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-012 Senior citizens and disabled persons exemption—Adjusted gross income. [Statutory Authority: RCW 84.36.389. WSR 81-05-018 (Order PT 81-6), § 458-16-012, filed 2/11/81.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-013 Senior citizens and disabled persons exemption—Disposable income. [Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 92-15-058, § 458-16-013, filed 7/13/92, effective 8/13/92; WSR 83-19-029 (Order PT 83-5), § 458-16-013, filed 9/14/83. Statutory Authority: RCW 84.36.389. WSR 81-05-018 (Order PT 81-6), § 458-16-013, filed 2/11/81.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-020 Senior citizen and disabled persons exemption—Qualifications for exemption. [Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 92-15-058, § 458-16-020, filed 7/13/92, effective 8/13/92; WSR 83-19-029 (Order PT 83-5), § 458-16-020, filed 9/14/83. Statutory Authority: RCW 84.36.389. WSR 81-05-018 (Order PT 81-6), § 458-16-020, filed 2/11/81; Order PT 74-6, § 458-16-020, filed 9/11/74.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-022 Senior citizen and disabled persons exemption—Qualifications for cooperative housing. [Order PT 76-1, § 458-16-022, filed 4/7/76.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-030 Senior citizen and disabled persons exemption—Claims. [Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 88-13-041 (Order PT 88-8), § 458-16-030, filed 6/9/88; WSR 83-19-029 (Order PT 83-5), § 458-16-030, filed 9/14/83; Order PT 74-6, § 458-16-030, filed 9/11/74.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-040 Senior citizen and disabled persons exemption—Denial—Appeal—Penalty—Perjury. [Order PT 74-6, § 458-16-040, filed 9/11/74.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-050 Senior citizen and disabled persons exemption—Amount of exemption. [Statutory Authority: RCW 84.36.389. WSR 88-02-008 (Order PT 87-8), § 458-16-050, filed 12/28/87. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 83-19-029 (Order PT 83-5), § 458-16-050, filed 9/14/83. Statutory Authority: RCW 84.36.389. WSR 81-05-018 (Order PT 81-6), § 458-16-050, filed 2/11/81; Order PT 74-6, § 458-16-050, filed 9/11/74.] Repealed by WSR 98-14-028, filed 6/22/98, effective 7/23/98. Statutory Authority: RCW 84.36.865, 84.08.010 and 84.08.070.

458-16-060 Senior citizen and disabled persons exemption—Transfer of exemption. [Statutory Authority: RCW 84.36.389. WSR 81-05-018 (Order PT 81-6), § 458-16-060, filed 2/11/81; Order PT 74-6, § 458-16-060, filed 9/11/74.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.-389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-070 Senior citizen and disabled persons exemption—Cancellation. [Statutory Authority: RCW 84.36.389. WSR 81-05-018 (Order PT 81-6), § 458-16-070, filed 2/11/81; Order PT 74-6, § 458-16-070, filed 9/11/74.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.-389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.

458-16-079	Senior citizen and disabled persons exemption—Refunds—Late filings. [Statutory Authority: RCW 84.36.389. WSR 81-05-018 (Order PT 81-6), § 458-16-079, filed 2/11/81.] Repealed by WSR 03-09-002, filed 4/2/03, effective 5/3/03. Statutory Authority: RCW 84.36.383, 84.36.389, and 84.36.865. Later promulgation, see chapter 458-16A WAC.
458-16-081	Improvements to single family dwellings—Exemption—Filing—Amount—Limits. [Statutory Authority: RCW 84.36.400. WSR 81-04-052 (Order PT 81-1), § 458-16-081, filed 2/4/81; Order PT 75-3, § 458-16-081, filed 5/23/75.] Repealed by WSR 00-09-004, filed 4/5/00, effective 5/6/00. Statutory Authority: RCW 84.36.400 and RCW 84.36.365.
458-16-111	Filing fees, penalties and refunds. [Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-111, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 88-13-041 (Order PT 88-8), § 458-16-111, filed 6/9/88. Statutory Authority: RCW 84.36.865. WSR 85-05-025 (Order PT 85-1), § 458-16-111, filed 2/15/85; WSR 81-05-017 (Order PT 81-7), § 458-16-111, filed 2/11/81; Order PT 77-2, § 458-16-111, filed 5/23/77.] Repealed by WSR 98-18-006, filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 84.36.865, 84.36.037, 84.36.805, 84.36.815, 84.36.825 and 84.36.840.
458-16-140	Property tax exemptions, generally, rules of construction—Proof of exemption. [Order PT 76-2, § 458-16-140, filed 4/7/76. Formerly WAC 458-12-150.] Repealed by Order PT 77-2, filed 5/23/77.
458-16-160	Property tax exemptions, generally, rules of construction—Inaccurate information—What constitutes. [Order PT 76-2, § 458-16-160, filed 4/7/76. Formerly WAC 458-12-152.] Repealed by Order PT 77-2, filed 5/23/77.
458-16-170	Property tax exemptions, generally, rules of construction—Rental or lease of property deemed to be exempt. [Order PT 76-2, § 458-16-170, filed 4/7/76. Formerly WAC 458-12-153.] Repealed by Order PT 77-2, filed 5/23/77.
458-16-250	Property tax exemptions, generally, rules of construction—Relief organizations. [Order PT 76-2, § 458-16-250, filed 4/7/76. Formerly WAC 458-12-220.] Repealed by Order PT 77-2, filed 5/23/77.
458-16-265	Nonprofit homes for the aging. [Statutory Authority: RCW 82.08.010, 84.36.865 and 84.36.041. WSR 90-06-048, § 458-16-265, filed 3/2/90, effective 4/2/90.] Repealed by WSR 95-06-042, filed 2/24/95, effective 3/27/95. Statutory Authority: RCW 84.08.010, 84.08.-070 and 84.36.041.
458-16-301	Applications without penalties. [Statutory Authority: RCW 84.36.865. WSR 81-21-010 (Order PT 81-14), § 458-16-301, filed 10/8/81.] Repealed by WSR 82-22-060 (Order PT 82-8), filed 11/2/82. Statutory Authority: RCW 84.36.865.

WAC 458-16-080 Improvements to single family dwellings—Definitions—Exemption—Limitation—Appeal rights. (1) **Introduction.** This rule explains the property tax exemption available to taxpayers when they make physical improvements to their single family dwelling under the provisions of RCW 84.36.400. It explains the process by which this exemption is obtained and how the amount of the exemption is calculated.

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

(a) "Department" means the department of revenue.

(b) "Single family dwelling" or "dwelling" means a structure maintained and used as a residential dwelling that is designed exclusively for occupancy by one family.

(i) It is an independent and free-standing structure containing one dwelling unit and having a permanent foundation.

(ii) For the purposes of this exemption, a manufactured home, mobile home, or park model trailer will be considered a "single family dwelling" if it has substantially lost its identity as a mobile unit by virtue of its being permanently fixed in location upon land owned or leased by the owner of the manufactured home, mobile home, or park model trailer and placed on a foundation (posts or blocks) with fixed pipe connections with sewer, water, or other utilities.

(c) "Physical improvement" means any addition, improvement, remodel, renovation, or structural enhancement that materially adds to the value of an existing single family dwelling. It is an actual, material, and permanent change that increases the value of the dwelling.

(i) The term includes the addition of a garage, carport, patio, or other improvement to the dwelling that materially adds to its value.

(ii) The term does not include a swimming pool, outbuilding, fence, landscaping, barn, shed, shop, or other item that enhances the land upon which the dwelling stands, but is not common to or normally recognized as a structural component of a single family dwelling.

(iii) The term does not include repairs to or deferred maintenance of a dwelling.

(d) "Physical inspection" means, at a minimum, an exterior observation of the dwelling to determine what physical improvements have been made and whether they increase its true and fair value.

(e) "Real property" has the same meaning as contained in RCW 84.04.090 and chapter 458-12 WAC; these definitions should be consulted as a matter of course in interpreting and administering this exemption.

(f) "Repairs" means work that preserves the dwelling or returns it to its original condition or use.

(g) "Taxpayer" means any person charged, or whose property is charged, with property tax for the dwelling.

(3) **Exemption - Taxpayer's obligations.** Physical improvements to a single family dwelling upon real property are exempt from property tax for three assessment years after the improvements are completed. The amount of the exemption is the difference between the true and fair value of the dwelling before and after the physical improvement. However, the amount of the exemption cannot exceed thirty percent of the true and fair value of the dwelling prior to the improvements.

(a) The following conditions must be met to receive this exemption:

(i) The dwelling must be a "single family dwelling" as defined in subsection (2) of this rule;

(ii) The taxpayer must file a claim for the exemption with the assessor of the county in which the real property is located before the improvements are completed. All claims must be made on forms prescribed by the department and signed by the taxpayer or the taxpayer's authorized agent. Claim forms may be obtained from the assessor's office or the department; and

(iii) The taxpayer may not claim this exemption more than once in a five-year period on the same dwelling. The five-year period begins the first assessment year the exemption appears on the county's assessment roll.

(b) When the improvements are completed, the taxpayer must submit a written notice of completion to the assessor.

(c) The following examples show how eligibility requirements for this exemption will be applied. These exam-

ples should be used only as a general guide and cannot be relied upon for any other purpose.

(i) Example 1. The addition of a garage or carport to a single family dwelling may qualify for exemption because it may increase the value of and is compatible with the existing residential dwelling. Conversely, the construction of a swimming pool, shed, barn, or shop, which are not commonly attached to a dwelling, does not qualify for the exemption; even though the construction of such a structure may increase the value of the parcel as a whole.

(ii) Example 2. The replacement of a composition roof with a tile roof on a dwelling may qualify for exemption because a tile roof may increase the value of the dwelling. If the composition roof is repaired or replaced with the same type of composition roofing materials, the repair or replaced roof will not qualify for the exemption.

(4) **Assessor's duties.** Upon receipt of a taxpayer's claim for exemption, the assessor will determine the true and fair value of the unimproved dwelling. This value may be determined by means of a physical inspection and appraisal or a statistical update of the value shown on the county's current assessment roll. After receiving a notice of completion from the taxpayer, the assessor will revalue the improved dwelling by means of a physical inspection to determine the amount of the exemption.

(5) **Amount of exemption.** The amount of the exemption is the difference between the dwelling's true and fair value before and after improvements, but this amount cannot exceed thirty percent of the true and fair value of the original unimproved dwelling. In other words, the amount of the exemption is determined by subtracting the true and fair value of the unimproved dwelling from the true and fair value of the dwelling including improvements. The cost of the physical improvements is not the basis for the exemption granted under RCW 84.36.400 and, as a result, the exemption granted is not normally equivalent to the costs incurred by the taxpayer.

(a) The amount of the exemption will be deducted from the assessed value of the improved dwelling for the three assessment years immediately following completion of the improvement.

(b) The dwelling must at all times be a "single family dwelling" as defined in subsection (2) of this rule. If the assessor determines the dwelling does not meet this definition, the exemption will be denied or canceled.

(c) When an exemption has been granted and placed on the assessment roll, the exemption will continue for the three-year exemption period even if the single family dwelling is sold. The exemption pertains to the dwelling and is not personal to the individual property owner.

(d) Example 3. The following example should be used only as a general guide and cannot be relied upon for any other purpose. In 1998, Taxpayer A completed the addition of a family room and the renovation of the kitchen. These improvements cost the taxpayer $60,000. (As the following example will show, the cost of improvements is not the basis of the amount of the exemption.)

True & fair value of dwelling prior to improvements	$150,000
True & fair value of improved dwelling	$200,000
Difference (value of physical improvements)	$50,000
Amount of exemption	$45,000

The difference between the value of the improved dwelling and the value of the unimproved dwelling ($50,000) or 30% of the unimproved dwelling ($150,000 x 30% = $45,000), whichever is less.

The assessed value of the improved dwelling will be reduced by $45,000 for the next three assessment years (1999, 2000, and 2001).

(6) **Limitation.** This exemption may not be claimed on the same dwelling more than once in a five-year period. This five-year period begins the first year the exemption appears on the county's assessment roll. (In the example above, the taxpayer may not file another claim for an exemption on this dwelling under RCW 84.36.400 until 2003.)

(7) **Relationship to revaluation cycle.** Chapter 84.41 RCW requires each county to establish and maintain a systematic program to revalue all taxable real property within the county on an annual basis.

When an exemption has been granted under RCW 84.36.400, the dwelling is revalued during the three assessment years the exemption is in effect, but the amount of the exemption will remain unchanged.

(8) **Exemption in relationship to destroyed property.** If the value of a dwelling has been reduced under the provisions of chapter 84.70 RCW because it was destroyed, the dwelling is ineligible to receive the exemption authorized by RCW 84.36.400.

(9) **Right to appeal.** A taxpayer who applies for an exemption under RCW 84.36.400 may file an appeal with the county board of equalization under the following circumstances:

(a) The application for exemption is denied;

(b) The exemption is removed prior to the expiration of the three-year exemption period; or

(c) The taxpayer disputes the amount of the exemption granted.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.36.389. WSR 18-04-007, § 458-16-080, filed 1/25/18, effective 2/25/18. Statutory Authority: RCW 84.36.400 and 84.36.365. WSR 00-09-004, § 458-16-080, filed 4/5/00, effective 5/6/00; Order PT 75-3, § 458-16-080, filed 5/23/75.]

WAC 458-16-100 Property tax exemptions, generally, rules of construction. (1) **Introduction.** This section explains how statutes exempting property from taxation should be read and interpreted.

(2) **General rules of construction.** All property located in Washington is subject to assessment and taxation, except property expressly exempted from taxation by law. The following principles shall govern the construction of statutes that exempt property from taxation:

(a) There is no need to construe a statute when its language is plain.

(b) The burden of proving entitlement to a property tax exemption rests upon the taxpayer claiming exemption.

(c) Statutes exempting property from taxation shall be strictly construed, though fairly and in keeping with the ordinary meaning of the language employed.

(d) If there is any doubt regarding the exact meaning of a statute exempting property from taxation, the statute shall be construed in favor of the power to tax and against the person claiming the exemption because taxation is the rule and exemption is the exception.

(e) If the legislature has created an exemption, the exemption must not be enlarged by construction since it is reasonable to presume that the legislature has granted in express terms all that it intended to grant. An exemption must be limited to the very terms of the statute enacted; if not so limited, the exemption would be enlarged beyond what the legislature intended to exempt.

(f) Property shall be exempt from taxation only when the legislature has created an exemption by clear and explicit language.

(3) **General requirements.** Applicants seeking an initial or continuing property tax exemption shall make the subject property available to the department of revenue at reasonable times for physical inspection, investigation, or examination. Applicants shall also provide to the department of revenue, upon request, all records, documents, or facts necessary for the department to determine the exempt or taxable status of the property. Failure to fully cooperate with the department may result in a determination that the property is taxable for the current year.

[Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-100, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 83-19-029 (Order PT 83-5), § 458-16-100, filed 9/14/83. Order PT 76-2, § 458-16-100, filed 4/7/76. Formerly WAC 458-12-145.]

WAC 458-16-1000 Property belonging to federally recognized Indian tribes—Definitions—Exemption—Declaration process—Appeal rights. (1) **Introduction.** This section implements the amendments to RCW 84.36.010 made by the 2004 legislature and published in the 2004 regular session laws as chapter 236. RCW 84.36.010 exempts "all property belonging exclusively to any federally recognized Indian tribe located in the state, if that property is used exclusively for essential government services." This section explains the exemption, how the exemption may be obtained, how essential government services is defined, and how a tribe or an assessor may appeal an exemption determination.

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

(a) "Assessor" means a county assessor or any person authorized to act on behalf of the assessor.

(b) "Board" or "BTA" means the state board of tax appeals described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC.

(c) "Declaration" means the exemption declaration filed by an Indian tribe with the department to claim the property tax exemption authorized in RCW 84.36.010.

(d) "Department" means the department of revenue, property tax division.

(e) "Essential government services" means services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. See subsections (4) and (5) below that outline more complete and detailed examples of "essential government services" for the purposes of this section.

(f) "Federally recognized Indian tribe," "Indian tribe," or "tribe" means any Indian nation, tribe, band, community, or other entity that is recognized as an "Indian tribe" by the United States Department of the Interior. The phrase "federally recognized Indian tribe" and the term "tribe" have the same meaning as "Indian tribe." See WAC 458-20-192 for more explicit information regarding these defined terms.

(g) "State" means the state of Washington.

(3) **Exemption.** To qualify for the exemption authorized by chapter 236, Laws of 2004, real and personal property located in the state must:

(a) Belong exclusively to a federally recognized Indian tribe; and

(b) Be used exclusively for essential government services.

Property may already be exempt under federal law. For example, real property owned by the federal government and held in trust for a federally recognized Indian tribe, or property held by a tribe in restricted fee status, is exempt from property tax.

(i) **What is the effective date of exemption?** The effective date of the exemption is June 10, 2004. The exemption first applies to taxes due in 2005.

(ii) **How may a tribe claim this exemption? - Exemption declaration required.**

(A) **Declaration form - How it may be obtained.** An Indian tribe claiming the exemption described in this section must submit an exemption declaration and supporting documentation regarding the ownership and use of the property to the department. The declaration must be on a form prescribed by the department and signed by an authorized agent of the tribe. This information will be used to determine whether the property qualifies for exemption. An exemption declaration may be obtained from the department or downloaded from the department's internet site under the "forms" heading for property tax at http://dor.wa.gov/.

(B) **Exemption declaration.** Declarations must be filed with the department to exempt property for taxes due the following year. A tribe may submit one exemption declaration for all real and personal property that it owns exclusively if the property is used exclusively for essential government services. If real property is owned in part and/or used in part by another individual or entity, a separate exemption declaration must be submitted for each parcel.

(C) **Other documentation a tribe may be required to submit with exemption declaration to determine eligibility.** In addition to the exemption declaration, a tribe may be asked to submit the following information regarding the real or personal property for which exemption is sought to determine the amount of and eligibility for the exemption:

(I) An accurate description of the real and personal property including the county tax parcel number(s), and a copy of the current deed(s);

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

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

• What property is rented or loaned;

• The name of the party to whom the property is rented or loaned; and

• How the property is being used.

(D) **Department's review of exemption declaration and notice of exemption determination.** Upon receipt of the exemption declaration the department will review the declaration and all supporting documentation. The department may physically inspect the property in order to verify exempt use. Additional information may be requested about the ownership and use of the property, if the department needs this information to determine whether the property qualifies for exemption. An exemption declaration is not considered complete until the department receives all required information. The department shall then determine the taxable status of the property. The burden is upon the tribe to demonstrate exempt use and ownership. The department may deny the exemption declaration, in whole or in part, if it believes the property does not qualify for exemption. If the exemption declaration is denied for any portion of the property, the department must clearly state the reason(s) for denial in a written determination. A denial may be appealed, as explained in subsection (13) of this section.

(E) **When will the property be exempt from payment of taxes?** If an exemption declaration is approved, the property is exempt from property taxes due the year immediately following the year in which the declaration is submitted and for all subsequent years unless the property is sold or transferred or the tribe ceases to use the property exclusively for essential government services (see subsections (11) and (12) of this section).

(4) **Essential government services as defined in RCW 84.36.010.** For the purposes of this section, "essential government services" mean services such as tribal administration, public facilities, fire, police, public health, education, sewer, water, environmental and land use, transportation, and utility services. Property used for essential government services includes property:

(a) Used to provide access to water or land for the exercise by a tribe or its tribal members of their treaty rights;

(b) Used for the protection and stewardship of forest land, shoreline, watershed, or other environmentally sensitive areas;

(c) Used for the preservation of historically or culturally significant sites; and

(d) Used by a utility company providing services to residents of Indian country, as defined in WAC 458-20-192. The property of a utility company that provides services to an area extending outside of Indian country does not qualify for exemption.

(5) **Examples regarding essential government services.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide and are not to be used to determine eligibility for exemption. All examples assume exclusive ownership of property located in the state by a federally recognized tribe.

(a) A tribe uses property for a courthouse, police station, fire station, hospital, library, and public schoolhouse. Each of these uses is a use for essential government services.

(b) A tribe acquires off-reservation land along the headwaters of a stream flowing into the reservation. The land is maintained as a conservation zone, limiting pollution and protecting water quality. The property is used for essential government services.

(c) A tribe operates a fish hatchery as part of its fisheries program. The property is used for essential government services.

(d) A tribe operates a fish cannery and processing center. The property is used for a commercial activity and is not used for essential government services.

(e) A tribe maintains and operates a parking lot or garage that is adjacent to its tribal administration building and courthouse. The parking lot or garage is integrally related to the essential government services provided in close proximity to its location. The property is used for essential government services. However, if the parking lot or garage is also used for ineligible purposes (such as parking for business patrons), it is taxable.

(f) A tribe operates a sawmill and log yard used to process and store timber or logs removed from its forest lands. Both the sawmill and log yard are commercial activities. The property is not used for essential government services.

(g) A tribe's members are unable to reach an off-reservation portion of a river in order to exercise fishing rights without crossing private property. The tribe purchases a parcel in order to allow access and establishes a footpath to the river. The property is used for essential government services.

(6) **Property jointly owned by an Indian tribe and another individual or entity used exclusively for essential government services - Eligibility for exemption.** The percentage of the property owned exclusively by a tribe and used exclusively for essential government services is eligible for exemption.

(7) **Property used for qualifying and nonqualifying purposes - Mixed use of property - Eligibility for exemption.** If property belongs exclusively to an Indian tribe and is used for qualifying and nonqualifying purposes and if the two uses are physically separate on the real property, the department shall administratively segregate the portion of the property that is used exclusively for essential government services and exempt that portion of the property from property tax. The portion of the property that is used for nonqualifying uses is subject to taxation.

(a) An administrative segregation occurs when the department separates the exempt value from the taxable value. The assessor may create a new tax parcel number that exists solely for property tax purposes.

(b) Example: A tribal administrative office may be located in the same building as a convenience store run as a commercial enterprise. The portion of the building used for

tribal administration offices is exempt and the portion of the building used as a convenience store is taxable.

(c) If the property is used at times for exempt or qualifying services and at other times for nonexempt purposes, the "exclusively used" standard is not met and the property is taxable.

(8) **Property owned by an Indian tribe that is leased - Eligibility for exemption.** If property belonging exclusively to an Indian tribe is leased to an individual, a for-profit or nonprofit entity, a tribal member, or another governmental entity, the tenant's or lessee's activities will determine whether the property qualifies for exemption.

(9) **Undeveloped property within or contiguous to a reservation - Eligibility for exemption.** Consolidation and reacquisition of undeveloped real property within or contiguous to a tribe's reservation resolves questions of jurisdiction and is an essential government service for a tribal government.

(10) **Property used for commercial or enterprise activities - Ineligible for exemption.** Property used for commercial or enterprise activities does not qualify for exemption. For purposes of this section, a "commercial or enterprise activity" means an activity financed and operated in a manner similar to a private business enterprise. The burden is upon the tribe to prove that the property is not used for commercial or enterprise activities. The collection of a fee, such as a fee for the use of the picnic area in a park, does not make an activity a commercial or enterprise activity. Property used for a commercial or enterprise activity will not qualify for the exemption when funds received from the activity are used to provide essential government services. For example, if a tribe owns exclusively property on which it operates a gas station and the profits from the gas station are used to pay for essential government services, the property does not qualify for the exemption.

(11) **Sale, transfer, or cessation of use of exempt property.** If a tribe sells or transfers property or ceases to use real property for an essential government service as required under RCW 84.36.010, the exemption will be canceled as of the date the property was sold or transferred or the exempt use of the property ceased. Real property that no longer retains its exempt status will be assessed a pro rata portion of the taxes allocable to the property for the remaining portion of the tax year after the date the property lost its exempt status. If only a portion of the property has lost its exempt status, only that portion of the property is subject to tax. See RCW 84.40.350 through 84.40.390 for a more complete explanation of what occurs when the status of real property changes from exempt to taxable.

(a) **Duty to notify department.** A tribe must notify the department of any change in the ownership or use of the property that might affect its exempt status within a reasonable amount of time. If any portion of the exempt property is loaned or rented, the tribe is also required to report this change to the department because the loan or rental may affect the taxable status of the property. Any other person who knows or has information regarding a change in ownership or use of exempt property may notify the department of any such change. Upon receipt of change notice, the department will determine whether the property retains its exempt status.

(b) **Notice to tribe.** The department must notify the tribal owner of the exempt property if the exemption is being removed, in whole or in part. The tribe may appeal the removal of the exemption to the BTA. At the same time, the tribe may provide additional information to the department for reconsideration of the determination.

(12) **Can the exemption be claimed for prior years - Refunds?** A tribe may submit an exemption declaration for previous years, up to a maximum of three years from the date taxes were paid on the property, if the taxpayer provides the department with acceptable proof that the property qualified for exemption during the pertinent assessment years. If the exemption is granted, the tribe must submit a refund claim to the county treasurer. RCW 84.69.020(2) and 84.69.030. However, no exemption can be claimed for any time period prior to 2004, the first assessment year affected by RCW 84.36.010 as amended by chapter 236.

(13) **Administrative appeal rights - Board of tax appeals.** The tribe or assessor may appeal an exemption determination made by the department to the BTA under RCW 82.03.130 (1)(c). A notice of appeal can be obtained from the department or the BTA, or downloaded from the BTA internet site, http://bta.state.wa.us/.

[Statutory Authority: RCW 84.36.010 and 84.36.865. WSR 05-18-010, § 458-16-1000, filed 8/25/05, effective 9/25/05.]

WAC 458-16-110 Applications—Who must file, initial applications, annual declarations, appeals, filing fees, penalties, and refunds. (1) **Introduction.** This rule explains the procedures 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 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, cemeteries, nongovernmental nonprofit corporations, organizations, or associations, soil and water conservation districts, a hospital established under chapter 36.62 RCW and a public hospital district 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 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 application and annual renewal declaration forms.** Applications 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 renewal declaration forms are mailed 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.

(4) **Initial application, filing deadlines, and other requirements.** In general, 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, the 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 nor 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 application for exemption.** Unless the following information was previously submitted to the department and it is still current, in addition to the 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 copy of the bylaws of the nonprofit entity, if requested by the department;

(c) 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) 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 application and notice of its determination.** Upon receipt of an application for exemption, the department will review the application and all supporting documentation. Additional information may be requested 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 assessment year, the department will issue a determination about the application by August 1st. 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 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 the determination made. In turn, the assessor takes appropriate action so that the department's determination is reflected on the county's assessment roll(s) for the years covered by the determination.

(8) **Effective date of the exemption.** If an 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 and the application is approved for assessment year 2010, the property will be exempt from taxes due in 2011.

(b) Retroactive 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 department with acceptable proof that the property qualified for exemption during the pertinent assessment years and pays the late filing penalties.

(9) **Annual renewal declaration.** To retain a property tax exemption, each nonprofit entity (except nonprofit cemeteries), foreign national government, public hospital district, and soil and water conservation district 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.

(a) On or before January 1st each year, the department mails a renewal declaration to the entity receiving an exemption for the property at the entity's last known address. 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 to the department or submitted electronically using the department's online service no later than March 31st 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 even if the department fails to mail the declaration to the exempt entity. If an exempt entity does not receive a renewal declaration, a replacement 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 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 the dates upon which 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 renewal declaration and reapplication for exemption.** If 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, 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, the owner must submit an initial application and pay the required late filing penalties.

(11) **Initial application and renewal declaration procedures regarding 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 consider the following types of cemeteries exempt from property tax, 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 and a renewal declaration must be submitted 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. This penalty is calculated from the date the 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 the department.

(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 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 appli-

cation 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 for specific information about the appeal process.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.36.865. WSR 10-23-060, § 458-16-110, filed 11/12/10, effective 12/13/10. Statutory Authority: RCW 84.36.865, 84.36.040, 84.36.042, 84.36.045, 84.36.046, 84.36.050, 84.36.385, 84.36.560, 84.36.570, 84.36.800, 84.36.805, 84.36.-810, 84.36.815, 84.36.820, 84.36.825, 84.36.830, 84.36.833, 84.36.840, 84.36.850, and 84.40.350 through 84.40.390. WSR 02-02-009, § 458-16-110, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 84.36.865, 84.36.037, 84.36.805, 84.36.815, 84.36.825 and 84.36.840. WSR 98-18-006, § 458-16-110, filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-110, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 85-05-025 (Order PT 85-1), § 458-16-110, filed 2/15/85; WSR 81-05-017 (Order PT 81-7), § 458-16-110, filed 2/11/81; Order PT 77-2, § 458-16-110, filed 5/23/77; Order PT 76-2, § 458-16-110, filed 4/7/76. Formerly WAC 458-12-146.]

WAC 458-16-115 Personal property exemptions for household goods, furnishings, and personal effects, and for the head of a family. (1) **Introduction.** This section explains the personal property tax exemption for household goods, furnishings, and personal effects. It also explains the exemption available to the head of a family for otherwise taxable personal property up to a value of fifteen thousand dollars. These exemptions are provided by RCW 84.36.110. (For sections dealing with exemptions of intangible personal property under RCW 84.36.070, *see* WAC 458-50-150 through 458-50-190.)

(2) **Exemption for household goods, furnishings, and personal effects.** All household goods and furnishings actually being used to equip and outfit the owner's residence or place of abode and all personal effects held by any person for his or her exclusive use and benefit are exempt from property taxation. Any household goods and furnishings or personal effects held for sale or commercial use do not qualify for this exemption. RCW 84.36.110(1).

(a) **What are household goods and furnishings?** "Household goods and furnishings" are all items of tangible personal property normally located in or about a residence and used or held to enhance the value or enjoyment of the residence, including its premises. The phrase includes, but is not limited to, movable items of necessity, convenience, or decoration, such as furniture, appliances, food, pictures, and tools and equipment used to maintain the residence. Personal property qualifying for this exemption retains its exempt status while temporarily in storage or while being used temporarily at locations other than the owner's residence.

"Household goods and furnishings" do not include items of personal property constructed primarily for use independent of and separate from a residence such as boats, motor vehicles, campers, and travel trailers. However, certain motor vehicles, campers, and travel trailers may be entitled to an exemption from property taxation under RCW 84.36.595. Also, some boats may be wholly or partially exempt from property taxation under RCW 84.36.080 and 84.36.090.

(b) **What are personal effects?** "Personal effects" are items of tangible property of a personal or intimate nature that usually and ordinarily accompany a person such as wearing apparel, jewelry, and articles of a similar nature. RCW 84.36.120.

(c) **When are household goods, furnishings, and personal effects not exempt?** Personal property held for sale or used for any business or commercial purpose does not qualify for the household goods exemption. Thus, property used to equip and outfit a motel, hotel, apartment, sorority, fraternity, boarding house, rented home, duplex, or any other premises not used by the owner for his or her own personal residence or place of abode does not qualify for this exemption. Likewise, a hairdresser who uses any portion of his or her home as a beauty salon cannot claim a household goods exemption for personal property held for sale or otherwise used in the business. Business inventories, however, are exempt from property taxation under RCW 84.36.477.

Following is a nonexclusive list of items that are exempt as household goods or furnishings if they are used in a residence or place of abode but are fully taxable if they are used for business or commercial purposes.

(i) Desks are exempt as household goods if they are used in a residence but are taxable if they are used in a business office, including an office located in the owner's residence.

(ii) Silverware and china are exempt if they are used in a residence but are taxable if they are used in a restaurant.

(iii) Art or other collections are exempt if they are located in a residence but are taxable if they are located in a public display or used for commercial purposes.

(iv) Power equipment such as lawnmowers used exclusively to enhance the value or enjoyment of a residence, including its premises, are exempt, but they are taxable when used to maintain a golf course or for any other business or commercial purpose.

(3) **Exemption for the head of a family.** Each head of a family is entitled to an exemption from his or her taxable personal property in an amount up to fifteen thousand dollars of actual value. RCW 84.36.110(2). For purposes of this exemption, "actual value" has the same meaning as "true and fair value" as defined in WAC 458-07-030. The taxpayer must qualify for the head of a family exemption on January 1st of the assessment year (the assessment date) or the exemption is lost for taxes payable the following year. As noted above, household goods, furnishings, and personal effects not used for business or commercial purposes are exempt from property taxation; therefore, the exemption for the head of a family does not apply to such property.

(a) **Who qualifies as the head of a family?** The exemption for the head of a family applies only to individuals (i.e., natural persons); it does not apply to artificial entities such as corporations, limited liability companies, or partnerships. The "head of a family" includes the following residents of the state of Washington:

(i) Any person receiving an old age pension under the laws of this state;

(ii) Any citizen of the United States, over the age of sixty-five years, who has resided in the state of Washington continuously for ten years;

(iii) The husband, wife, or domestic partner, when the claimant is a married person or has entered into a domestic partnership, or a surviving spouse or surviving domestic partner, who has neither remarried nor entered into a subsequent domestic partnership; and

(iv) Any person who resides with, and has under his or her care and maintenance, any of the following:

(A) His or her minor child or grandchild, or the minor child or grandchild of his or her deceased spouse or deceased domestic partner;

(B) His or her minor brother or sister or the minor child of a deceased brother or sister;

(C) His or her father, mother, grandmother, or grandfather, or the father, mother, grandmother, or grandfather of a deceased spouse or deceased domestic partner; or

(D) Any of the other relatives mentioned in this subsection who have attained the age of majority and are unable to take care of or support themselves.

(b) **What property is not exempt?** The personal property exemption for the head of a family does not apply to the following:

(i) Private motor vehicles. A "private motor vehicle" is any motor vehicle used for the convenience or pleasure of the owner, which carries a licensing classification other than motor vehicle for hire, auto stage, auto stage trailer, motor truck, motor truck trailer, or dealer's license. RCW 84.36.-120;

(ii) Mobile homes. A "mobile home" is a trailer designed for human habitation, which is capable of being moved upon the public streets and highways and is either more than thirty-five feet in length or more than eight feet in width. RCW 84.36.120;

(iii) Floating homes. A "floating home" is a building on a float, used in whole or in part for human habitation as a single-family dwelling and is on the property tax rolls of the county in which it is located. A floating home is not designed for self-propulsion by mechanical means or by means of wind. RCW 82.45.032; or

(iv) Houses, cabins, boathouses, boat docks, or other similar improvements that are located on publicly owned land.

(c) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The status of each situation must be determined after a review of all of the facts and circumstances.

(i) A husband and wife operate a catering business as a limited liability company (LLC). The wife also operates a consulting business as a sole proprietor out of the family home. Husband and wife are not entitled to the head of family exemption for property held by the LLC. However, the wife is entitled to the head of family exemption for the taxable personal property used in her consulting business.

(ii) Jane Doe is a citizen of the United States, over the age of sixty-five, and has resided in the state of Washington continuously for over ten years. Jane owns a farm. She has transferred title to the farm property, both real and personal, into a trust. An attorney is the trustee, and Jane is the sole beneficiary. Since Jane Doe has beneficial ownership of the trust property and she qualifies as the head of a family, Jane may claim the head of a family exemption for the taxable personal property held in the trust.

(4) **How do the exemptions included in this section affect listing?** If the county assessor is satisfied that all of the personal property of any person is exempt from taxation, no listing is required by the owner or taxpayer. If the value of taxable personal property exceeds fifteen thousand dollars, then the taxpayer must make a complete listing, and the assessor will deduct fifteen thousand dollars from the total amount of the assessment and assess the remainder. RCW 84.36.110(2).

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.36.865. WSR 08-16-063, § 458-16-115, filed 7/30/08, effective 8/30/08; WSR 07-11-124, § 458-16-115, filed 5/21/07, effective 6/21/07; WSR 06-24-043, § 458-16-115, filed 11/30/06, effective 12/31/06. Statutory Authority: RCW 84.36.865 and 84.08.070. WSR 02-19-004, § 458-16-115, filed 9/4/02, effective 10/5/02. Statutory Authority: RCW 84.36.110, 84.08.010(2) and 84.36.865. WSR 89-12-013 (Order 89-7), § 458-16-115, filed 5/26/89.]

WAC 458-16-120 Appeals. (1) **Introduction.** This rule outlines the appeal process an aggrieved party uses when the department issues a determination regarding a property tax exemption with which that party disagrees.

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

(a) "Appellant" means a person, natural or otherwise, who appeals any order or decision made by the department to the board of tax appeals.

(b) "Board" or "BTA" means the state board of tax appeals described in chapter 82.03 RCW and chapters 456-09 and 456-10 WAC.

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

(d) "Formal hearing" means a proceeding before the BTA conducted in accordance with RCW 82.03.160, the Administrative Procedure Act (chapter 34.05 RCW), and chapter 456-09 WAC.

(e) "Informal hearing" means a proceeding before the BTA conducted in accordance with RCW 82.03.150 and chapter 456-10 WAC.

(3) **General provisions - Formal or informal hearing.** Any nonprofit organization, association, or corporation, foreign national government, cemetery, soil and water conservation district, public hospital district, or county assessor may appeal a determination made by the department to the BTA. The duties, responsibilities, and jurisdiction of the BTA are outlined in chapter 82.03 RCW. RCW 82.03.140 allows the party appealing (appellant) to the BTA to request either a formal or informal hearing in its notice of appeal. If the appellant fails to specify the type of hearing requested in the notice, the BTA will conduct an informal hearing. The department also has the right to request a formal hearing after being notified that its determination has been appealed to the BTA.

(a) Formal hearings are usually requested by parties who wish to have a complete record of the appeal that may be used in a subsequent court appeal, if desired. Formal hearings are conducted in accordance with the Administrative Procedure Act, chapter 34.05 RCW.

(b) Informal hearings are requested by the majority of parties appearing before the BTA. Decisions entered in an informal appeal cannot be appealed to court.

(4) **Where to obtain an appeal notice.** A notice of appeal can be obtained from the BTA or downloaded from the internet site (http://bta.state.wa.us/), the department's property tax division, county auditor's offices, or the office of the clerk of the county council in King County.

(5) **Deadline to appeal.** A notice of appeal must be submitted to the BTA no later than thirty days after the postmark date on the department's notice of determination or the date on which the notice was given to the applicant, whichever is later. Appeals not timely filed will be dismissed. Likewise, appeals not properly filed may be dismissed if the appellant fails to substantially comply with WAC 456-09-320 or 456-10-320.

(6) **Grounds for appeal.** A party aggrieved by any of the following determinations made by the department may appeal it to the BTA:

(a) A determination denying an exemption on an initial application or renewal declaration;

(b) A determination exempting only a portion of the property from property tax;

(c) A property tax exemption is cancelled or removed, in whole or in part;

(d) The property tax exemption is cancelled or removed and back taxes are assessed in accordance with RCW 84.36.-810 or 84.36.262; or

(e) An exemption application or renewal declaration is approved and the assessor of the county in which the property is located believes the exemption should not have been granted (see RCW 84.36.850).

[Statutory Authority: RCW 84.36.865, 84.36.040, 84.36.042, 84.36.045, 84.36.046, 84.36.050, 84.36.385, 84.36.560, 84.36.570, 84.36.800, 84.36.-805, 84.36.810, 84.36.815, 84.36.820, 84.36.825, 84.36.830, 84.36.833, 84.36.840, 84.36.850, and 84.40.350 through 84.40.390. WSR 02-02-009, § 458-16-120, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 84.36.865. WSR 81-05-017 (Order PT 81-7), § 458-16-120, filed 2/11/81; Order PT 77-2, § 458-16-120, filed 5/23/77; Order PT 76-2, § 458-16-120, filed 4/7/76. Formerly WAC 458-12-147.]

WAC 458-16-130 Change in taxable status of real property. (1) **Introduction.** This rule explains what occurs when taxable property becomes exempt and when exempt property becomes taxable. It also describes how property will be treated when exempt use is pending.

(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, see RCW 84.36.810. However, "back taxes" are calculated differently when an exemption is cancelled or removed from property owned by a not-for-profit foundation established for the exclusive support of an institution of higher education under RCW 84.36.050(2) or a nature conservancy under RCW 84.36.260. See RCW 84.36.810 (1)(b) and WAC 458-16-150 regarding not-for-profit foundations and RCW 84.36.262 and WAC 458-16-290 regarding nature conservancies for a more detailed explanation of the back taxes imposed on these entities.

(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 sold, transferred, loaned, or rented to an owner or user that is not entitled to a property tax exemption under chapter 84.36 RCW.

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

(d) "Real property" means real property, as defined in RCW 84.04.090, owned or used by a nongovernmental nonprofit organization, association, or corporation, a foreign national government, cemetery, soil and water conservation district, and public hospital district established under chapter 70.44 RCW.

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

(3) **Acquiring tax exempt status.** Within sixty days of acquiring real property that may qualify for exemption or converting real property to a use that may qualify for exemption, any nongovernmental nonprofit organization, association, or corporation, foreign national government, cemetery, or public hospital district established under chapter 70.44 RCW that wants to obtain a property tax exemption for this property must file an application with the department. The applicant may file an application for either a new or continued exemption from property tax under chapter 84.36 RCW. All applications must comply with the requirements set forth in WAC 458-16-110.

(a) If an application for a new exemption is approved, the property will be exempt for taxes payable during the following calendar year. For example, a nonprofit hospital acquires a new building on February 10, 2001, converts it to an exempt use by April 1, 2001, and applies for a property tax exemption on April 14, 2001. If the application is approved, the property tax exemption will be effective for taxes payable in 2002.

(b) When exempt property is acquired by an entity that is eligible for a property tax exemption under chapter 84.36 RCW, the exempt status of the property will continue as long as the purchaser makes an application to continue the property tax exemption within sixty days of the date of acquisition and the application is subsequently approved by the department. For example, if a nonprofit home for the aging acquires exempt property from a nursing home, the exempt status of the property will not change as long as the home for the aging makes application to the department within sixty days of acquiring the nursing home and the application for exemption is later approved by the department.

(4) **Exempt to taxable status - Pro rata share of taxes for current tax year.** Real property may lose its exempt status for a number of reasons; when this occurs the property tax exemption will be cancelled or removed. Once the exemption is cancelled or removed, the property becomes subject to the following year's taxes. The property will be assessed and taxed at its true and fair value as of the date of the cessation of use or the change of ownership occurred, as provided in RCW 84.40.350 through 84.40.390. Additionally, the treasurer of the county in which the property is located shall collect a pro rata portion of the taxes allocable to the remaining portion of the current tax year after the date the exemption is cancelled or removed. If only a portion of the property no longer qualifies for a tax exemption, the exempt status for

only that portion of the property shall be cancelled and subjected to assessment and taxation during the current tax year.

(a) Real property changes from exempt to taxable status whenever the property is:

(i) Transferred as a result of a sale, exchange, gift, or contract from tax exempt to taxable ownership;

(ii) Transferred as a result of a sale, exchange, gift, or contract from tax exempt ownership to another nonprofit organization, association, or corporation that fails to apply for or has been denied a property tax exemption;

(iii) Converted to a taxable use; or

(iv) Loses its exempt status for some other reason.

(b) The rollback provisions of RCW 84.36.810 apply when the status of real property changes from exempt to taxable. See WAC 458-16-150 for specific information. However, the rollback provisions of RCW 84.36.262 apply when the property was exempt under RCW 84.36.260 for the conservation of ecological systems, natural resources, or open space. When property changes from exempt to taxable status, the taxes owing will be prorated as of:

(i) The date the instrument of sale, exchange, gift, or contract is executed; or

(ii) The date on which the property is converted to a taxable use.

(c) Example 1. For five years, nonprofit "A" operated a day care center and received a property tax exemption for this property. Nonprofit "A" transfers this property to nonprofit "B," a nonprofit hospital, that continues to receive a property tax exemption for this property. Two years after acquiring the property nonprofit "B" ceases to use the exempt property for an exempt purpose. One hundred days after the exempt activity ceased, nonprofit "B" sells the exempt property to XYZ Printing Company, a profit seeking business. The property became taxable and the provisions of RCW 84.34.810 will be applied as of the date "B" ceased to use the property for an exempt purpose.

(d) Example 2. A nonprofit shelter for low-income persons owned and occupied a building for which it received a property tax exemption. The shelter ceased to use the property on January 1, 2001, and had no intent to reoccupy the property. But it hoped to rent the property to another nonprofit organization for a tax exempt purpose and actively advertised and looked for such a tenant. On June 1, 2001, the nonprofit shelter, which had been unable to find a suitable tax exempt tenant for the property, signed a lease agreement with a for-profit business enterprise, which intended to use and occupy the property effective June 1, 2001. The rollback provisions of RCW 84.36.810 must be applied as of January 1, 2001.

(5) **Change of ownership or use - Exempt use pending.** If the ownership of exempt property changes or the use of exempt property ceases but the owner of the property begins to use it for an exempt purpose within one hundred twenty days of the date the ownership changed or the previous exempt use ceased, the property will continue to be exempt from property tax. However, if an agreement establishing an alternate exempt use is not signed or an alternate exempt use is not found within one hundred twenty days, the property becomes taxable and is noted as such on the assessment roll as of the date the ownership changed or the exempt use ceased. Additionally, if appropriate, the rollback provisions of RCW 84.36.810 will be applied or RCW 84.36.262 if the exempt property was exempt as a nature conservancy. A pro rata share of taxes allocable for the remaining portion of the year in which the cessation of use or change in ownership occurred will be collected.

[Statutory Authority: RCW 84.36.865, 84.36.040, 84.36.042, 84.36.045, 84.36.046, 84.36.050, 84.36.385, 84.36.560, 84.36.570, 84.36.800, 84.36.-805, 84.36.810, 84.36.815, 84.36.820, 84.36.825, 84.36.830, 84.36.833, 84.36.840, 84.36.850, and 84.40.350 through 84.40.390. WSR 02-02-009, § 458-16-130, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-130, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 88-13-041 (Order PT 88-8), § 458-16-130, filed 6/9/88. Statutory Authority: RCW 84.36.865. WSR 85-05-025 (Order PT 85-1), § 458-16-130, filed 2/15/85. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 83-19-029 (Order PT 83-5), § 458-16-130, filed 9/14/83. Statutory Authority: RCW 84.36.865. WSR 81-21-009 (Order PT 81-13), § 458-16-130, filed 10/8/81; WSR 81-05-017 (Order PT 81-7), § 458-16-130, filed 2/11/81; Order PT 77-2, § 458-16-130, filed 5/23/77; Order PT 76-2, § 458-16-130, filed 4/7/76. Formerly WAC 458-12-148.]

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 information about the collection of back taxes in this situation.

(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 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 or removed differ-

ent rollback procedures are applied, see RCW 84.36.262 and WAC 458-16-290.

(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 collect all taxes which would have been paid but 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 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 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
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 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
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

TYPE OF EXEMPT ORGANIZATION	AUTHORIZING STATUTE
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 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

(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 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 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 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 the exempt use of the property; this may include 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 purpose 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 and collect the back taxes and interest due when the department notifies the treasurer that the property tax exemption is to be cancelled or removed. The interest will be computed at the same rate and in the same manner as that upon 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.

[Statutory Authority: RCW 84.36.865, 84.36.040, 84.36.042, 84.36.045, 84.36.046, 84.36.050, 84.36.385, 84.36.560, 84.36.570, 84.36.800, 84.36.-805, 84.36.810, 84.36.815, 84.36.820, 84.36.825, 84.36.830, 84.36.833, 84.36.840, 84.36.850, and 84.40.350 through 84.40.390. WSR 02-02-009, § 458-16-150, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-150, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 86-12-034 (Order PT 86-2), § 458-16-150, filed 5/30/86; WSR 85-05-025 (Order PT 85-1), § 458-16-150, filed 2/15/85. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 83-19-029 (Order PT 83-5), § 458-16-150, filed 9/14/83. Statutory Authority: RCW 84.36.865. WSR 82-22-060 (Order PT 82-8), § 458-16-150, filed 11/2/82; WSR 81-05-017 (Order PT 81-7), § 458-16-150, filed 2/11/81; Order PT 77-2, § 458-16-150, filed 5/23/77; Order PT 76-2, § 458-16-150, filed 4/7/76. Formerly WAC 458-12-151.]

WAC 458-16-165 Conditions under which nonprofit organizations, associations, or corporations may obtain a property tax exemption. (1) **Introduction.** This rule describes the conditions in RCW 84.36.805 and 84.36.840 that most nonprofit organizations, associations, and corporations must satisfy in order to receive a property tax exemption under chapter 84.36 RCW.

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

(a) "Department" means the department of revenue.

(b) "Inadvertent use" or "inadvertently used" means the use of the property in a manner inconsistent with the purpose for which the exemption is granted through carelessness, lack of attention, lack of knowledge, mistake, surprise, or neglect.

(c) "Maintenance and operation expenses" means items of expense allowed under generally accepted accounting principles to maintain and operate the loaned or rented portion of the exempt property.

(d) "Revenue" means income received from the loan or rental of exempt property when the income exceeds the amount of maintenance and operation expenses attributable to the portion of the property loaned or rented.

(e) "Personal service contract" means a contract between a nonprofit organization, association, or corporation and an independent contractor under which the independent contractor provides a service on the organization's, association's, or corporation's tax exempt property. (See example contained in subsection (5)(c) of this rule.)

(3) **Examples**. This rule includes examples that identify a set of facts and then state a conclusion. These examples should only be used as a general guide. The department will evaluate each case on its particular facts and circumstances.

(4) **Applicability of this rule.** This rule does not apply to exemptions granted to:

(a) Public burying grounds or cemeteries under RCW 84.36.020;

(b) Churches, parsonages, convents, and church grounds under RCW 84.36.020;

(c) Administrative offices of nonprofit recognized religious organizations under RCW 84.36.032;

(d) Nonprofit homeownership development entities under RCW 84.36.049;

(e) Water distribution property owned by a nonprofit corporation or cooperative association under RCW 84.36.-250;

(f) Nonprofit fair associations under RCW 84.36.480(2); or

(g) Multipurpose senior citizen centers under RCW 84.36.670.

(5) **Exclusive use.** Exempt property must be exclusively used for the actual operation of the activity for which the nonprofit organization, association, corporation, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW, received the property tax exemption unless the authorizing statute states otherwise. The property exempted from taxation must not exceed an area reasonably necessary to facilitate the exempt purpose.

(a) Loan or rental of exempt property. As a general rule, the loan or rental of exempt property does not make it taxable if:

(i) The rents or donations received for the use of the property are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; and

(ii) Except for the exemptions under RCW 84.36.030(4), 84.36.037, 84.36.050, and 84.36.060 (1)(a) and (b), the property would be exempt from tax if owned by the organization to which it is loaned or rented.

(b) Fund-raising events. The use of exempt property for fund-raising events conducted by an exempt organization, association, corporation, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW, does not jeopardize the exemption if the fund-raising events are consistent with the purposes for which the exemption was granted. The term "fund-raising" means any revenue-raising event limited to less than five days in length that disburses fifty-one percent or more of the profits realized from the event to the exempt nonprofit entity conducting the fund-raising event.

(i) Example 1. A nonprofit social service agency holds an art auction in the auditorium of its tax exempt facility to raise funds. The event must be less than five days in length and fifty-one percent of the profits must be disbursed to the social service agency because the fund-raising event is being held on exempt property.

(ii) Example 2. A nonprofit school has a magazine subscription drive to raise funds and the subscriptions are being sold door-to-door by students. There are no limitations on this fund-raising event because the subscription drive is not being held on exempt property.

(c) Personal service contract - Exempt programs. Programs provided under a personal service contract will not jeopardize the exemption if the following conditions are met:

(i) The program is compatible and consistent with the purposes of the exempt organization, association, or corporation;

(ii) The exempt organization, association, or corporation maintains separate financial records as to all receipts and expenses related to the program; and

(iii) A summary of all receipts and expenses of the program are provided to the department upon request.

(iv) Example 3. A nonprofit school may decide to contract with a provider to offer aerobic classes to promote general health and fitness. All brochures and bulletins advertising these classes must show that the school is sponsoring the classes. Under the terms of the contract between the nonprofit

school and the aerobics instructor, an independent contractor, the instructor must provide the classes for a predetermined fee. All fees collected from the participants of the classes must be received by the school; the school, in turn, will absorb all costs related to the classes.

(d) Personal service contract - Nonexempt programs. Programs provided under a personal service contract (i) that require the contractor to reimburse the nonprofit organization for program expenses or (ii) in which the instructor is paid a fee based on the number of people who attend the program will be viewed as a rental agreement and will subject the property to property tax.

(e) Inadvertent use. An inadvertent use of the property in a manner inconsistent with the purpose for which the exemption was granted does not subject the property to tax if the inadvertent use is not part of a pattern of use. A "pattern of use" is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(6) **No discrimination allowed.** The exempt property and the services offered must be available to all persons regardless of race, color, national origin, or ancestry.

(7) **Compliance with licensing or certification requirements.** A nonprofit entity, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW seeking or receiving a property tax exemption must comply with all applicable licensing and certification requirements imposed by law or regulation.

(8) **Property sold subject to an option to repurchase.** Property sold to a nonprofit entity, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW with an option to be repurchased by the seller cannot qualify for an exemption. This prohibition does not apply to property sold to a nonprofit entity, as defined in RCW 84.36.560(7), by:

(a) 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;

(b) A governmental entity established under RCW 35.21.660, 35.21.670, or 35.21.730;

(c) A housing authority created under RCW 35.82.030;

(d) A housing authority meeting the definition of RCW 35.82.210 (2)(a); or

(e) A housing authority established under RCW 35.82.-300.

(9) **Duty to produce financial records.** In order to determine whether a nonprofit entity is entitled to receive a property tax exemption under the provisions of chapter 84.36 RCW and before the exemption is renewed each year, the entity claiming exemption must submit a signed statement made under oath, with the department. This sworn statement must include a declaration that the income, receipts, and donations of the entity seeking the exemption have been used to pay the actual expenses incurred to maintain and operate the exempt facility or for its capital expenditures and to no other purpose. It must also include a statement listing the receipts and disbursements of the organization, association, or corporation. This statement must be made on a form prescribed and furnished by the department.

(a) The provisions of this subsection do not apply to an entity either applying for or receiving an exemption under RCW 84.36.020 or 84.36.030.

(b) This signed statement must be submitted on or before March 31st each year by any entity currently receiving a tax exemption. If this statement is not received on or before March 31st, the department will remove the tax exemption from the property. However, the department will allow a reasonable extension of time for filing if the exempt entity has submitted a written request for an extension on or before the required filing date and for good cause.

(10) **Caretaker's residence.** If a nonprofit entity, hospital established under chapter 36.62 RCW, or public hospital district established under chapter 70.44 RCW exempt from property tax under chapter 84.36 RCW employs a caretaker to provide either security or maintenance services and the caretaker's residence is located on exempt property, the residence may qualify for exemption if the following conditions are met:

(a) The caretaker's duties include regular surveillance, patrolling the exempt property, and routine maintenance services;

(b) The nonprofit entity, hospital established under chapter 36.62 RCW, or the public hospital district established under chapter 70.44 RCW demonstrates the need for a caretaker at the facility;

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

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

(11) **Nonexempt uses of property.** The use of property exempt under this chapter, other than as specifically authorized by this chapter, nullifies the exemption otherwise available for the property for the assessment year. However, the exemption is not nullified by the use of the property by any individual, group, or entity, where such use is not otherwise authorized by this chapter, for not more than fifty days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations do not include days for setup and takedown activities that take place immediately preceding or following a meeting or other event. If these requirements are not met, the exemption is removed for the affected portion of the property for that assessment year.

(12) **Segregation of nonqualifying property.** Any portion of exempt property not meeting the qualifications of this rule will lose its exempt status. Nonqualifying property must be segregated from property used for exempt purposes. For example, if a portion of a building owned by a nonprofit hospital is rented to a sandwich shop, this portion of the hospital must be segregated from the remainder of the building that is being used for exempt hospital purposes. The portion of the building rented to the sandwich shop is subject to property tax.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.36.389, 84.52.0502, and 84.55.060. WSR 18-04-006, § 458-16-165, filed 1/25/18, effective 2/25/18. Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080,

84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-165, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.36.865, 84.36.040, 84.36.-042, 84.36.045, 84.36.046, 84.36.050, 84.36.385, 84.36.560, 84.36.570, 84.36.800, 84.36.805, 84.36.810, 84.36.815, 84.36.820, 84.36.825, 84.36.-830, 84.36.833, 84.36.840, 84.36.850, and 84.40.350 through 84.40.390. WSR 02-02-009, § 458-16-165, filed 12/20/01, effective 1/20/02. Statutory Authority: RCW 84.36.865, 84.36.037, 84.36.805, 84.36.815, 84.36.825 and 84.36.840. WSR 98-18-006, § 458-16-165, filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-165, 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 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 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.

[Statutory Authority: RCW 84.36.865. WSR 06-20-005, § 458-16-180, filed 9/21/06, effective 10/22/06. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-180, filed 3/3/94, effective 4/3/94; Order PT 77-2, § 458-16-180, filed 5/23/77; Order PT 76-2, § 458-16-180, filed 4/7/76. Formerly WAC 458-12-190.]

WAC 458-16-190 Churches, parsonages and convents. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.020 to churches, parsonages, and convents.

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

(a) "Church purposes" means the use of real and personal property owned by a nonprofit religious organization for religious worship or related administrative, educational, eleemosynary, and social activities. This definition is to be broadly construed. The term "use" includes real property owned by a nonprofit religious organization upon which a church will be built.

(b) "Clergy person" means a person ordained or regularly licensed for religious service and includes both male and female individuals.

(c) "Commercial" refers to an activity or enterprise that has profit making as one of its primary purposes.

(d) "Convent" means a house or set of buildings occupied by a community of clergy or nuns devoted to religious life under a superior.

(e) "Eleemosynary" means charitable, including types of activities in which some social objective is served or general welfare is advanced.

(f) "Owned" means owned in fee or by contract purchase.

(g) "Parsonage" means a residence, owned by a church, that is occupied by a clergy person designated for a particular congregation and who holds regular services for that congregation.

(h) "Regular services" means religious services that are conducted on a routine and systematic basis at prearranged times, days, and places. This term includes religious services that are conducted by a visiting or circuit clergy person who may only hold services once a month in a particular location if that person is scheduled to conduct services on a routine and prearranged basis on the exempt property.

(i) "Unoccupied land" means land that is undeveloped, unused, and upon which no structures or improvements have been built.

(i) This land includes, but is not limited to, greenbelt, wetland, and other undeveloped areas contiguous to an exempt church, parsonage, or convent.

(ii) This land does not include parking lots, landscaped grounds, or playing fields.

(3) **Property exempt and extent of exemption.** The church and the ground upon which a church is or will be built, together with a parsonage, convent, structures and ground necessary for street access, parking, light, ventilation, and buildings and improvements required to maintain and safeguard the property owned by a nonprofit religious organization and wholly used for church purposes will be exempt from property taxation to the following extent:

(a) The exempt area must not exceed five acres of land, including ground that is occupied and unoccupied. Occupied ground is ground covered by the church, parsonage, convent, structures and ground necessary for street access, parking, light, ventilation, and buildings and improvements required for the maintenance and security of such property.

(b) The unoccupied land included within this five-acre limitation may not exceed one-third of an acre (fourteen thousand four hundred square feet), unless additional unoccupied land is required to conform with state or local codes, zoning, or licensing requirements.

(4) **Noncontiguous property.** A parsonage or convent may qualify for exemption even if located on land that is not contiguous to the church property; however, the five acre limitation still applies, as does the limitation described in subsection (3)(b) of this rule with respect to unoccupied land.

(5) **Exemption of caretaker's residence.** A caretaker's residence located on church property may qualify for exemption if 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 caretaker is required to provide either security or maintenance service described as follows:

(i) Security of the premises is provided by the caretaker, not merely by his or her presence, but by regular surveillance and patrolling of the grounds, locking gates if necessary, and generally acting in a manner to ensure the security of the property; or

(ii) Maintenance service is provided on a daily basis to open and close the premises, activate or shut down environmental systems, and provide other maintenance and custodial services necessary for the effective operation and utilization of the facilities; 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.

(6) **Property not used for church purposes.** Except as provided in this rule, when property is not used for church purposes, the exemption is lost. If a portion of the exempt property is used for commercial rather than church purposes, that portion must be segregated and taxed whether or not the proceeds received by the church from the commercial use are applied to church purposes.

(7) **Loan, rental, or use of exempt property.** If the rental income or donations, if any, are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property being loaned or rented, the tax exempt status of any property exempt under this rule will not be affected by:

(a) The loan or rental to a nonprofit organization, association, corporation, or school to conduct eleemosynary activities or to conduct activities related to a farmers market. Activities related to a farmers market may not occur on the property more than fifty-three days each assessment year. For the purposes of this rule, "farmers market" has the same meaning as "qualifying farmers market" as defined in RCW 66.24.170;

(b) The rental or use of the property by any individual, group, or entity, where such rental or use is not otherwise authorized by this rule, for not more than fifty days in each calendar year, and the property is not used for pecuniary gain or to promote business activities for more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations do not include days for setup and takedown activities preceding or following a meeting or event; or

(c) An inadvertent use of the property in a manner inconsistent with the purpose for which the exemption was granted, if the inadvertent use is not part of a pattern of use. A pattern of use is presumed when an inadvertent use is repeated in the same assessment year or in two or more successive assessment years.

(8) **Fund-raising events.** The use of exempt property for fund-raising events sponsored by an exempt organization, association, or corporation does not subject the property to taxation if the fund-raising events are consistent with the purposes for which the exemption was granted. The term "fund-raising" means any revenue-raising event limited to less than five days in length, that disburses fifty-one percent or more of the profits realized from the event to the exempt nonprofit organization, association, or corporation that is holding the fund-raising, and that takes place on exempt property.

(a) Example 1. An exempt nonprofit social service agency holds an art auction in the church basement to raise funds. Since the fund-raising event is being held on exempt property, the event must be less than five days in length and fifty-one percent of the profits must be disbursed to the social service agency.

(b) Example 2. The women's auxiliary of the church has a candy sale to raise funds for the church's program to provide meals to the homeless during which the candy is sold door-to-door by members of the auxiliary. Since the candy sale is not being held on the exempt property, the sale is not limited to five days in duration nor do fifty-one percent of the profits from this fund-raising event have to be remitted to the church.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-190, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-190, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 82-22-060 (Order PT 82-8), § 458-16-190, filed 11/2/82; WSR 81-21-009 (Order PT 81-13), § 458-16-190, filed 10/8/81; Order PT 77-2, § 458-16-190, filed 5/23/77; Order PT 76-2, § 458-16-190, filed 4/7/76. Formerly WAC 458-12-195.]

WAC 458-16-200 Land upon which a church or parsonage shall be built. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.020 to land upon which a church is to be built or upon which a parsonage or convent is being built in conjunction with and on land contiguous to a church.

(2) **Exemption.** Any property upon which a church is to be built may be exempt from ad valorem taxation if the church has a specific plan and clear intent to use the land for this and no other purpose.

(a) This property may include land upon which a parsonage or convent is to be built on land contiguous to a church.

(b) A parsonage or convent to be built on noncontiguous real property shall not be entitled to exemption until the parsonage or convent is built and occupied by a clergy person.

(3) **Burden of proof.** A nonprofit religious organization claiming this exemption must submit proof that a reasonably specific and active program is being carried out to construct a church within a reasonable period of time. Such proof shall include sufficient information from which the department will be able to determine what portion of the property will qualify for exemption when construction is completed.

(4) **Proof of required intent.** Proof that may be submitted to evidence the required intent to build may include, but is not limited to:

(a) Affirmative action by the board of directors, trustees, or governing body of the nonprofit religious organization toward an active program of construction.

(b) Itemized reasons for the proposed construction, such as:

(i) Need for expansion due to growth;

(ii) Replacement of wornout buildings; or

(iii) Initial facilities for a newly organized congregation or nonprofit religious organization;

(c) Clearly established plans for financing the construction;

(d) Proposed architectural plans that would show what portion of the property will be under actual exempt use;

(e) Building permits; or

(f) Any other proof the department may deem relevant to show an active program aimed at construction.

(5) **Time limit regarding future construction.** The length of time under which a property may be held for future construction under this section shall be dependent upon the intent evidenced under the circumstances of each individual situation. If there is no evidence of progress towards construction within a calendar year, the exemption will be removed.

[Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-200, filed 3/3/94, effective 4/3/94; Order PT 77-

2, § 458-16-200, filed 5/23/77; Order PT 76-2, § 458-16-200, filed 4/7/76. Formerly WAC 458-12-200.]

WAC 458-16-210 Nonprofit organizations or associations organized and conducted for nonsectarian purposes. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.-030(1) to nonprofit organizations or associations organized and conducted for nonsectarian purposes.

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

(a) "Benevolent" refers to social services or programs directed at persons of all ages arising from or prompted by motives of charity or a sense of benevolence, that are marked by a kindly disposition to promote the happiness and prosperity of others by generosity in and pleasure at doing good works, or are organized for the purpose of doing good. For example, a benevolent organization may provide a food bank, a soup kitchen, or counseling services at cost.

(b) "Character building" means social services or programs designed for the general public good that assist people with general living skills, developing interview and job seeking skills, or assist people in working towards independent living and self sufficiency. These services include, but are not limited to, programs designed to develop an individual's moral or ethical strength, leadership, integrity, self-discipline, fortitude, self-esteem, and reputation.

(c) "Commercial" refers to an activity or enterprise that has profit making as its primary purpose.

(d) "Community outreach group" means a nonprofit group organized to extend social services to a particular segment of the community. For example, a rescue mission organized to feed the homeless or a program that targets juveniles "at risk" of criminal or abusive behavior.

(e) "Nonsectarian purpose" means a purpose that is not associated with or limited to a particular religious group.

(f) "Protective" refers to activities that are meant to cover, to guard, or to shield other persons from injury or destruction or to save others from financial loss. For example, a protective organization may provide housing for battered persons or for the developmentally disabled or may assist persons with behavioral problems by providing encouragement, support, and training.

(g) "Rehabilitative or rehabilitation" refers to activities designed to restore individuals to a former capacity, to a condition of health, or to useful or constructive activity. For example, a rehabilitative organization may assist persons to overcome alcohol or substance abuse, or to overcome the effects of a physical injury, stroke, or heart attack.

(h) "Social service" means programs designed to help people resolve problems, become more self-sufficient, prevent dependency, strengthen family relationships, and/or enhance the functioning of individuals in society. These services include, but are not limited to, programs in the general categories of:

(i) Socialization and development; and

(ii) Therapy, help, rehabilitation, and social protection.

(3) **Exemption.** The real and personal property owned by nonprofit organizations, associations, or corporations are exempt from taxation if the organization, association, or corporation is organized and conducted for nonprofit and nonsectarian purposes. To be exempt, the property must be used for character-building, benevolent, protective, or rehabilitative social services directed at persons of all ages.

(a) Gift and giving. To qualify for this exemption, there must be an element of gift and giving in the nonprofit organization's, association's, or corporation's activities, in relation to the people it serves. This element of gift and giving requires giving something of value with no expectation of compensation or remuneration. The words "gift" and "giving," within the context of this rule, mean a voluntary act. In order to meet this requirement of gift and giving, the nonprofit organization, association, or corporation must annually meet one of the following conditions:

(i) Provide goods and/or services free of charge or at a rate that is at least twenty percent below the total actual cost of such goods and/or services to a minimum of fifteen percent of the total number of people assisted by that nonprofit organization, association, or corporation; or

(ii) Contribute at least ten percent of its total annual income towards the support of character-building, benevolent, protective or rehabilitative social services or programs. "Total annual income" refers to the total income reported to the Internal Revenue Service for that year and includes, but is not limited to, funds received through direct and indirect public support, government grants, membership fees, and other contributions. The term does not include funds that are specifically donated or contributed for capital improvements.

(A) In order to meet this ten percent requirement, a nonprofit organization, association, or corporation may include, but is not limited to, the value of time volunteers donate to carry out program services and functions, the loan of its facilities to community outreach groups, and gifts of scholarships and other fee subsidies.

(B) If a nonprofit organization utilizes volunteer time to reach the ten percent requirement, it must maintain records identifying the individuals who donate their services and the number of hours they donate. The value of donated time will be calculated by using the federal minimum wage standard.

(C) If a nonprofit organization allows community outreach groups to use its facilities free of charge, it must maintain records identifying the community outreach groups that used the exempt property and the number of hours each group used the exempt property. The value of this use will be calculated by taking the number of hours or any portion of an hour, the facility is used by these groups and multiplying it by the customary charge the nonprofit organization, association, or corporation charges to rent its facility to any other group.

(b) Conditions and restrictions. A nonprofit organization, association, or corporation may not impose conditions or restrictions on the use of the exempt property by persons who do not personally pay the total actual cost of a social service, except conditions or restrictions that are reasonably necessary to safeguard the exempt property and to comply with the purposes of this exemption.

(c) Fraternal organizations. Property used by a fraternal organization or association for fraternal purposes does not qualify for an exemption under this rule.

(d) Nonqualifying property. If any portion of the organization's or association's property is used for a commercial rather than a nonprofit, nonsectarian exempt purpose, then

that portion will not qualify for this exemption and must be segregated from property used for exempt purposes.

(e) Selling donated merchandise. The sale of donated merchandise is considered an exempt use of the property if the proceeds are dedicated to the exempt purpose associated with the nonprofit, nonsectarian organization or association. For example, thrift store operations that are restricted to the sale of "donated merchandise" will not jeopardize this exemption if the claimant can verify the proceeds are directed to an exempt purpose.

(f) Property with option to repurchase. Property leased, loaned, or sold with the option to repurchase or made available to organizations described in RCW 84.36.030, does not qualify for this exemption unless:

(i) The property is owned by an organization exempt under RCW 84.36.020 or 84.36.030 and the organization loans, leases, or rents the property to another organization for the exempt purposes described in RCW 84.36.030; or

(ii) The property is owned by an entity formed exclusively for the purpose of leasing the property to an organization that will use the property for the exempt purposes described in RCW 84.36.030 if:

(A) The lessee uses the property for the exempt purposes provided in RCW 84.36.030;

(B) The immediate previous owner of the property had received an exemption under RCW 84.36.020 or 84.36.030 for the property; and

(C) The benefit of the exemption inures to the benefit of the lessee organization.

(4) **Additional requirements.** Any organization or association that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.030.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-210, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-210, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 88-02-010 (Order PT 87-10), § 458-16-210, filed 12/28/87; WSR 86-12-034 (Order PT 86-2), § 458-16-210, filed 5/30/86; WSR 85-05-025 (Order PT 85-1), § 458-16-210, filed 2/15/85. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 83-19-029 (Order PT 83-5), § 458-16-210, filed 9/14/83. Statutory Authority: RCW 84.36.865. WSR 81-05-017 (Order PT 81-7), § 458-16-210, filed 2/11/81; Order PT 77-2, § 458-16-210, filed 5/23/77; Order PT 76-2, § 458-16-210, filed 4/7/76. Formerly WAC 458-12-205.]

WAC 458-16-215 Nonprofit organizations that solicit, collect, and distribute gifts, donations, or grants. (1) **Introduction.** This section explains the property tax exemption available under RCW 84.36.550 to nonprofit organizations that solicit or collect gifts, donations, or grants to be distributed to other nonprofit organizations for character-building, benevolent, protective, or rehabilitative social services.

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

(a) "Benevolent" refers to social services or programs that are directed at persons of all ages, that arise from or are prompted by motives of charity or a sense of benevolence, that are marked by a kindly disposition to promote the happiness and prosperity of others, by generosity in and pleasure at doing good works, or that are organized for the purpose of doing good. For example, a benevolent organization may provide a food bank, a soup kitchen, or counseling services at cost.

(b) "Gifts, donations, or grants" means only amounts that are given or received as outright gifts. Any amount, however designated, that is given or received in return for any goods, services, or other benefits will not be considered a "gift, donation, or grant" for the purposes of this rule. A "gift, donation, or grant" is an amount given or received without conditions, from detached and disinterested generosity, out of affection, respect, charity or like impulses and not because of any moral or legal duty or from the expectation of anticipated benefits. For example, the purchase of a "raffle ticket" or "bingo card" does not qualify as a "gift, donation, or grant" because the sponsor of the raffle or bingo game is selling a chance to win a prize and the participant is paying a portion of the purchase price of that prize and is receiving the chance to receive the prize or prizes in exchange for his or her payment.

(c) "Nonsectarian purpose" means a purpose that is not associated with or limited to a particular religious group.

(d) "Organization" includes associations and corporations.

(e) "Protective" refers to activities that are meant to cover, to guard, or to shield other persons from injury or destruction or to save others from financial loss. For example, a protective organization may provide housing for battered persons or for the developmentally disabled or may assist persons with behavioral problems by providing encouragement, support, and training.

(f) "Rehabilitative or rehabilitation" refers to activities designed to restore individuals to a former capacity, to a condition of health, or to useful or constructive activity. For example, a rehabilitative organization may assist persons to overcome alcohol or substance abuse, or to overcome the effects of a physical injury, stroke, or heart attack.

(g) "Social service" means programs designed to help people resolve problems, become more self-sufficient, prevent dependency, strengthen family relationships, and/or enhance the functioning of individuals in society. These services include, but are not limited to, programs in the general categories of:

(i) Socialization and development; and

(ii) Therapy, help, rehabilitation, and social protection.

(3) **Exemption.** The real and personal property owned by a nonprofit organization is exempt from taxation if the property is owned by a nonprofit organization and is used to solicit or collect gifts, donations, or grants for distribution to other nonprofit organizations, associations, or corporations organized and conducted for nonsectarian purposes that provide character-building, benevolent, protective, or rehabilitative social services directed at persons of all ages. To qualify for this exemption, the nonprofit organization must meet all of the following conditions:

(a) Organized and conducted for nonsectarian purposes;

(b) Affiliated with a state or national organization that authorizes, approves, or sanctions volunteer charitable fundraising organizations;

(c) Qualified for exemption under section 501 (c)(3) of the federal Internal Revenue Code;

(d) Governed by a volunteer board of directors;

(e) Use the gifts, donations, and grants solicited or collected for character-building, benevolent, protective, or rehabilitative social services directed at persons of all ages or distribute the gifts, donations, or grants in accordance with (f) of this subsection;

(f) Annually distribute gifts, donations, or grants to at least five other nonprofit organizations, associations, or corporations organized and conducted for nonsectarian purposes that provide character-building, benevolent, protective, or rehabilitative social services directed at persons of all ages.

(4) **Examples.**

(a) The United Way solicits and collects gifts, donations, and grants from numerous sources such as government employees, private businesses, and corporate sponsors. The gifts, donations, and grants received by the United Way are, in turn, distributed to other nonprofit organizations, associations, and corporations that provide character-building, benevolent, protective, or rehabilitative social services directed at persons of all ages. The United Way does not necessarily provide these social services itself but it does own property that is used to solicit and collect gifts, donations, and grants. The United Way would be entitled to receive this exemption if, in addition to owning and using the property to solicit and collect gifts, donations, and grants, it meets all of the conditions listed in subsection (3) of this section.

(b) A nonprofit organization owns real and personal property that is used for bingo games, pull-tabs, and food services to raise funds for the organization's charitable activities that are not conducted at this location. Even if the nonprofit organization in this case is organized for nonsectarian purposes, affiliated with a national organization that authorizes, approves, and sanctions volunteer charitable fund-raising organizations, classified as a section 501 (c)(3) organization with the Internal Revenue Service, and governed by a volunteer board of directors, the bingo facility would not be entitled to an exemption because this property is not used to solicit or collect gifts, donations, or grants because the purchase of a bingo card is not a "gift, donation, or grant" within the meaning of this rule.

(5) **Additional requirements.** Any organization or association that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 sets forth additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.550.

[Statutory Authority: RCW 84.08.010 and 84.08.070. WSR 94-15-041, § 458-16-215, filed 7/14/94, effective 8/14/94.]

WAC 458-16-220 Church camps. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.030(2) to property used as a church camp and owned by a nonprofit church, denomination, group of churches, or an organization or association of churches.

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

(a) "Church purposes" means the use of real and personal property owned by a nonprofit religious organization for religious worship or related administrative, educational, eleemosynary, and social activities.

(b) "Property" means real or personal property owned by a nonprofit church, denomination, group of churches, or an organization or association of churches.

(3) **Exemption.** Property owned by a nonprofit church, denomination, group of churches, or an organization or association comprised solely of churches or their qualified representatives that is used exclusively on a regular and scheduled basis for organized and supervised recreational or educational activities and church purposes related to camp facilities is exempt from property tax up to a maximum of two hundred acres as selected by the church, including buildings and other improvements located on the land.

(4) **Property with option to repurchase.** Property leased, loaned, or sold with the option to repurchase or made available to organizations described in RCW 84.36.030 does not qualify for this exemption unless:

(a) The property is owned by an organization exempt under RCW 84.36.020 or 84.36.030 and the organization loans, leases, or rents the property to another organization for the exempt purposes described in RCW 84.36.030; or

(b) The property is owned by an entity formed exclusively for the purpose of leasing the property to an organization that will use the property for the exempt purposes described in RCW 84.36.030 if:

(i) The lessee uses the property for the exempt purposes provided in RCW 84.36.030;

(ii) The immediate previous owner of the property had received an exemption under RCW 84.36.020 or 84.36.030 for the property; and

(iii) The benefit of the exemption inures to the benefit of the lessee organization.

(5) **Additional requirements.** Any organization or association that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.030.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-220, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-220, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 86-12-034 (Order PT 86-2), § 458-16-220, filed 5/30/86; WSR 85-05-025 (Order PT 85-1), § 458-16-220, filed 2/15/85; Order PT 77-2, § 458-16-220, filed 5/23/77; Order PT 76-2, § 458-16-220, filed 4/7/76. Formerly WAC 458-12-206.]

WAC 458-16-230 Character building organizations. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.030(3) to property owned by a nonprofit organization or association engaged in character building of children under eighteen years of age.

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

(a) "Character building" refers to activities for children under eighteen years of age that are for the general public good. The activities may build, improve, or enhance a child's moral constitution by developing moral or ethical strength, leadership, integrity, self-discipline, fortitude self-esteem, and reputation. For example, "character building" activities may involve organized and supervised recreational activities

including, but not limited to, exploring, hiking, beachcombing, swimming, fishing, studying, and discussion groups.

(b) "Commercial" refers to an activity or enterprise that has profit making as its primary purpose.

(c) "Property" means real and personal property owned and used by a nonprofit organization or association engaged in character building of children under eighteen years of age and includes all buildings, structures, and improvements required to maintain and to safeguard the property.

(3) **Exemption.** Property owned by nonprofit organizations or associations engaged in character building of children under eighteen years of age is exempt from taxation if it is exclusively used to promote character building.

(a) To be entitled to receive this exemption, the organization or association must be nonprofit and its purpose must be for the general public good. All property of a character building organization or association must be devoted to the general public benefit.

(b) Except as otherwise provided in this rule, only property that is exclusively used for character building of children under eighteen years of age, is exempt under this rule. If the property is used for any other purpose, whether commercial or otherwise, it must be segregated and taxed.

(c) A nonprofit character building organization or association may also qualify for this exemption if, prior to 1971, its articles of incorporation or charter mandated the organization or association to provide services to children up to the age of twenty-one years.

(4) **Property with option to repurchase.** Property leased, loaned, or sold with the option to repurchase or made available to organizations described in RCW 84.36.030 does not qualify for this exemption unless:

(a) The property is owned by an organization exempt under RCW 84.36.020 or 84.36.030 and the organization loans, leases, or rents the property to another organization for the exempt purposes described in RCW 84.36.030; or

(b) The property is owned by an entity formed exclusively for the purpose of leasing the property to an organization that will use the property for the exempt purposes described in RCW 84.36.030 if:

(i) The lessee uses the property for the exempt purposes provided in RCW 84.36.030;

(ii) The immediate previous owner of the property had received an exemption under RCW 84.36.020 or 84.36.030 for the property; and

(iii) The benefit of the exemption inures to the benefit of the lessee organization.

(5) **Additional requirements.** Any organization or association that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.030.

(6) **Related statute.** See RCW 82.04.4271; if a "nonprofit youth organization" is exempt from property taxation under RCW 84.36.030, it may deduct membership fees and certain service fees in calculating the amount of business and occupation tax due.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-230, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-230, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 86-12-034 (Order PT 86-2), § 458-16-230, filed 5/30/86; WSR 85-05-025 (Order PT 85-1), § 458-16-230, filed 2/15/85; Order PT 77-2, § 458-16-230, filed 5/23/77; Order PT 76-2, § 458-16-230, filed 4/7/76. Formerly WAC 458-12-210.]

WAC 458-16-240 Veterans organizations. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.030(4) for real and personal property owned by organizations and societies of veterans of any war of the United States.

(2) **Exemption.** Property owned by organizations or societies of war veterans, which are recognized by the department of defense and nationally chartered, is exempt from taxation.

(a) The general purposes and objectives of these organizations or societies must be to:

(i) Preserve memories and associations incident to war service; and

(ii) Devote their members' efforts to mutual helpfulness and to patriotic and community service to state and nation.

(b) In order to qualify for this exemption, the property must be used in a manner reasonably necessary to carry out the purposes and objectives of the organization or society of war veterans. For example, a building owned by a chapter of the veterans of foreign wars that is used to hold meetings to plan a Veterans Day celebration may qualify for exemption.

(3) **Property with option to repurchase.** Property leased, loaned, or sold with the option to repurchase or made available to organizations described in RCW 84.36.030 does not qualify for this exemption unless:

(a) The property is owned by an organization exempt under RCW 84.36.020 or 84.36.030 and the organization loans, leases, or rents the property to another organization for the exempt purposes described in RCW 84.36.030; or

(b) The property is owned by an entity formed exclusively for the purpose of leasing the property to an organization that will use the property for the exempt purposes described in RCW 84.36.030 if:

(i) The lessee uses the property for the exempt purposes provided in RCW 84.36.030;

(ii) The immediate previous owner of the property had received an exemption under RCW 84.36.020 or 84.36.030 for the property; and

(iii) The benefit of the exemption inures to the benefit of the lessee organization.

(4) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.030.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-240, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-240, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 86-12-034 (Order PT 86-2), § 458-16-240, filed 5/30/86; WSR 85-05-025 (Order PT 85-1), § 458-16-240, filed 2/15/85; Order PT 77-2, § 458-16-240, filed 5/23/77; Order PT 76-2, § 458-16-240, filed 4/7/76. Formerly WAC 458-12-215.]

WAC 458-16-245 Student loan agencies. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.030(6) to a nonprofit organization, association, or corporation that is exempt from federal income taxation and either guarantees student loans or issues debt to provide or acquire student loans.

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

(a) "Student loan agency" means a nonprofit organization or association that is exempt from federal income tax under section 501 (c)(3) of the Federal Internal Revenue Code of 1954 (as amended) and:

(i) Is a guarantee agency under the federal guaranteed student loan program; or

(ii) Issues debt to provide or acquire student loans.

(b) "Property" means real or personal property owned by a nonprofit organization, association, or corporation that qualifies as a "student loan agency."

(c) "Commercial" refers to an activity or enterprise that has profit making as its primary purpose.

(3) **Exemption.**

(a) Property owned and used by a nonprofit organization, association, or corporation that is a guarantee agency under the federal guaranteed student loan program or that issues debt to provide or acquire student loans is exempt from taxation.

(b) If any portion of the organization's, association's, or corporation's property is used for a commercial rather than an exempt purpose that portion must be segregated and taxed.

(4) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165 that explains the additional conditions and requirements necessary to obtain a property tax exemption pursuant to RCW 84.36.030.

[Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-245, filed 3/3/94, effective 4/3/94.]

WAC 458-16-260 Nonprofit child day care centers, libraries, orphanages, homes for sick or infirm, hospitals, outpatient dialysis facilities. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.040 for property used by nonprofit child day care centers, libraries, orphanages, homes for the sick or infirm, hospitals, and outpatient dialysis facilities. This rule also explains the property tax exemption available to property leased to and used by a hospital for hospital purposes if the hospital is established under chapter 36.62 RCW or is owned and operated by a public hospital district established under chapter 70.44 RCW.

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

(a) "Convalescent" or "chronic care" means any or all procedures commonly employed in caring for the sick including, but not limited to, administering medicines, preparing special diets, providing bedside nursing care, applying dressings and bandages, and carrying out any treatment prescribed by a duly licensed practitioner of the healing arts.

(b) "Child day care center" means a nonprofit organization that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four consecutive hours.

(c) "Home for the sick or infirm" means any home, place, or institution that operates or maintains facilities to provide convalescent or chronic care, or both, for three or more persons not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable to properly care for themselves.

(i) The services must be provided to persons over a continuous period of twenty-four hours or more.

(ii) A boarding home, guest home, hotel, or similar institution that is held forth to the public as providing and supplying only room, board, or laundry services to persons who do not need medical or nursing treatment or supervision is not considered a "home for the sick or infirm" for purposes of this rule.

(d) "Hospital" means a nonprofit organization, association, or corporation engaged in providing medical, surgical, nursing, or related health care services for the prevention, diagnosis, or treatment of human illness, pain, injury, disability, deformity, or abnormality, including mental illness, treatment of mentally incompetent persons, or treatment of chemically dependent persons. The term also means all buildings or portions of buildings that are currently licensed as part of a hospital pursuant to chapters 70.41 or 71.12 RCW, and are part of an integrated, interrelated, homogeneous unit exclusively used for hospital purposes. The licensed hospital must be able to provide health care services to inpatients over a continuous period of twenty-four hours or more. The term also includes:

(i) Administrative and support facilities integral and necessary to the functioning of the licensed hospital;

(ii) Buildings used as a residence for persons engaged or employed on a regular basis in the operation of a licensed hospital. Such buildings include, but are not limited to, a nurse's home or a residence for hospital employees; and

(iii) Residential units administered by a licensed hospital that are exclusively used to temporarily house families of inpatients in an integrated program of therapy.

"Hospital" does not mean:

(A) Hotels or similar places that furnish only food and lodging or simple domiciliary care;

(B) Clinics or physician's offices not licensed as part of a hospital, where patients are not regularly kept as bed patients for twenty-four hours or more;

(C) Nursing homes as defined in chapter 18.51 RCW; and

(D) Maternity homes as defined in chapter 18.46 RCW.

(3) **Exemption for exclusively used property.** All real and personal property exclusively used by a nonprofit organization, association, or corporation for the following institutions is exempt from taxation:

(a) Child day care centers;

(b) Free public libraries;

(c) Orphanages and orphan asylums;

(d) Homes for the sick or infirm;

(e) Hospitals for the sick; and

(f) Outpatient dialysis facilities.

(4) **Exemption for loaned, leased, or rented property.** Property loaned, leased, or rented to an institution listed in

subsections (3)(a) through (f) of this rule is also exempt from taxation if:

(a) The property is exclusively used by the nonprofit organization, association, or corporation;

(b) The benefit of the exemption inures to the user; and

(c) The property was specifically identified as loaned, leased, or rented when the application for exemption was made.

(5) **Property leased or rented to and used by hospitals.** All real and personal property leased or rented to and used by a hospital for hospital purposes is exempt from property tax if the hospital is established under chapter 36.62 RCW or is owned and operated by a public hospital district established under chapter 70.44 RCW. The benefit of the exemption must inure to the entity using the exempt property.

(6) **Additional requirements.** Any organization or association that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be complied with to obtain a property tax exemption under RCW 84.36.040.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-260, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.36.865 and 84.36.040. WSR 10-02-010, § 458-16-260, filed 12/24/09, effective 1/24/10. Statutory Authority: RCW 84.36.865, 84.36.040 and 84.36.050. WSR 01-24-037, § 458-16-260, filed 11/28/01, effective 12/29/01. Statutory Authority: RCW 84.08.010, 84.08.-070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-260, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 88-02-010 (Order PT 87-10), § 458-16-260, filed 12/28/87; WSR 85-05-025 (Order PT 85-1), § 458-16-260, filed 2/15/85. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 83-19-029 (Order PT 83-5), § 458-16-260, filed 9/14/83. Statutory Authority: RCW 84.36.865. WSR 81-05-017 (Order PT 81-7), § 458-16-260, filed 2/11/81; Order PT 77-2, § 458-16-260, filed 5/23/77; Order PT 76-2, § 458-16-260, filed 4/7/76. Formerly WAC 458-12-225.]

WAC 458-16-266 Homeownership development. (1) **Introduction.** RCW 84.36.049 explains that real property owned by a nonprofit entity for the purpose of developing or redeveloping on the real property one or more residences to be sold to low-income households is exempt from state and local property taxes, subject to certain limitations.

(2) **Definitions.**

(a) "Financial statements" means an audited annual financial statement and a completed United States treasury internal revenue service return form 990 for organizations exempt from income tax.

(b) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for family size as most recently determined by the federal Department of Housing and Urban Development for the county in which the property is located.

(c) "Nonprofit entity" means a nonprofit as defined in RCW 84.36.800 that is exempt from federal income taxation under 26 U.S.C. Sec. 501 (c)(3) of the federal Internal Revenue Code of 1986, as amended.

(d) "Property tax year" means the year in which property taxes are due.

(e) "Real property" has the same meaning as contained in RCW 84.04.090.

(f) "Residence" means a single-family dwelling unit whether such unit is separate or part of a multiunit dwelling, including the land on which such dwelling stands. If the residence is part of a multiunit dwelling, such as a condominium complex, the purchaser must also receive a fractional interest in the land for the nonprofit entity to qualify for the exemption.

(3) **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.

(4) **Exemption application.** The exemption is effective June 9, 2016. Nonprofit entities may qualify for this exemption for up to a maximum of ten consecutive property tax years. The initial exemption is for a period of up to seven consecutive property tax years and the exemption extension, as described in subsection (5) of this rule, is for an additional period of up to three consecutive property tax years.

(a) Initial application. Initial applications will not be accepted after December 31, 2026. To apply for this exemption, the nonprofit entity must submit a completed application to the department:

(i) On or before July 1, 2016, for the 2017 property tax year;

(ii) On or before March 31st of each year, thereafter, for taxes to be collected in the following property tax year; or

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

(b) Retroactive applications. Retroactive applications for this exemption for previous years are accepted, up to a maximum of three years from the date taxes were due on the property. The applicant must provide the department with acceptable proof that the property qualified for exemption during the pertinent assessment years and pay the late filing penalties. Retroactive applications will not be approved for taxes due prior to the 2017 property tax year and will not be accepted after December 31, 2026.

(c) Renewal application. Once a nonprofit entity is approved by the department for this exemption, no annual renewal application is required.

(d) Late filing. Late filing fees apply to retroactive applications, as described in (b) of this subsection, and to late applications filed under (a) of this subsection. Late filing fees of ten dollars per month or portion of a month will accrue beginning the date following the application deadline and continues through the application's actual postmark or email date.

(e) Reporting requirements. To measure the effectiveness of this exemption:

(i) All nonprofit entities receiving this exemption must provide, upon request by the joint legislative and audit review committee, annual financial statements for each year the exemption was claimed. The nonprofit entity must clearly identify the line or lines on the financial statements that represent the percentage of revenues dedicated to the development of affordable housing; and

(ii) The department must provide, upon request, approved initial applications for this exemption and owner occupancy notices reported by the nonprofit entity receiving this exemption, to the joint legislative audit and review committee.

(5) **Extensions.**

(a) If the nonprofit entity believes that title to the real property will not be transferred by the end of the sixth consecutive property tax year, it may file a notice of extension with the department. The extension:

(i) Is for a period of up to three property tax years;

(ii) Must be filed with the department on or before March 31st of the sixth consecutive property tax year. If the sixth consecutive property tax year occurs on or after January 1, 2027, the nonprofit entity must file an extension application no later than December 31, 2026; and

(iii) Requires a filing fee equal to the greater of two hundred dollars or one-tenth of one percent of the real market value of the property as of the most recent assessment date.

(b) **Example 1**. ABC Homes, a nonprofit entity, purchases vacant land on December 1, 2017, and begins building a single family residence that will subsequently be sold to a low-income household. ABC Homes must submit an initial application to the department within sixty days of acquiring the property to qualify for the exemption beginning in the 2018 property tax year. If approved, the exemption will continue until the residence is sold or transferred to a low-income household or through the 2024 property tax year, whichever is earlier. If ABC Homes believes the residence will not be sold or transferred to a low-income household by December 31, 2023 (the sixth consecutive property tax year), it may apply for a three-year extension no later than March 31, 2023. If the extension is approved, the exemption will be effective for taxes payable through the 2027 property tax year.

(c) **Example 2.** DEF Development, a nonprofit entity, purchases a residence on August 1, 2021. The residence will be remodeled and then sold to a low-income household. DEF Development must submit an initial application to the department within sixty days of acquiring the property to qualify for the exemption beginning in the 2022 property tax year. If approved, the exemption will continue until the residence is sold or transferred to a low-income household or through the 2028 property tax year, whichever is earlier. If DEF Development believes the residence will not be sold or transferred to a low-income household by December 31, 2027 (the sixth consecutive property tax year), it may apply for a three-year extension no later than December 31, 2026 (the last day to apply for a three-year extension). If the extension is approved, the exemption will be effective for taxes payable through the 2031 property tax year.

(6) **Expiration.** This exemption expires on or at the earlier of:

(a) The date on which the nonprofit entity transfers title of the real property;

(b) The end of the seventh consecutive property tax year without an extension;

(c) The end of the tenth consecutive property tax year with an extension; or

(d) The date the real property and residence is no longer held for the purpose for which the exemption was granted. The lease or rental of the property is not considered a qualifying exempt purpose.

(7) **Disqualification and additional tax.**

(a) If the nonprofit entity has not transferred title of the real property to a low-income household within the applicable periods described in subsection (6)(b) or (c) of this rule, or if the real property is no longer held for the purpose for which the exemption was granted as described in subsection (6)(d) of this rule, then the real property is disqualified from the exemption. When real property is disqualified, additional tax and interest are due.

(b) Additional tax and interest. When real property is disqualified from this exemption, the county treasurer must:

(i) Collect additional tax. The additional tax is equal to all taxes that would have been paid on the real property had the exemption not been granted, along with interest at the same rate and calculated in the same manner as interest on delinquent property taxes. The additional tax and interest are due in full thirty days from the issue date on the treasurer's statement; and

(ii) Distribute the additional taxes in the same manner that current property taxes on the real property are distributed. The additional tax and interest are a lien on the real property. If the nonprofit entity sells or transfers the property, any unpaid additional tax and interest must be paid by the nonprofit entity selling the property prior to conveyance of the property. The nonprofit entity or the new owner may appeal the assessed value on which the additional tax was calculated to the county board of equalization (see RCW 84.40.-038).

(c) **Example 3**. Homes Unlimited, a nonprofit entity, owns a residence that it will improve and then sell to a low-income household. Homes Unlimited applies to the department and is approved for the exemption. Upon completion of the improvements, Homes Unlimited leases the residence to a low-income household until it can find a low-income household to purchase the residence. Because the lease of the property is not a qualifying exempt purpose, the residence is disqualified from the exemption and is subject to additional tax and interest.

(d) **Example 4**. Dream Home, Inc., a nonprofit entity, is building a duplex on land it owns and intends on selling each unit, along with the land, to low-income households. Dream Home, Inc., applies to the department and is approved for the exemption. Upon completion of the duplex, Dream Home, Inc., sells one of the two units to a low-income household. The second unit goes unsold so Dream Home, Inc., applies to the department for a three-year extension and is approved. Upon expiration of the three-year extension, the second unit has still not been sold to a low-income household. The second unit of the duplex is disqualified from the exemption and is subject to additional tax and interest.

(8) **Sale or transfer of real property to a low-income household**. A nonprofit entity must immediately notify the department when the exempt real property is sold or transferred to a low-income household. This notice must include:

(a) Certification by the nonprofit entity that the occupants are a low-income household. Low-income verification forms can be found on the department's web site at dor.wa.gov; and

(b) The date when the title to the real property was transferred.

(9) **Cessation of exemption**. Upon expiration or disqualification of the exemption, the value of new construction and improvements to the property, if not previously considered as new construction, must be considered as new construction for the purposes of calculating levies under chapter 84.55 RCW.

If the value of new construction and improvements to property were previously considered as new construction when calculating levies under chapter 84.55 RCW, then it may not be considered as new construction upon expiration or disqualification of the exemption.

[Statutory Authority: RCW 84.36.865. WSR 17-24-032, § 458-16-266, filed 11/29/17, effective 12/30/17.]

WAC 458-16-270 Schools and colleges. (1) **Introduction.** This rule explains the two property tax exemptions available under the provisions of RCW 84.36.050. The first exemption applies to property owned or used by or for a nonprofit school or college. The second exemption is for property owned by a not-for-profit foundation established for the exclusive support of an institution of higher education, as defined in RCW 28B.10.016, that is leased to and used by the institution. Nonprofit schools, colleges, and not-for-profit foundations seeking a property tax exemption under RCW 84.36.050 must also comply with the relevant requirements of RCW 84.36.805, 84.36.840, and WAC 458-16-165. (See subsection (8) of this rule.)

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

(a) "College or campus purposes" means principally designed to further the educational, athletic, or social functions of an institution of higher education, as defined in RCW 28B.10.016, and only applies to property that is owned by a not-for-profit foundation and leased to and used by such an institution.

(b) "Cultural or art educational program" means:

(i) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(ii) A musical or dramatic performance or series of performances; or

(iii) An educational seminar or program, or series of such programs, offered by a nonprofit school or college to the general public on an artistic, cultural, or historical subject. (See RCW 82.04.4328(2).)

(c) "Educational, social and athletic programs" or "educational, social and athletic functions" individually or collectively mean those programs offered or functions performed by or for the school or college in each such general area, including, but not limited to, those illustrated by the examples set forth in this definition, and including educational, social, and athletic programs and functions sponsored or cosponsored by the school or college, offered by others on school or college-owned property in a manner consistent with the school or college's programs, and such programs and functions on school or college property that may involve alumni and community members.

(i) Examples of educational programs and functions include, in addition to those described in the definition of "educational purposes" in (d) of this subsection: Classes, seminars, conferences, providing instructional support to students and other participants in such programs and functions, and programs and functions that utilize and apply the academic and instructional resources and facilities of the school or college, including related administrative and support activities for these programs and functions.

(ii) Examples of athletic programs and functions include: Physical training, sport events and practices, athletic camps, and use of school or college recreational and fitness resources and facilities by students, alumni, faculty, staff, or third parties, including related administrative and support activities, which use the property in a manner consistent with the school or college's programs.

(iii) Examples of social programs or functions include activities engaged in by or for the school or college that further the health, safety, well being, emotional growth, welfare, psychological development, socialization, preparation and training for participation in society, development of adaptive skills and cultural awareness and related activities for students including, but not limited to, theatrical or musical performances, artistic, cultural, or technology exhibits or fairs, events, presentations and programs providing students with information about and access to goods and services they need while a student at the school or college.

(d) "Educational purposes" means, in addition to the educational programs and functions described in (c) of this subsection, systematic instruction, either formal or informal, in any and all branches of learning directed to an indefinite class of persons and from which a substantial public benefit is derived. The term includes all purposes that seek to promote or advance education.

(e) "Schools and colleges" means:

(i) Nonprofit educational institutions that are approved by the superintendent of public instruction or whose students and credentials are accepted without examination by schools and colleges established under either Title 28A or 28B RCW and offer students an educational program of a general academic nature; or

(ii) Nonprofit institutions that meet the following criteria:

(A) They have a definable curriculum and measurable outcomes for a specific group of students;

(B) They have a qualified or certified faculty;

(C) They have facilities and equipment that are designed for the primary purpose of the educational program;

(D) They have an attendance policy and requirement;

(E) They have a schedule or course of study that supports the instructional curriculum; and

(F) They are accredited, recognized, or approved by an external agency that certifies educational institutions and the transferability of courses.

(f) "Net income" means the amount received from the loan or rental of exempt property that exceeds the amount of the maintenance and operation expenses, as defined in WAC 458-16-165, attributable to the portion of the property loaned or rented.

(g) "Pecuniary gain" means the generation of monetary receipts from commercial operations or other sales activities, when those receipts exceed expenses of operations or are intended to exceed expenses of operations.

(h) "Religious faculty" means a person who:

(i) Teaches at a school or college; and

(ii) Is a member of the clergy or a religious order or officially invested with ministerial or priestly authority, as distinguished from laity.

(i) "Third parties" means individuals, groups, organizations, associations, corporations, and entities other than the

school or college to which an exemption is granted under this rule.

(3) **Exemption - Nonprofit schools or colleges.** Property owned or used by or for any nonprofit school or college within this state is exempt to the extent that it is used for educational purposes or cultural or art educational programs.

(a) Real property exempt under this rule cannot exceed four hundred acres. The exempt property includes, but is not limited to:

(i) Buildings and grounds principally designed for the educational, athletic, or social programs or functions of the school or college;

(ii) Buildings that house part-time or full-time students, religious faculty, or the chief administrator of the school or college;

(iii) Buildings used for athletic activities of the school or college; and

(iv) All other school or college facilities, such as maintenance facilities, heating plants, storage facilities, security services facilities, food services facilities, transportation facilities, administrative offices, or a student union building or student commons, which are needed because of the presence of the school or college.

(b) Property that is not a part of, or contiguous to, the main campus of a school or college and for which the institution wishes to obtain an exemption, the department may require the institution to provide, in detail, the following information:

(i) The names of courses taught or a description of the educational purposes or cultural or art educational programs taking place at the off-campus site;

(ii) A calendar of dates and times that shows how the subject property is used; and

(iii) The number of students who participate in the educational activities or cultural or art educational programs conducted at the off-campus site.

(c) If property is leased to a school or college, in order to be exempt, the benefit of the exemption must inure to the school or college.

(4) **Exemption - Property owned by a not-for-profit foundation that is leased to and used by an institution of higher education.** RCW 84.36.050 also provides a property tax exemption to real or personal property owned by a not-for-profit foundation established for the exclusive support of an institution of higher education, as defined in RCW 28B.10.016. The property must be leased to and used by the institution for college or campus purposes and it must be principally designed to further the educational, athletic or social functions of the institution.

(a) An institution of higher education is defined in RCW 28B.10.016 as synonymous with "postsecondary institutions" and means the University of Washington, Washington State University, Western Washington University at Bellingham, Central Washington University at Ellensburg, Eastern Washington University at Cheney, The Evergreen State College, the community colleges, and the technical colleges.

(b) The exemption can only be obtained for property actively utilized by currently enrolled students.

(c) The benefit of the exemption must inure to the educational institution using the exempt property.

(5) **Uses of the exempt property that affect the exemption - Exceptions.** For purposes of the school and college exemption:

(a) If exempt property is used by a third party entitled to a property tax exemption, the property remains exempt as long as the amount of rent or donations received by the school or college for that use is reasonable and does not result in net income.

(b) If exempt property is used by a third party not entitled to a property tax exemption, except as otherwise provided in this rule, then the property, or portion used is taxable for the entire assessment year in which the nonqualifying use occurs and will remain taxable until a new application is filed with the department and approved. When an exemption is denied for only a portion of the school or college's property, the renewal application only needs to address that portion of the property denied and not the entire property.

(c) There are three general exceptions to the loss of exemption when exempt property is used by a third party not entitled to a property tax exemption, which exceptions are described in (i), (ii), and (iii) of this subsection (5)(c), as follows:

(i) If exempt property is used by students, alumni, faculty, staff, or other third parties in a manner consistent with the educational, social, or athletic programs of the school or college, including property used for related administrative and support functions, and not for pecuniary gain or to promote business activities, then the property remains exempt.

(ii) When the school or college contracts with and permits the use by third parties of exempt property to provide school or college-related programs or services directed at students, faculty, and staff, and not primarily at the general public, then the property remains exempt, regardless of whether payment for the programs or services is made to such third party by the school or college, or by program participants or service recipients, and regardless of whether the use by the third party results in pecuniary gain for the third party or the promotion of the third party's business. Examples of such programs or services include school or college educational, social and athletic programs and functions; the provision of food services, including snack and coffee bars, food or bottled drink vending machines, or on-campus catering services for school or college events; placement of an automated teller machine on exempt property; the operation of a bookstore on campus that sells textbooks and other student oriented items; and the provision of maintenance, operational, or administrative services.

(iii) If exempt property is used for pecuniary gain or to promote business activities for fifteen days or less each calendar year by third parties who are not entitled to a property tax exemption, the property remains exempt. Disqualifying use of more than fifteen days is measured separately with respect to each specific portion of the exempt property used, and is cumulative with respect to each such separate portion each year for all such third party use. For example, if a classroom in a building is used by three separate third parties for pecuniary gain or to promote business activities on three separate occasions in one calendar year for periods of four, six, and eight days respectively (for a total of eighteen days), that classroom, but not the entire floor or building, loses its exemption for that calendar year. By contrast, if the six day

disqualifying use occurred in a different portion of the building, such as an auditorium, neither the classroom nor the auditorium would be disqualified, since neither portion of the building would have been used for pecuniary gain or to promote business activities for more than fifteen days in that year. This fifteen day limitation does not apply when exempt property is used as or for a sports or educational camp or program that is taught, operated, or conducted by a faculty member who is required or permitted to do so as part of his or her compensation package, whether or not participants pay a fee directly to such faculty member.

(d) Unless otherwise authorized under this rule, the use of exempt property by any individual, group, or entity, does not nullify the exemption if the property is used for nonexempt purposes for up to fifty days each calendar year and is used for pecuniary gain or to promote business activities, as described in subsection (5)(c)(iii) of this rule, for not more than fifteen of the fifty days in each calendar year. The fifty and fifteen-day limitations do not include days for setup and takedown activities that take place immediately preceding or following a meeting or other event.

(6) **Examples of uses that do not nullify the exemption.** In order to clarify the property tax exemption for schools and colleges, this subsection describes and gives examples of the types of use by third parties not entitled to a property tax exemption that do not nullify the tax exempt status of property owned or used by or for a school or college. The following examples should be used only as a general guide. The tax results of other specific situations must be determined after a review of all of the facts and circumstances. In the following examples, as long as any rent or donation associated with the use is reasonable and does not result in net income to the school or college, the exemption is not affected.

(a) Exempt property is used by students, alumni, faculty, staff, or other third parties for weddings, anniversary celebrations, family or school reunions, funeral services, or similar events. These uses are consistent with the educational or social programs of the school or college and the property remains exempt. The property remains exempt even when the persons or groups using the school or college property for such an event also hire persons such as a caterer, a musical group, or a wedding photographer specifically for the event.

(b) Exempt property is used by third parties, such as members of the community, for lectures, presentations, musical recitals, seminars, debates, or similar educational activities. If the third party use is contracted for and permitted by the school or college, for example when the school or college pays the presenter directly, or when the participants or patrons pay the presenter directly, there is no loss of exemption, as long as the uses are consistent with the educational, social, or athletic programs of the school or college. The presenter may also offer for sale, at the time of the presentation, books, tapes, CDs or similar items that relate directly to the presentation.

(c) Exempt property is used by third parties such as students, alumni, faculty, staff, or members of the community for athletic activities or events on sports fields, tennis courts, and in buildings used for athletics. These uses are consistent with the athletic programs of the school or college and the property remains exempt as long as the property is not used for third party pecuniary gain or to promote business activities. (The example is intended only to illustrate the application of the exception set forth in subsection (5)(c)(i) of this rule, and should be distinguished from the exceptions described under subsections (5)(c)(ii) and (iii) of this rule which permits the generation of third party pecuniary gain in certain identified circumstances.) Any fees, charges, rents, donations or other remuneration for the use of the school or college exempt facilities may not result in net income.

(d) Exempt property is used by third parties for educational or instructional programs, such as private instruction, tutoring, driving instruction, English as a second language or other language courses, examination preparation, or other similar programs. These programs are consistent with the educational programs of the school or college and the property remains exempt as long as the property use is contracted for and permitted by the school or college and the uses are consistent with the educational programs of the school or college.

(e) Exempt property, such as student housing, is used for purposes of recruiting prospective students. Exempt school or college facilities, when not being used by currently enrolled students, are offered by the school or college to third parties for educational programs consistent with the educational purposes of the school or college. Such uses are consistent with the educational programs of the school or college and the property remains exempt.

(f) A school or college provides courses in vocational-technical skills, such as culinary arts, hotel management, automotive mechanics, or cosmetology. As a part of the course work, students obtain practical experience by providing products or services to the public. As long as the charge to the public for these products or services is exclusively used for the school or college's educational, social, or athletic programs, this use of exempt property is consistent with the school's educational programs and functions and will not result in the loss of exemption.

(g) Exempt property is used by a bank or credit union in a school or college student orientation program of limited duration and not more than one time each year, through which students receive information from a variety of local businesses about services that they may need while attending a school or college. This is considered to be a social or educational program of the school or college and is not a disqualifying use.

(h) The school or college contracts with and permits third parties to use exempt property to conduct fund-raising events when the funds raised will be used for educational purposes or cultural or art educational programs of the school or college. Such events must be conducted in accordance with the provisions of WAC 458-16-165.

(7) **Examples of disqualifying use.** In order to clarify the property tax exemption for schools and colleges, this subsection describes and gives examples of the types of use by third parties not entitled to a property tax exemption that will nullify the tax exempt status of property owned or used by or for a school or college. The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other specific situations must be determined after a review of all of the facts and circumstances.

(a) The placement and operation of a bank or credit union on exempt property. Such an activity is using the exempt property for pecuniary gain and to promote business activities and will cause the loss of exemption. Such an operation provides a service that is not distinguishable from services provided to the general community. The exemption is nullified for the portion of the property occupied by the bank or credit union.

(b) An antique shop, gift shop, or retail store that sells a variety of merchandise, but does not primarily sell products directed at students, faculty, or staff of the school or college, and occupies an exempt college-owned building on the school or college campus on a regular and continuing basis. Such a store does not provide a specific school or college related program or service, and is being operated for pecuniary gain and to promote business activities. The exemption is nullified for the portion of the building occupied by the business.

(8) **Additional requirements.**

(a) Any school or college, or not-for-profit foundation established for the exclusive support of an institution of higher education, that applies for a property tax exemption under this rule must also comply with the provisions of RCW 84.36.805 to the extent applicable. Schools, colleges, and not-for-profit foundations established for the exclusive support of an institution of higher education may, without losing the exemption, loan or rent exempt property to organizations even though the property would not be exempt if owned by such organizations, as long as the rents or donations received for the use of the portion of the property loaned or rented are reasonable and do not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented. WAC 458-16-165 describes and explains additional conditions and requirements that must be complied with to obtain and maintain a property tax exemption for a school, college, or not-for-profit foundation.

(b) Any school or college, or not-for-profit foundation established for the exclusive support of an institution of higher education, that applies for a property tax exemption under this rule must also comply with the provisions of RCW 84.36.840. In accordance with that statute, the applicant must annually file a report with the department on or before March 31st. The report must be signed, and state that the revenues of the school, college, or foundation, including donations, have been applied to maintenance and operation expenses or capital expenditures of the school or college or foundation and to no other purpose. The report must also contain the following information:

(i) A list of all property, real and personal, claimed to be exempt, including the parcel number(s) and/or addresses for all real property;

(ii) The purpose(s) for which the property was used;

(iii) The revenue derived from the property for the preceding calendar year;

(iv) The use to which the revenue was applied;

(v) The number of students who attended the school or college; and

(vi) The total revenues of the school, college, or foundation, with the source from which they were derived, and the purposes to which the revenues were applied, giving a detailed accounting of the revenues and expenditures.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-270, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.36.865, 84.36.040, and 84.36.050. WSR 09-19-069, § 458-16-270, filed 9/14/09, effective 10/15/09; WSR 01-24-037, § 458-16-270, filed 11/28/01, effective 12/29/01. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-270, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 85-05-025 (Order PT 85-1), § 458-16-270, filed 2/15/85. Statutory Authority: RCW 84.36.389 and 84.36.865. WSR 83-19-029 (Order PT 83-5), § 458-16-270, filed 9/14/83. Statutory Authority: RCW 84.36.865. WSR 82-22-060 (Order PT 82-8), § 458-16-270, filed 11/2/82; WSR 81-05-017 (Order PT 81-7), § 458-16-270, filed 2/11/81; Order PT 77-2, § 458-16-270, filed 5/23/77; Order PT 76-2, § 458-16-270, filed 4/7/76. Formerly WAC 458-12-230.]

WAC 458-16-280 Art, scientific, and historical collections. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.-060 (1)(a) to art, scientific, or historical collections.

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

(a) "Governmental entity" means any political unit or division of the federal, state, city, county, or municipal government.

(b) "Property" means all real and personal property exclusively used to secure, maintain, and exhibit art, scientific, or historical collections.

(3) **Exemption for existing property.** All art, scientific, or historical collections owned by associations maintaining and exhibiting the collections to the general public and not for profit, together with all real and personal property owned by these associations and used exclusively to secure, maintain, and exhibit the collections, will be exempt from taxation under the following conditions:

(a) An organization, association, or corporation must be organized and operated exclusively for artistic, scientific, or historical purposes.

(b) The organization, association, or corporation organized and operated for artistic, scientific, or historical purposes must receive a substantial part of its income from a governmental entity or through direct or indirect contributions of money, real or personal property, or services from the general public. Admission or entrance fees derived from exercising or performing its purpose or function will not be included within the figures used to calculate "a substantial part" of the organization's, association's, or corporation's income.

(i) For example, an art museum may receive support from a city government and from donations made by the general public in addition to general admission fees paid by visitors. When determining whether the art museum receives a substantial part of its income from a governmental entity or through contributions from the general public, the admission fees may not be considered as contributions from the general public.

(ii) Any organization, association, or corporation that relies on services donated by the general public for a substantial part for its support must maintain records identifying the individuals who donate their services and the number of hours they donate. The value of donated time will be calculated by using the federal minimum wage standard.

(4) **Exemption for property under construction or soon to be used for an exempt purpose.** Property that is being constructed, remodeled, or otherwise prepared to maintain and exhibit art, scientific, or historical collections, may qualify for exemption under certain circumstances. A nonprofit organization, association, or corporation seeking an exemption for property not currently being used for an exempt purpose may qualify if the property will be used for an exempt purpose within a reasonable period of time and proof is submitted that a reasonably specific and active program is being carried out to enable the property to be used to maintain and exhibit an art, scientific, or historical collection.

(a) Acceptable proof of a specific and active building or remodeling program must include, but is not limited to, the following items:

(i) Affirmative action by the board of directors, trustees, or governing body of the nonprofit organization, association, or corporation endorsing and underwriting the construction or remodeling;

(ii) Itemized reasons for the proposed construction or remodeling;

(iii) Clearly established plans for financing the construction or remodeling; and

(iv) Building permits necessary to begin or continue the construction or remodeling.

(b) Property under construction will not qualify for exemption during this interim period if the property is used by, loaned to, or rented to a for-profit organization or business enterprise.

(5) **Additional requirements.** Any organization, association, or corporation applying for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.060.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-280, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.08.070, 84.34.141, 84.36.865, 84.52.0502. WSR 09-19-010, § 458-16-280, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 84.36.865 and 84.36.060. WSR 99-18-008, § 458-16-280, filed 8/19/99, effective 9/19/99. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-280, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 86-12-034 (Order PT 86-2), § 458-16-280, filed 5/30/86; WSR 85-05-025 (Order PT 85-1), § 458-16-280, filed 2/15/85; WSR 81-21-009 (Order PT 81-13), § 458-16-280, filed 10/8/81; Order PT 77-2, § 458-16-280, filed 5/23/77; Order PT 76-2, § 458-16-280, filed 4/7/76. Formerly WAC 458-12-235.]

WAC 458-16-282 Musical, dance, artistic, dramatic and literary associations. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.060 (1)(b) to organizations, associations, or corporations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works.

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

(a) "Governmental entity" means any political unit or division of the federal, state, county, city, or municipal government.

(b) "Property" means all real and personal property exclusively used to produce or perform musical, dance, artistic, dramatic, or literary works.

(3) **Exemption.** All real and personal property owned by or leased to a nonprofit organization, association, or corporation 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 will be exempt from taxation under the following conditions:

(a) The property must be used exclusively to produce or perform musical, dance, artistic, dramatic, or literary works.

(b) An organization, association, or corporation must be organized and operated exclusively for musical, dance, artistic, dramatic, literary, or educational purposes.

(c) The organization, association, or corporation organized and operated for musical, dance, artistic, dramatic, literary, or educational purposes must receive a substantial portion of its income from a governmental entity or from direct or indirect contributions of money, real or personal property, or services from the general public. Admission or entrance fees derived from producing or performing musical, dance, artistic, dramatic, literary, or educational works will not be included within the figures used to calculate "a substantial part" of the organization's, association's or corporation's income.

(i) For example, a theater may receive support from a city government and from donations made by the general public in addition to ticket sales for admission to its performances. When determining whether the theater receives a substantial part of its income from a governmental entity or through contributions from the general public, the ticket sales may not be considered as contributions from the general public.

(ii) Any organization, association, or corporation that relies on services donated by the general public for a substantial portion of its support must maintain records identifying the individuals who donate their services and the number of hours they donate. The value of donated time will be calculated by using the federal minimum wage standard.

(4) **Exemption for property under construction or soon to be used for an exempt purpose.** Property that is being constructed, remodeled, or otherwise prepared to be used by organizations, associations, or corporations engaged in the production and performance of musical, dance, artistic, dramatic, literary, or educational works, may qualify for exemption under certain circumstances. A nonprofit organization, association, or corporation seeking an exemption for property not currently being used for an exempt purpose, may qualify if the property will be used for an exempt purpose within a reasonable period of time and proof is submitted that a reasonably specific and active program is being carried out to enable the property to be used by organizations, associations, or corporations engaged in the production and performance of musical, dance, artistic, dramatic, literary, or educational works.

(a) Acceptable proof of a specific and active building or remodeling program must include, but is not limited to, the following items:

(i) Affirmative action by the board of directors, trustees, or governing body of the nonprofit organization, association, or corporation endorsing and underwriting the construction or remodeling;

(ii) Itemized reasons for the proposed construction or remodeling;

(iii) Clearly established plans for financing the construction or remodeling; and

(iv) Building permits necessary to begin or continue the construction or remodeling.

(b) Property under construction will not qualify for exemption during this interim period if the property is used by, loaned to, or rented to a for-profit organization or business enterprise.

(5) **Additional requirements.** Any organization, association, or corporation applying for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be complied with to obtain a property tax exemption pursuant to RCW 84.36.060.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-282, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.08.070, 84.34.141, 84.36.865, 84.52.0502. WSR 09-19-010, § 458-16-282, filed 9/3/09, effective 10/4/09. Statutory Authority: RCW 84.36.865 and 84.36.060. WSR 99-18-008, § 458-16-282, filed 8/19/99, effective 9/19/99. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-282, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 86-12-034 (Order PT 86-2), § 458-16-282, filed 5/30/86; WSR 85-05-025 (Order PT 85-1), § 458-16-282, filed 2/15/85; WSR 81-21-010 (Order PT 81-14), § 458-16-282, filed 10/8/81.]

WAC 458-16-284 Fire companies. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.060 to fire companies.

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

(a) "Fire company" means any nonprofit organization, association, or corporation whose purpose is to extinguish or prevent fires in any city or town within the state of Washington.

(b) "Property" means real or personal property that is owned by a city, town, or nonprofit fire company.

(c) "Commercial" refers to an activity or enterprise that has profit making as its primary purpose.

(3) **Exemption.** The following property shall be exempt from property taxes if it is owned by a city, town, or nonprofit fire company located within a city or town:

(a) All fire engines and other equipment used to extinguish or fight fires;

(b) Buildings or other structures that are exclusively used, or to the extent that they are exclusively used, to store or to safeguard firefighting equipment; and

(c) Buildings or other structures that are exclusively used, or to the extent they are exclusively used, for meetings of the fire company. If any portion of the fire company's property is used for a commercial rather than an exempt purpose that portion must be segregated and taxed.

(4) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165 that explains the additional conditions and requirements necessary to obtain a property tax exemption pursuant to RCW 84.36.060.

[Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-284, filed 3/3/94, effective 4/3/94.]

WAC 458-16-286 Humane societies. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.060 to humane societies.

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

(a) "Humane society" means a nonprofit organization, association, or corporation, the primary purpose of which is to prevent cruelty to animals, place unwanted animals in homes, provide other services relating to "lost and found" pets, and provide animal care education to the public, as well as sponsoring a neutering program to control the animal population.

(b) "Actual use" means that the property is currently being used by a humane society to provide services or care related to homeless animals or "lost and found" pets, or to prevent cruelty to animals within the state.

(c) "Property" means real or personal property that is owned and is actually used by a humane society.

(d) "Commercial" refers to an activity or enterprise that has profit making as its primary purpose.

(3) **Exemption.** Property that is owned and in actual use by a humane society shall be exempt from taxation. Any portion of this property that is not in actual use by the humane society or that is used for a commercial rather than an exempt purpose must be segregated and taxed.

(4) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165 that explains the additional conditions and requirements necessary to obtain a property tax exemption pursuant to RCW 84.36.060.

[Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-286, filed 3/3/94, effective 4/3/94.]

WAC 458-16-290 Nature conservancy lands. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.260 to a nonprofit corporation or association, of which the primary purpose is to conduct or facilitate scientific research or to conserve natural resources or open space for the general public.

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

(a) "Cessation of use" means a nonprofit association or corporation that has an interest in, or a nonprofit association or corporation that exclusively used exempt real property, has ceased to physically use the property for a use exempt under the provisions of subsection (3) of this rule. The term also refers to property no longer being used for an exempt use even if the owner intends to find or is pursuing an alternative exempt use for the property. "Cessation of use" also refers to property that has lost its exempt status because it was sold, transferred, loaned, or rented to an owner or user that is not qualified to be exempt from property taxes.

(b) "Conservation futures" means rights in perpetuity to the future development of any open space land, farm and agricultural land, and timber land, classified under the provisions of chapter 84.34 RCW and taxed at the current use assessment rate as provided by that chapter and are purchased or acquired (except by eminent domain) by a county, city, town, municipal corporation, nonprofit historic preservation

corporation, or nonprofit conservancy corporation or association.

(c) "Governmental entity" means any political unit or division of the federal, state, county, city, or municipal government.

(d) "Nonprofit conservancy corporation or association" means an organization that qualifies as being tax exempt under 26 U.S.C. Sec. 501 (c)(3) of the United States Internal Revenue Code as it existed on June 25, 1976, and that has as one of its principal purposes: The conducting or facilitating of scientific research; the conserving of natural resources, including but not limited to biological resources, for the general public; or the conserving of open spaces, including but not limited to wildlife or plant habitat to be utilized as public access areas, for the use and enjoyment of the general public.

(e) "Nonprofit historical preservation corporation" means an organization that qualifies as being tax exempt under 26 U.S.C. Sec. 501 (c)(3) of the United States Internal Revenue Code of 1954, as amended, and has as one of its principal purposes the conducting or facilitating of historic preservation activities within a state including, but not limited to, the conservation or preservation of historic sites, districts, buildings, and artifacts.

(f) "Person or company" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, municipal corporation, political unit or division of the state of Washington, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, and the United States and any instrumentality thereof.

(g) "Real property interests" means any interest in real property including, but not limited to, fee simple or a lesser ownership interest, developmental rights, easements, covenants, and conservation futures.

(h) "Rollback" refers to the provisions of RCW 84.36.-262 that make previously exempt property subject to back taxes and interest because of the cessation of an exempt use or a change in ownership.

(3) **Exemption.** All real property interests exclusively used to conserve ecological systems, natural resources, or open space, including park lands, by a nonprofit association or corporation whose primary purpose is to conduct or facilitate scientific research or to conserve natural resources or open space for the general public will be exempt from property tax if either of the following conditions is met:

(a) The property, to the extent feasible considering the nature of the interest involved, is:

(i) Used and effectively dedicated primarily to providing scientific research or educational opportunities to the general public or to preserving native plants, animals, biotic communities, works of ancient man, or geological or geographical formations of distinct scientific and educational interests;

(ii) Open to the general public for educational and scientific research purposes subject to reasonable restrictions designed to protect the property; and

(iii) Not for the pecuniary benefit of any person or company; or

(b) The property is subject to an option, which has been accepted in writing by any political unit or department of the federal, state, county, or city government, for purchase by the United States, a state, a county, or a city at a price not exceeding the lesser of the following amounts:

(i) The sum of the original purchase price paid by the nonprofit association or corporation plus interest from the date of acquisition at the rate of six percent per annum compounded annually to the date the option is exercised; or

(ii) The appraised value of the property interest, as determined by the department of revenue, at the time the option is accepted in writing.

(4) **Property used for recreational activities.** Property used merely for recreational activities does not qualify for an exemption under this rule.

(5) **Application for exemption under this rule.** A nonprofit association or corporation that wants to obtain the property tax exemption under this rule, must submit an application for exemption.

(a) Real property is not exempt from taxation unless an application has been filed and the exemption approved by the department of revenue.

(b) In addition to the application, if the property is subject to an option for purchase, a copy of the option agreement and the written acceptance must be submitted to the department of revenue. The option must either state the purchase price pursuant to the option or the appraisal value as determined by the department of revenue.

(6) **Cessation of exempt use.** When land is no longer being used for an exempt purpose described in this rule, the county treasurer will collect all taxes that would have been paid if the property had not been exempt during the preceding ten years, or for the life of the exemption, whichever is less, plus interest computed at the same rate and in the same manner as that upon delinquent property taxes.

(7) **Change in use.** An owner of exempt property who knows of or who has information regarding a change in the use of exempt property must notify the department of revenue of this change. An owner of exempt property must also report the loan or rental of all or a portion of the exempt property since loaning or renting this property may change the taxable status of exempt property.

Any other person who knows or has information regarding a change in use of exempt property must notify the county assessor of any such change. The assessor, in turn, will report this information to the department of revenue.

(a) After being notified about a change in use of exempt property, the department may physically inspect the property to determine if the reported change has taken place.

(b) After a change in use, the final determination of the taxable status of the subject property will be made by the department of revenue.

(c) When the department determines that a change in use has occurred, it will notify the current owner of the exempt property and, in the case of a transfer, the previous legal owner of exempt property that the change in use may change the taxable status of the property and that the property may be subject to the rollback provisions in subsection (6) of this rule. The owner(s) of this property will have thirty days from the date of the notice to submit any comments or information relevant to this change in use to the department. The department will then issue a final determination about the taxable status of this property.

(d) Upon notification from the department of revenue that the exempt use of the property has ceased, the county treasurer will compute the taxes payable, including interest computed at the same rate and in the same manner as that upon delinquent property taxes. The interest collected will be placed in the county current expense fund.

(8) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165 that explains the additional conditions and requirements necessary to obtain a property tax exemption pursuant to RCW 84.36.260.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-290, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-290, filed 3/3/94, effective 4/3/94; Order PT 77-2, § 458-16-290, filed 5/23/77; Order PT 76-2, § 458-16-290, filed 4/7/76. Formerly WAC 458-12-236.]

WAC 458-16-300 Public meeting hall—Public meeting place—Community meeting hall. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.037 for real and personal property owned by a nonprofit organization, association, or corporation and used exclusively as a public meeting hall, public meeting place, or community meeting hall.

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

(a) "Affiliate" means an association, organization, or corporation that is a branch, unit, chapter, or appendant body of the property owner.

(b) "Property" means real or personal property owned by a nonprofit organization, association, or corporation.

(c) "Public gathering" means a meeting or event in which attendance is not limited or restricted to only members of the organization, association, or corporation that owns the property or members of an affiliate. Refer to subsection (4) of this rule for examples of public gatherings.

(3) **Exemption.** Real and personal property owned by a nonprofit organization, association, or corporation and used exclusively as a public assembly hall, public meeting place, or community meeting hall will be exempt from taxation under the following conditions:

(a) Exclusive use. The property is used exclusively for public gatherings and is available to any individual, organization, association, or corporation that may desire to use or rent the property. Membership in the organization, association, or corporation that owns the property or membership in an affiliate of the property owner cannot be a requirement or condition for those persons desiring to rent or use the property.

(i) Availability of property. To ensure the public is aware of the availability of the property, the property owner must provide written notification to the public that the property is available for use or rental. This written notification may include, but is not limited to, advertising in community newsletters or web sites, on facility reader boards or signs, or in local newspapers. The property owner must make substantial and actual efforts to ensure that the public knows that the property is available for use or rental. Examples of substantial and actual efforts by the owner to ensure public awareness of the property availability can be found in subsection (4) of this rule.

(ii) Qualifying use of property. In a calendar year, the total number of hours used for public gatherings, as that term is defined in this rule, held at the property must exceed the total number of hours used for nonpublic gatherings held at the property, regardless of whether the owner, the owner's affiliate, or renter, hosted or benefited from the public gathering.

(b) Exemption for real property - Area. The area of real property exempt under this rule may not exceed one acre including the building(s), the land under the building(s), and any additional area needed for parking.

(c) Statement of availability and fees required. The owner of the property must prepare and make available upon request a schedule of fees, a policy on the availability of the facility, and any restrictions on the use of the facility. The owner may impose conditions or restrictions reasonably necessary to safeguard the property and to comply with the purposes of this exemption.

(d) Annual summary required. The owner must provide the department of revenue with a detailed summary containing the following information regarding the manner in which the exempt property was used during the preceding year:

(i) The name of the person, organization, association, or corporation that used the property;

(ii) The date(s) on which the property was used;

(iii) The purpose for which the property was used;

(iv) Whether the meeting or event was a public gathering;

(v) The duration of the meeting or event;

(vi) The methods used to advertise the availability of the property to the public;

(vii) The income derived from the rental of the property; and

(viii) The expenses incurred relating to the use of the property.

(4) **Examples.** Examples found in this rule identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(a) Example 1. Prior to a member only meeting, a fraternal organization hosts a dinner at its facility that is open to nonmembers. The fraternal organization advertised the dinner on its web site and reader board, which clearly conveyed the public could attend. The dinner and the member only meeting are considered two separate events. The dinner is considered a public gathering because nonmembers are allowed to attend. However, the member only meeting following the dinner is not considered a public gathering.

(b) Example 2. A boys youth organization hosts a spaghetti feed at its facility to raise money for a camping trip. The organization advertised the spaghetti feed in the local newspaper, which stated nonmembers are allowed to attend. The spaghetti feed is considered a public gathering.

(c) Example 3. A girls youth organization has weekly club meetings at its facility. The weekly meetings are advertised on the organization's public web site as being open for nonmembers to also attend. The weekly club meetings are considered public gatherings.

(d) Example 4. A member only organization allows its public assembly hall to be rented for weddings, receptions, reunions, funerals, and other special events. The organization advertises the availability of its facility for rental by the public in a community newsletter. There are no restrictions on who can rent the hall, so these events are considered public gatherings. However, if the ability to rent the hall is based on membership in the owning organization or membership in an affiliate of the owning organization, then the events would not be considered public gatherings.

(e) Example 5. A garden club offers horticultural workshops for a fee at its facility one day each month. The workshop is advertised in the community newsletter as being open to anyone who wants to attend. The workshops are considered public gatherings because members of the public can attend, even if registration and/or payment are required. Although a fee is charged, the monthly workshops offered by the garden club do not count towards the fifteen day pecuniary gain limitation described in subsection (5)(a) of this rule because the fee only covers the materials and supplies necessary to conduct the workshop.

(f) Example 6. A member only organization rents a public assembly hall for its monthly board meetings. The board meetings are not open to the public. The organization that owns the facility advertises its availability to the public in the local newspaper. The two organizations are not affiliated with each other. Although the monthly board meetings are not open to the public, they are considered public gatherings for the purpose of this exemption because the rental of the facility is not being restricted to only members of the owning organization or to members of affiliates of the owning organization.

(5) **Use of property for pecuniary gain or to promote business activities.** If a public meeting hall, public meeting place, or community meeting hall exempt under subsection (3) of this rule is used for pecuniary gain or to promote business activities, the property tax exemption will be lost. However, the exemption will not be lost if:

(a) The exempt property is used for pecuniary gain or to promote business activities fifteen days or less in an assessment year;

(b) In a county with a population of less than twenty thousand people, the exempt property is used to promote the following business activities: Dance lessons; art classes; or music lessons. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented;

(c) The exempt property is used to conduct a farmers market, as defined in RCW 66.24.170, for fifty-three days or less each assessment year. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; or

(d) All income received from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation expenses of the exempt property, or exempt purposes.

(6) **Additional requirements.** Any nonprofit organization, association, or corporation that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be satisfied to obtain a property tax exemption pursuant to RCW 84.36.037.

[Statutory Authority: RCW 84.08.010 and 84.36.865. WSR 16-16-005, § 458-16-300, filed 7/20/16, effective 8/20/16. Statutory Authority: RCW 84.36.865, RCW 84.36.037, 84.36.805, 84.36.815, 84.36.825 and 84.36.840. WSR 98-18-006, § 458-16-300, filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-300, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 81-21-010 (Order PT 81-14), § 458-16-300, filed 10/8/81.]

WAC 458-16-310 Community celebration facilities. (1) **Introduction.** This rule explains the property tax exemption available under the provisions of RCW 84.36.037 for real and personal property owned by a nonprofit organization, association, or corporation and used primarily for annual community celebration events.

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

(a) "Public gathering" has the same meaning as provided in WAC 458-16-300.

(b) "Property" has the same meaning as provided in WAC 458-16-300.

(3) **Exemption.** Real and personal property owned by a nonprofit organization, association, or corporation and used primarily for annual community celebration events may be exempt from taxation under the following conditions:

(a) Exemption for real property - Area. The area of real property to be exempt may not exceed twenty-nine acres.

(b) Primary use. The property has been primarily used for annual community celebration events for at least ten years.

(c) Essentially unimproved property. The property is essentially unimproved except for restroom facilities and covered shelters. A "covered shelter," for example, may consist of a covered area that is not enclosed but allows some protection from the elements or it may provide a sheltered eating area with or without a picnic table or outside grill, or both.

(d) Purpose. The purpose of the property is to provide a facility for an annual community celebration.

(e) Statement of availability and fees required. The owner of the property must prepare and make available upon request a schedule of fees, a policy on the availability of the facility, and any restrictions on the use of the facility. The owner may impose conditions and restrictions that are reasonably necessary to safeguard the property and to promote the purposes of this exemption.

(f) Annual summary required. The owner must annually provide the department of revenue with a detailed summary containing the following information regarding the manner in which the exempt property was used during the preceding year:

(i) The name of any person, organization, association, or corporation that used the property;

(ii) The date(s) on which the property was used;

(iii) The purpose for which the property was used;

(iv) The income derived from the rental of the property; and

(v) The expenses incurred relating to the use of the property.

(4) **Use of property for pecuniary gain or to promote business activities.** If a community celebration facility exempt under subsection (3) of this rule is used for pecuniary gain or to promote business activities, the property tax exemption will be lost. However, the exemption will not be lost if:

(a) The exempt property is used for pecuniary gain or to promote business activities fifteen days or less in an assessment year;

(b) In a county with a population of less than twenty thousand people, the exempt property is used to promote the following business activities: Dance lessons; art classes; or music lessons. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented;

(c) The exempt property is used to conduct a farmers market, as defined in RCW 66.24.170, for fifty-three days or less each assessment year. The rental income or donations, if any, must be reasonable and not exceed the maintenance and operation expenses attributable to the portion of the property loaned or rented; or

(d) All income received from the rental or use of the exempt property is used for capital improvements to the exempt property, maintenance and operation expenses of the exempt property, or for exempt purposes.

(5) **Additional requirements.** Any nonprofit organization, association, or corporation that applies for a property tax exemption under this rule must also comply with the provisions of WAC 458-16-165. WAC 458-16-165 provides additional conditions and requirements that must be satisfied to obtain a property tax exemption pursuant to RCW 84.36.037.

[Statutory Authority: RCW 84.08.010, 84.08.070, 84.08.080, 84.36.389, and 84.36.865. WSR 15-07-021, § 458-16-310, filed 3/10/15, effective 4/10/15. Statutory Authority: RCW 84.36.865, 84.36.037, 84.36.805, 84.36.815, 84.36.825 and 84.36.840. WSR 98-18-006, § 458-16-310, filed 8/20/98, effective 9/20/98. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-310, filed 3/3/94, effective 4/3/94. Statutory Authority: RCW 84.36.865. WSR 81-21-010 (Order PT 81-14), § 458-16-310, filed 10/8/81.]

WAC 458-16-320 Emergency or transitional housing. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.043 to real and personal property used by a nonprofit organization, association, or corporation to provide emergency or transitional housing to low income persons or victims of domestic violence who are homeless for personal safety reasons.

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

(a) "Emergency housing" means a facility whose primary purpose is to provide temporary or transitional shelter and supportive services to the homeless in general or to a specific population of the homeless for no more than sixty days.

(b) "Homeless" means a person, persons, family, or families who do not have fixed, regular, adequate, or safe shelter nor sufficient funds to pay for such shelter.

(c) "Low-income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the city or town is located.

(d) "Supportive services" means resume writing, training, vocational and psychological counselling, or other similar programs designed to assist the homeless into independent living.

(e) "Transitional housing" means a facility that provides housing and supportive services to homeless individuals or families for up to two years and whose primary purpose is to enable homeless individuals or families to move into independent living and permanent housing.

(f) "Victim(s) of domestic violence" means either an adult(s) or a child(ren) who have been physically or mentally abused and who fled his or her home out of fear for his or her safety.

(g) "Property" means real or personal property used by a nonprofit organization, association, or corporation in providing emergency or transitional housing and supportive services for low-income homeless persons or victims of domestic violence.

(h) "Commercial" refers to an activity or enterprise that has profit making as its primary purpose.

(3) **Exemption.** The real and personal property exclusively used, or to the extent that it is exclusively used, by a nonprofit organization, association or corporation to provide emergency or transitional housing to low-income homeless persons or victims of domestic violence shall be exempt from taxation if the following conditions are met:

(a) The amount of the charge or fee for the housing does not exceed maintenance and operation expenses;

(b) The property is either:

(i) Owned by a nonprofit organization, association, or corporation; or

(ii) Rented or leased by a nonprofit organization, association, or corporation and the benefit of the exemption inures to a nonprofit organization, association, or corporation; and

(c) If any portion of the organization's, association's or corporation's property is used for a commercial purpose rather than for an exempt purpose, that portion of the property must be segregated and taxed.

(4) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165 that explains the additional conditions and requirements necessary to obtain a property tax exemption pursuant to RCW 84.36.043.

[Statutory Authority: RCW 84.36.865 and 84.36.043. WSR 99-13-018, § 458-16-320, filed 6/4/99, effective 7/5/99. Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-320, filed 3/3/94, effective 4/3/94.]

WAC 458-16-330 Sheltered workshops for the handicapped. (1) **Introduction.** This section explains the property tax exemption available under the provisions of RCW 84.36.350 to real and personal property owned by a nonprofit organization, association, or corporation and used in operating a sheltered workshop for handicapped persons.

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

(a) "Handicapped person" means an individual who is physically, mentally, or developmentally disabled. For purposes of this section, a substance, either drug or alcohol, abuser is considered physically disabled.

(b) "Sheltered workshop" means a facility, or any portion thereof, operated by a nonprofit organization, association, or corporation where business activities are carried on and whose primary purpose is:

(i) To provide gainful employment or rehabilitative services to the handicapped as an interim step in the rehabilitation process to individuals who cannot be readily absorbed into the competitive labor market or during such time as employment opportunities for them in the competitive labor market do not exist; or

(ii) To provide evaluation and work adjustment services to handicapped individuals.

(c) "Property" means real or personal property owned and used by a nonprofit organization, association, or corporation in operating a sheltered workshop for handicapped persons.

(d) "Commercial" refers to an activity or enterprise that has profit making as its primary purpose.

(3) **Exemption.** The real or personal property owned and used by a nonprofit organization, association, or corporation in connection with the operation of a sheltered workshop for handicapped persons and used primarily to manufacture and handle, sell, or distribute goods constructed, processed, or repaired in a sheltered workshop is exempt from ad valorem taxation.

(a) Inventory owned by a sheltered workshop is also exempt from taxation if the inventory is for sale or lease by the sheltered workshop or the inventory is to be furnished under a contract of service. For example, "inventory" includes, but is not limited to, raw materials, work in process, and finished products.

(b) The primary use of any property exempt under this section must be to provide training, gainful employment, or rehabilitation services to persons who meet the definition of "handicapped person" contained in subsection (2) of this section.

(c) Example. A sheltered workshop that teaches trade skills and work habits to the blind so that trainees might enter the competitive labor market may qualify for this exemption. This workshop may also qualify if it provides training in recreational activities and living skills, such as housekeeping and cooking.

(d) If any portion of the organization's, association's, or corporation's property is used for a commercial purpose rather than for an exempt purpose, that portion of the property must be segregated and taxed.

(4) **Cross reference to excise tax exemption.** A nonprofit organization, association, or corporation that receives a property exemption under RCW 84.36.350 may also be exempt from certain excise taxes. See RCW 82.04.385 for more specific information.

(5) **Additional requirements.** Any organization, association, or corporation that applies for a property tax exemption under this section must also comply with the provisions of WAC 458-16-165 that explains the additional conditions and requirements necessary to obtain a property tax exemption pursuant to RCW 84.36.350.

[Statutory Authority: RCW 84.08.010, 84.08.070 and chapter 84.36 RCW. WSR 94-07-008, § 458-16-330, filed 3/3/94, effective 4/3/94.]

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

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

(a) "CTED" means the state department of community, trade, and economic development or its successor agency;

(b) "Department" means the state department of revenue;

(c) "Group home" means a single-family dwelling financed, in whole or in part, by the state department of community, trade, and economic development or by an affordable housing levy under RCW 84.52.105. 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;

(d) "Mobile home lot" or "mobile home park" means the same as these terms are defined in RCW 59.20.030;

(e) "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;

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

(g) "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; and

(h) "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); or

(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).

(3) **Total exemption - Requirements for rental housing or lot(s) for a mobile home.** Real and personal property is exempt from all property taxes if:

(a) The property is owned or used by a nonprofit entity in providing rental housing for very low-income households or used to provide a lot of land upon which a mobile home for a very low-income 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 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 CTED;

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

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

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

(4) **Partial exemption - Determination of the amount of 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 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 households or used to provide a lot upon which a mobile home for a very low-income 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 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 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) **Exempt facility with *only* three or less units or mobile home park with *only* three or less lots with vacancy on January 1st - Size of exemption.** If the rental housing or mobile home park is comprised of ***only*** three or less dwelling units or lots and there are any unoccupied dwelling units or lots on January 1st after receipt of a property tax exemption, the department will determine the size of the exemption based on the number of occupied dwelling units or lots on May 1st of the assessment year in which a claim for exemption is submitted. For example, if one-half of an exempt duplex is vacant on January 1st, which 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 less units or mobile home parks with ten or less lots - 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 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 units or mobile home lots when 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 units or fewer or mobile home lot in a mobile home park with ten lots or fewer 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 but remains at or below eighty percent of 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 section; and

(b) If a dwelling unit or mobile home lot receiving an exemption under this exception becomes vacant and is subsequently rerented, the income of the household moving into the 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 to remain exempt from property tax.

(c) Example. If a unit is occupied by a household whose income rises up to sixty percent of median income, the unit will retain its exempt status as long as the household continues to occupy the unit and the household's income remains below eighty percent of median income. If the residents of this unit move out on June 1st and the unit is subsequently rented to a household whose income is at or below fifty percent of median income, the unit will retain its exempt status. Conversely, if the unit is rented to a household whose income is above fifty percent of median income, the unit becomes ineligible for exemption as of January 1st of the following year.

(7) **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 median income, the home will receive a fifty percent reduction in the property taxes due on the home.

(8) **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 application or on January 1 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 households from one or more of the sources listed in subsection (3)(d) of this section;

(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 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 households, only that portion that will be so used is entitled to an exemption under this subsection.

(9) **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 households, except as provided in RCW 84.36.805.

(10) **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 the property prior to the time the exemption was effective.

[Statutory Authority: RCW 84.36.865 and 84.36.560. WSR 09-04-036, § 458-16-560, filed 1/29/09, effective 3/1/09; WSR 02-15-020, § 458-16-560, filed 7/8/02, effective 8/8/02.]