

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 calculated in the same way as delinquent property taxes. RCW 84.36.810. However, "back taxes" are calculated differently when an exemption is canceled 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 Cessation of use—Taxes collectible for prior years, regarding not-for-profit foundations and RCW 84.36.262 and WAC 458-16-290 Nature conservancy lands, 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 canceled or removed different rollback procedures are applied. See RCW 84.36.262 and WAC 458-16-290.

(3) **Acquiring tax exempt status.** An application must be filed with the department within 60 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. 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 Initial application and renewal declaration.

(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, 2022, converts it to an exempt use by April 1, 2022, and applies for a property tax exemption on April 14, 2022. If the application is approved, the property tax exemption will be effective for taxes payable in 2023.

(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 if the purchaser makes an application to continue the property tax exemption within 60 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 if the home for the aging makes application to the department within 60 days of acquiring the nursing home and the application for exemption is later approved by the department.

(4) **Exempt to taxable status.** Real property may lose its exempt status for several reasons; when this occurs, the property tax exemption will be canceled or removed. When the exemption is canceled or removed, the property becomes subject to the following year's taxes. Except for publicly owned property that was exempt under RCW 84.36.010, 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 will collect a pro rata portion of the taxes allocable to the remaining portion of the current tax year after the date the exemption is canceled 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 will be canceled and that portion of the property will be subjected to assessment and taxation during the current tax year.

For publicly owned property that was exempt under RCW 84.36.010, and loses its exempt status and becomes taxable, the assessor must value and list the property as of the January 1st assessment date for the year of the status change in accordance with RCW 84.40.175.

(a) Real property changes from exempt to taxable status when 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 a 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) Except for publicly owned property exempt under RCW 84.36.010, 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 af-

ter 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, 2022, and had no intent to reoccupy the property. The shelter advertised the property so it could rent it to another nonprofit organization for a tax exempt purpose. The nonprofit shelter was unable to find another nonprofit organization to rent the property for a tax exempt purpose, so on June 1, 2022, it signed a lease agreement with a for-profit business enterprise which intended to occupy the property effective July 1, 2022. The rollback provisions of RCW 84.36.810 must be applied as of January 1, 2022.

(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 120 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 120 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 84.08.010, 84.08.070, and 84.36.865. WSR 24-02-018, § 458-16-130, filed 12/21/23, effective 1/21/24. 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.]