
ENGROSSED HOUSE BILL 1613

State of Washington

56th Legislature

1999 Regular Session

By Representatives Barlean, Lovick, B. Chandler, Thomas and Rockefeller; by request of Department of Revenue

Read first time 02/01/1999. Referred to Committee on Finance.

1 AN ACT Relating to clarifying the property tax exemption statutes;
2 amending RCW 84.36.477, 84.40.405, and 28C.10.084; reenacting and
3 amending RCW 84.36.805 and 84.36.810; creating new sections; and
4 repealing RCW 84.36.140, 84.36.150, 84.36.160, 84.36.161, 84.36.162,
5 84.36.176, 84.36.181, 84.36.190, 84.36.191, 84.36.270, 84.36.280,
6 84.36.290, and 84.36.473.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** (1) The purpose of this act is to clarify
9 the property tax exemption statutes by: (a) Repealing unnecessary and
10 duplicative statutes in chapter 84.36 RCW; (b) consolidating the
11 exemption statutes for business inventories; and (c) simplifying
12 administrative statutes pertaining to nonprofit organizations.

13 (2) Section 2, chapter . . ., Laws of 1999 (section 2 of this act)
14 consolidates all exemptions for business inventories and their related
15 definitions into one statute.

16 (3) Section 3, chapter . . ., Laws of 1999 (section 3 of this act)
17 clarifies and simplifies RCW 84.36.805 by substituting a general
18 reference to chapter 84.36 RCW for specific references to exemption
19 statutes for nonprofit organizations. RCW 84.36.805 applies to all

1 new property tax exemptions for nonprofit organizations unless the new
2 exemption is specifically exempted.

3 (4) Section 4, chapter . . ., Laws of 1999 (section 4 of this act)
4 substitutes a general reference for specific statutory references in
5 RCW 84.36.810 to clarify that back taxes are not due on the loss of
6 exemption on leased property if the lease is canceled and deletes an
7 erroneous reference caused by section 20, chapter 311, Laws of 1998.

8 (5) Section 5, chapter . . ., Laws of 1999 (section 5 of this act)
9 deletes references to previously repealed statutes and to RCW 84.36.473
10 which is repealed by section 7, chapter . . ., Laws of 1999 (section 7
11 of this act).

12 (6) Section 7 of this act repeals the statutes that have been
13 incorporated into the definition of business inventories in RCW
14 84.36.477. It also repeals unused statutes authorizing an exemption
15 for the construction of the King county stadium on private property.

16 **Sec. 2.** RCW 84.36.477 and 1983 1st ex.s. c 62 s 6 are each amended
17 to read as follows:

18 (1) Business inventories ((as defined in RCW 84.36.473)) are exempt
19 from property taxation.

20 (2) As used in this section:

21 (a)(i) "Business inventories" means all livestock, inventories of
22 finished goods and work in process, and personal property not under
23 lease or rental, acquired or produced solely for the purpose of sale or
24 lease or for the purpose of consuming the property in producing for
25 sale or lease a new article of tangible personal property of which the
26 property becomes an ingredient or component.

27 (ii) "Business inventories" also includes:

28 (A) All grains and flour, fruit and fruit products, unprocessed
29 timber, vegetables and vegetable products, and fish and fish products,
30 while being transported to or held in storage in a public or private
31 warehouse or storage area if actually shipped to points outside the
32 state on or before April 30th of the first year for which they would
33 otherwise be taxable;

34 (B) All finished plywood, hardboard, and particle board panels
35 shipped from outside this state to any processing plant within this
36 state, if the panels are moving under a through freight rate to final
37 destination outside this state and the carrier grants the shipper the
38 privilege of stopping the shipment in transit for the purpose of

1 storing, milling, manufacturing, or other processing, while the panels
2 are in the process of being treated or shaped into flat component parts
3 to be incorporated into finished products outside this state and for
4 thirty days after completion of the processing or treatment;

5 (C) All ore or metal shipped from outside this state to any smelter
6 or refining works within this state, while in process of reduction or
7 refinement and for thirty days after completion of the reduction or
8 refinement; and

9 (D) All metals refined by electrolytic process into cathode or bar
10 form while in this form and held under negotiable warehouse receipt in
11 a public or private warehouse recognized by an established incorporated
12 commodity exchange and for sale through the exchange.

13 (iii) "Business inventories" does not include personal property
14 acquired or produced for the purpose of lease or rental if the property
15 was leased or rented at any time during the calendar year immediately
16 preceding the year of assessment and was not thereafter remanufactured,
17 nor does it include property held within the normal course of business
18 for lease or rental for periods of less than thirty days.

19 (iv) "Business inventories" does not include agricultural or
20 horticultural property fully or partially exempt under RCW 84.36.470.

21 (v) "Business inventories" does not include timber that is standing
22 on public land and that is sold under a contract entered into after
23 August 1, 1982;

24 (b) "Fish and fish products" means all fish and fish products
25 suitable and designed for human consumption, excluding all others;

26 (c) "Fruit and fruit products" means all raw edible fruits,
27 berries, and hops and all processed products of fruits, berries, or
28 hops, suitable and designed for human consumption, while in the hands
29 of the first processor;

30 (d) "Processed" means canning, barreling, bottling, preserving,
31 refining, freezing, packing, milling, or any other method employed to
32 keep any grain, fruit, vegetable, or fish in an edible condition or to
33 put it into more suitable or convenient form for consuming, storing,
34 shipping, or marketing;

35 (e) "Remanufactured" means the restoration of property to
36 essentially its original condition, but does not mean normal
37 maintenance or repairs; and

38 (f) "Vegetables and vegetable products" means all raw edible
39 vegetables such as peas, beans, beets, sugar beets, and other

1 vegetables, and all processed products of vegetables, suitable and
2 designed for human consumption, while in the hands of the first
3 processor.

4 **Sec. 3.** RCW 84.36.805 and 1998 c 311 s 25, 1998 c 202 s 3, and
5 1998 c 184 s 2 are each reenacted and amended to read as follows:

6 (1) In order to (~~be exempt pursuant to RCW 84.36.030, 84.36.035,~~
7 84.36.037, 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.046,
8 84.36.047, 84.36.050, 84.36.060, 84.36.350, 84.36.480, 84.36.550, and
9 84.36.042)) qualify for an exemption under this chapter, the nonprofit
10 organizations, associations or corporations (~~shall~~) must satisfy the
11 (~~following~~) conditions(~~(+)~~) in this section.

12 (~~(1)~~) (2) The property (~~is~~) must be used exclusively for the
13 actual operation of the activity for which exemption is granted, unless
14 otherwise provided, and does not exceed an amount reasonably necessary
15 for that purpose, except:

16 (a) The loan or rental of the property does not subject the
17 property to tax if:

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

22 (ii) Except for the exemptions under RCW 84.36.030(4) and
23 84.36.037, the property would be exempt from tax if owned by the
24 organization to which it is loaned or rented;

25 (b) The use of the property for fund-raising activities does not
26 subject the property to tax if the fund-raising activities are
27 consistent with the purposes for which the exemption is granted(~~(+)~~).

28 (~~(2)~~) (3) The property (~~is~~) must be irrevocably dedicated to
29 the purpose for which exemption has been granted, and on the
30 liquidation, dissolution, or abandonment by said organization,
31 association, or corporation, said property will not inure directly or
32 indirectly to the benefit of any shareholder or individual, except a
33 nonprofit organization, association, or corporation which too would be
34 entitled to property tax exemption. This property need not be
35 irrevocably dedicated if it is leased or rented to those qualified for
36 exemption (~~pursuant to RCW 84.36.035, 84.36.040, 84.36.041, 84.36.043,~~
37 84.36.045, 84.36.046, or 84.36.042 or those qualified for exemption as
38 an association engaged in the production or performance of musical,

1 dance, artistic, dramatic, or literary works pursuant to RCW
2 84.36.060)) under this chapter for leased property, but only if under
3 the terms of the lease or rental agreement the nonprofit organization,
4 association, or corporation receives the benefit of the exemption((+)).

5 ((+3)) (4) The facilities and services ((are)) must be available
6 to all regardless of race, color, national origin or ancestry((+)).

7 ((+4)) (5) The organization, association, or corporation ((is))
8 must be duly licensed or certified where such licensing or
9 certification is required by law or regulation((+)).

10 ((+5)) (6) Property sold to organizations, associations, or
11 corporations with an option to be repurchased by the seller shall not
12 qualify for exempt status((+)).

13 ((+6)) (7) The ((director of the)) department ((of revenue)) shall
14 have access to its books in order to determine whether ((such)) the
15 nonprofit organization, association, or corporation is exempt from
16 ((taxes within the intent of RCW 84.36.030, 84.36.035, 84.36.037,
17 84.36.040, 84.36.041, 84.36.043, 84.36.045, 84.36.046, 84.36.047,
18 84.36.050, 84.36.060, 84.36.350, 84.36.480, and 84.36.042)) taxes under
19 this chapter.

20 (8) This section does not apply to exemptions granted under RCW
21 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

22 **Sec. 4.** RCW 84.36.810 and 1998 c 311 s 26 and 1998 c 202 s 4 are
23 each reenacted and amended to read as follows:

24 (1) Upon cessation of a use under which an exemption has been
25 granted pursuant to RCW 84.36.030, 84.36.037, 84.36.040, 84.36.041,
26 84.36.042, 84.36.043, 84.36.046, 84.36.050, 84.36.060, and 84.36.550((
27 and 84.36.042)), the county treasurer shall collect all taxes which
28 would have been paid had the property not been exempt during the three
29 years preceding, or the life of such exemption, if such be less,
30 together with the interest at the same rate and computed in the same
31 way as that upon delinquent property taxes. ((Where)) When the
32 property has been granted an exemption for more than ten consecutive
33 years, taxes and interest shall not be assessed under this section.

34 (2) Subsection (1) of this section applies only when ownership of
35 the property is transferred or when fifty-one percent or more of the
36 area of the property ((has lost)) loses its exempt status. The
37 additional tax under subsection (1) of this section shall not be
38 imposed if the cessation of use resulted solely from:

1 (a) Transfer to a nonprofit organization, association, or
2 corporation for a use which also qualifies and is granted exemption
3 under ~~((the provisions of))~~ this chapter ~~((84.36-RCW))~~;

4 (b) A taking through the exercise of the power of eminent domain,
5 or sale or transfer to an entity having the power of eminent domain in
6 anticipation of the exercise of such power;

7 (c) Official action by an agency of the state of Washington or by
8 the county or city within which the property is located which disallows
9 the present use of such property;

10 (d) A natural disaster such as a flood, windstorm, earthquake, or
11 other such calamity rather than by virtue of the act of the
12 organization, association, or corporation changing the use of such
13 property;

14 (e) Relocation of the activity and use of another location or site
15 except for undeveloped properties of camp facilities exempted under RCW
16 84.36.030;

17 (f) Cancellation of a lease on leased property that had been exempt
18 under ~~((RCW 84.36.040, 84.36.041, 84.36.043, 84.36.046, 84.36.060, or
19 84.36.042))~~ this chapter; or

20 (g) A change in the exempt portion of a home for the aging under
21 RCW 84.36.041(3), as long as some portion of the home remains exempt(~~(+~~

22 ~~(h) The conversion of a full exemption of a home for the aging to
23 a partial exemption or taxable status or the conversion of a partial
24 exemption to taxable status under RCW 84.36.041(8))~~).

25 **Sec. 5.** RCW 84.40.405 and 1985 c 7 s 156 are each amended to read
26 as follows:

27 The department of revenue shall promulgate such rules and
28 regulations, and prescribe such procedures as it deems necessary to
29 carry out RCW ~~((82.04.444, 82.04.445,))~~ 84.36.470(~~(, 84.36.473,
30 84.36.475,))~~ and 84.36.477(~~(, 84.09.080, and 84.52.015, and this
31 section))~~).

32 **Sec. 6.** RCW 28C.10.084 and 1993 c 445 s 2 are each amended to read
33 as follows:

34 (1) The agency shall establish, maintain, and administer a tuition
35 recovery trust fund. All funds collected for the tuition recovery
36 trust fund are payable to the state for the benefit and protection of
37 any student or enrollee of a private vocational school licensed under

1 this chapter, or, in the case of a minor, his or her parents or
2 guardian, for purposes including but not limited to the settlement of
3 claims related to school closures under subsection (10) of this section
4 and the settlement of claims under RCW 28C.10.120. The fund shall be
5 liable for settlement of claims and costs of administration but shall
6 not be liable to pay out or recover penalties assessed under RCW
7 28C.10.130 or 28C.10.140. No liability accrues to the state of
8 Washington from claims made against the fund.

9 (2) By June 30, 1998, a minimum operating balance of one million
10 dollars shall be achieved in the fund and maintained thereafter. If
11 disbursements reduce the operating balance below two hundred thousand
12 dollars at any time before June 30, 1998, or below one million dollars
13 thereafter, each participating entity shall be assessed a pro rata
14 share of the deficiency created, based upon the incremental scale
15 created under subsection (6) of this section. The agency shall adopt
16 schedules of times and amounts for effecting payments of assessment.

17 (3) To be and remain licensed under this chapter each entity shall,
18 in addition to other requirements under this chapter, make cash
19 deposits into a tuition recovery trust fund as a means to assure
20 payment of claims brought under this chapter.

21 (4) The amount of liability that can be satisfied by this fund on
22 behalf of each individual entity licensed under this chapter shall be
23 established by the agency, based on an incremental scale that
24 recognizes the average amount of unearned prepaid tuition in possession
25 of the entity. However, the minimum amount of liability for any entity
26 shall not be less than five thousand dollars. The upper limit of
27 liability is reestablished after any disbursements are made to settle
28 an individual claim or class of claims.

29 (5) The fund's liability with respect to each participating entity
30 commences on the date of its initial deposit into the fund and ceases
31 one year from the date it is no longer licensed under this chapter.

32 (6) The agency shall adopt by rule a matrix for calculating the
33 deposits into the fund required of each entity. Proration shall be
34 determined by factoring the entity's share of liability in proportion
35 to the aggregated liability of all participants under the fund by
36 grouping such prorations under the incremental scale created by
37 subsection (4) of this section. Expressed as a percentage of the total
38 liability, that figure determines the amount to be contributed when
39 factored into a fund containing one million dollars. The total amount

1 of its prorated share, minus the amount paid for initial
2 capitalization, shall be payable in up to twenty increments over a ten-
3 year period, commencing with the sixth month after the entity makes its
4 initial capitalization deposit. Additionally, the agency shall require
5 deposits for initial capitalization, under which the amount each entity
6 deposits is proportionate to its share of two hundred thousand dollars,
7 employing the matrix developed under this subsection. The amount thus
8 established shall be deposited by each applicant for initial licensing
9 before the issuance of such license.

10 (7) No vested right or interests in deposited funds is created or
11 implied for the depositor, either at any time during the operation of
12 the fund or at any such future time that the fund may be dissolved.
13 All funds deposited are payable to the state for the purposes described
14 under this section. The agency shall maintain the fund, serve
15 appropriate notices to affected entities when scheduled deposits are
16 due, collect deposits, and make disbursements to settle claims against
17 the fund. When the aggregated deposits total five million dollars and
18 the history of disbursements justifies such modifications, the agency
19 may at its own option reduce the schedule of deposits whether as to
20 time, amount, or both and the agency may also entertain proposals from
21 among the licensees with regard to disbursing surplus funds for such
22 purposes as vocational scholarships.

23 (8) Based on annual financial data supplied by the entity the
24 agency shall determine whether the increment assigned to that entity on
25 the incremental scale established under subsection (6) of this section
26 has changed. If an increase or decrease in gross annual tuition income
27 has occurred, a corresponding change in its incremental position and
28 contribution schedule shall be made before the date of its next
29 scheduled deposit into the fund. Such adjustments shall only be
30 calculated and applied annually.

31 (9) No deposits made into the fund by an entity are transferable.
32 If the majority ownership interest in an entity is conveyed through
33 sale or other means into different ownership, all contributions made to
34 the date of transfer accrue to the fund. The new owner commences
35 contributions under provisions applying to a new applicant, except that
36 if ownership of an entity is transferred to an immediate family member,
37 the entity is not required to make additional cash deposits into a
38 tuition recovery trust fund.

1 (10) To settle claims adjudicated under RCW 28C.10.120 and claims
2 resulting when a private vocational school ceases to provide
3 educational services, the agency may make disbursements from the fund.
4 Students enrolled under a training contract executed between a school
5 and a public or private agency or business are not eligible to make a
6 claim against the fund. In addition to the processes described for
7 making reimbursements related to claims under RCW 28C.10.120, the
8 following procedures are established to deal with reimbursements
9 related to school closures:

10 (a) The agency shall attempt to notify all potential claimants.
11 The unavailability of records and other circumstances surrounding a
12 school closure may make it impossible or unreasonable for the agency to
13 ascertain the names and whereabouts of each potential claimant but the
14 agency shall make reasonable inquiries to secure that information from
15 all likely sources. The agency shall then proceed to settle the claims
16 on the basis of information in its possession. The agency is not
17 responsible or liable for claims or for handling claims that may
18 subsequently appear or be discovered.

19 (b) Thirty days after identified potential claimants have been
20 notified, if a claimant refuses or neglects to file a claim
21 verification as requested in such notice, the agency shall be relieved
22 of further duty or action on behalf of the claimant under this chapter.

23 (c) After verification and review, the agency may disburse funds
24 from the tuition recovery trust fund to settle or compromise the
25 claims. However, the liability of the fund for claims against the
26 closed entity shall not exceed the maximum amount of liability assigned
27 to that entity under subsection (6) of this section.

28 (d) In the instance of claims against a closed school, the agency
29 shall seek to recover such disbursed funds from the assets of the
30 defaulted entity, including but not limited to asserting claims as a
31 creditor in bankruptcy proceedings.

32 (11) When funds are disbursed to settle claims against a current
33 licensee, the agency shall make demand upon the licensee for recovery.
34 The agency shall adopt schedules of times and amounts for effecting
35 recoveries. An entity's failure to perform subjects its license to
36 suspension or revocation under RCW 28C.10.050 in addition to any other
37 available remedies.

1 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each
2 repealed:

3 (1) RCW 84.36.140 and 1972 ex.s. c 30 s 2 & 1961 c 15 s 84.36.140;

4 (2) RCW 84.36.150 and 1967 ex.s. c 149 s 32 & 1961 c 15 s
5 84.36.150;

6 (3) RCW 84.36.160 and 1972 ex.s. c 30 s 1, 1971 ex.s. c 137 s 1, &
7 1961 c 15 s 84.36.160;

8 (4) RCW 84.36.161 and 1998 c 311 s 21 & 1961 c 15 s 84.36.161;

9 (5) RCW 84.36.162 and 1961 c 15 s 84.36.162;

10 (6) RCW 84.36.176 and 1967 ex.s. c 149 s 34;

11 (7) RCW 84.36.181 and 1961 c 168 s 2;

12 (8) RCW 84.36.190 and 1961 c 15 s 84.36.190;

13 (9) RCW 84.36.191 and 1961 c 15 s 84.36.191;

14 (10) RCW 84.36.270 and 1973 1st ex.s. c 195 s 95 & 1967 ex.s. c 117
15 s 1;

16 (11) RCW 84.36.280 and 1967 ex.s. c 117 s 2;

17 (12) RCW 84.36.290 and 1967 ex.s. c 117 s 3; and

18 (13) RCW 84.36.473 and 1998 c 311 s 23, 1983 1st ex.s. c 62 s 2,
19 1982 c 174 s 1, 1975 1st ex.s. c 291 s 8, & 1974 ex.s. c 169 s 4.

20 NEW SECTION. **Sec. 8.** The repeals in section 7 of this act do not
21 affect any existing right acquired or liability or obligation incurred
22 under the sections repealed or under any rule or order adopted under
23 those sections, nor do they affect any proceeding instituted under
24 those sections.

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