

WAC 458-12-010 Definition—Property—Real. The term "real property" is defined in RCW 84.04.090; this definition should be consulted as a matter of course in all cases where the meaning of "real property" is in doubt. As there defined, "real property" includes but is not limited to the following:

(1) All land, whether platted or unplatted.

(2) All buildings, structures or permanent improvements built upon or attached to privately owned land.

(3) Any fixture permanently affixed to and intended to be annexed to land or permanently affixed to and intended to be a component of a building, structure, or improvement on land, including machinery and equipment which become fixtures. Intent is to be gathered from all the surrounding circumstances at the time of annexation or installation of the item, including consideration of the nature of the item affixed, the manner of annexation and the purpose for which the annexation is made and is not to be gathered exclusively from the statements of the annex or, installer, or owner as to his or her actual state of mind.

(a) Such items shall be considered as permanently affixed when they are owned by the owner of the real property and:

(i) They are securely attached to the real property; or

(ii) Although not so attached, the item appears to be permanently situated in one location on real property and is adapted to use in the place it is located. For example a heavy piece of machinery or equipment set upon a foundation without being bolted thereto could be considered as affixed.

(b) Such items shall not be considered as affixed when they are owned separately from the real property unless an agreement specifically provides that such items are to be considered as part of the real property and are to be left with the real property when the occupant vacates the premises.

(c) Whenever the property taxable status of engines, machinery, equipment or fixtures is questioned by the assessor, the taxpayer may be required to list such items in the manner provided by chapter 84.40 RCW and WAC 458-12-060. The assessor shall make the determination of whether such property is real, and shall amend the taxpayer's statement as provided by WAC 458-12-060(4).

(d) The explanations relating to fixtures under subsection (3) of this section are for purposes of clarification and may not answer the question as to whether an item is a fixture in all cases. In the event these explanations do not clearly indicate whether the item is a fixture, the numerous decisions of the Washington appellate courts regarding fixtures should be consulted.

(4) Privately owned easements and easement-like privileges, irrespective of whether the servient estate is public or privately owned land. However, easements of public service corporations other than railroads are personal property by reason of RCW 84.20.010.

(5) Leases of real property and leasehold interests therein having a term coextensive with the life of the tenant.

(6) Title to minerals in place which belongs to someone other than the surface owner. Such a title to minerals in place is a "mineral right" but must be distinguished from mineral leases and permits, which do not give title to minerals in place and which are intangible personal property. Mineral rights, as defined herein, are realty regardless of whether they were created by grant or reservation.

(7) Standing timber growing on land which belongs to the same person as the timber.

(8) Water rights, whether riparian, appropriative, or in the nature of an easement.

(9) Buildings and similar permanent improvements erected or made by a tenant on land which he does not own, and title to which is not reserved in the tenant by the lease or some other landlord-tenant agreement. Such buildings and improvements become the landlord's real property.

(10) All life estates in real property, whether created by grant or a reservation. A person has such a life estate when he has a right to the possession, occupation and use of a piece of realty, and to the crops, rents and profits produced by it, during his or her natural life.

(11) All possessory rights in realty which are coextensive with the natural life of their holder. Such possessory rights are analogous to leases, and since leases for life are realty, possessory rights for life are also realty.

[Statutory Authority: RCW 84.08.010, 84.08.070, and 84.04.090. WSR 14-21-044, § 458-12-010, filed 10/7/14, effective 11/7/14. Statutory Authority: RCW 84.41.090 and 84.08.010. WSR 93-08-049, § 458-12-010, filed 4/2/93, effective 5/3/93; Order PT 69-1, § 458-12-010, filed 4/14/69; Order PT 68-6, § 458-12-010, filed 4/29/68.]