

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. RCW 84.36.262 and WAC 458-16-290 Nature conservancy lands, provide additional information about the collection of back taxes for nature conservancies.

(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 does 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 canceled or removed different rollback procedures apply. See RCW 84.36.262 and WAC 458-16-290 Nature conservancy lands, for additional information.

(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 must collect all taxes which would have been paid if not 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 if not 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 on 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

TYPE OF EXEMPT ORGANIZATION	AUTHORIZING STATUTE
Nonprofit outpatient dialysis facilities	RCW 84.36.040
Public hospital district established under chapter 36.62 or 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
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 qualifying households	RCW 84.36.560

TYPE OF EXEMPT ORGANIZATION	AUTHORIZING STATUTE
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
Nonprofit organizations soliciting or collecting donations, gifts, or grants for artists	RCW 84.36.650

(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 on 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 qualifying 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 must 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. 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 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 it deems necessary to determine the exempt use of the property and may conduct 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 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 calculate and collect the back taxes and interest due when the department notifies the treasurer that the property tax exemption is to be canceled or removed. The interest will be computed at the same rate and in the same manner as that on delinquent property taxes. The back taxes collected are disbursed to the taxing districts impacted by the previous property tax exemption. The interest collected is placed in the county current expense fund.

[Statutory Authority: RCW 84.36.865. WSR 21-01-063, § 458-16-150, filed 12/9/20, effective 1/9/21. 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 (Or-

der 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.]