
HOUSE BILL 1510

State of Washington 59th Legislature 2005 Regular Session

By Representatives Morris, Quall, B. Sullivan and Chase

Read first time 01/26/2005. Referred to Committee on Finance.

1 AN ACT Relating to the property taxation of nonprofit entities;
2 amending RCW 84.36.030, 84.36.031, 84.36.800, 84.36.805, and 84.36.810;
3 and reenacting and amending RCW 84.36.037.

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

5 **Sec. 1.** RCW 84.36.030 and 1993 c 327 s 2 are each amended to read
6 as follows:

7 The following real and personal property shall be exempt from
8 taxation:

9 (1) Property owned by nonprofit organizations or associations,
10 organized and conducted for nonsectarian purposes, which shall be used
11 for character-building, benevolent, protective or rehabilitative social
12 services (~~directed at persons of all ages~~). The sale of donated
13 merchandise shall not be considered a commercial use of the property
14 under this section if the proceeds are devoted to the furtherance of
15 the purposes of the selling organization or association as specified in
16 this paragraph.

17 (2) Property owned by any nonprofit church, denomination, group of
18 churches, or an organization or association, the membership of which is
19 comprised solely of churches or their qualified representatives, which

1 is utilized as a camp facility if used for organized and supervised
2 recreational activities and church purposes as related to such camp
3 facilities. The exemption provided by this paragraph shall apply to a
4 maximum of two hundred acres of any such camp as selected by the
5 church, including buildings and other improvements thereon.

6 (3) Property, including buildings and improvements required for the
7 maintenance and safeguarding of such property, owned by nonprofit
8 organizations or associations engaged in character building of boys and
9 girls under eighteen years of age, and used for such purposes and uses,
10 provided such purposes and uses are for the general public good:
11 PROVIDED, That if existing charters provide that organizations or
12 associations, which would otherwise qualify under the provisions of
13 this paragraph, serve boys and girls up to the age of twenty-one years,
14 then such organizations or associations shall be deemed qualified
15 pursuant to this section.

16 (4) Property owned by all organizations and societies of veterans
17 of any war of the United States, recognized as such by the department
18 of defense, which shall have national charters, and which shall have
19 for their general purposes and objects the preservation of the memories
20 and associations incident to their war service and the consecration of
21 the efforts of their members to mutual helpfulness and to patriotic and
22 community service to state and nation. To be exempt such property must
23 be used in such manner as may be reasonably necessary to carry out the
24 purposes and objects of such societies.

25 (5) The use of the property for pecuniary gain or ~~((to promote))~~
26 for business activities, except as provided in this subsection ~~((+4))~~
27 (5), nullifies the exemption otherwise available for the property for
28 the ~~((assessment year))~~ calendar month in which the use occurs. The
29 exemption is not nullified by:

30 (a) The collection of rent or donations if ~~((the amount is~~
31 ~~reasonable and does not exceed maintenance and operation expenses))~~ all
32 funds collected are used for capital improvements to the exempt
33 property, maintenance and operation of the exempt property, or for
34 exempt purposes.

35 (b) Fund-raising activities conducted by a nonprofit organization.

36 (c) The rental or use of the property for pecuniary gain for
37 ~~((periods of not more than three days in a year))~~ business activities,
38 or by individuals, groups, or organizations for private or public

1 purposes for a maximum of fifteen days each assessment year so long as
2 all income received from rental or use of the exempt property is used
3 for capital improvements to the exempt property, maintenance and
4 operation of the exempt property, or for exempt purposes.

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

10 ~~((+5))~~ (e) In a county with a population of less than thirty
11 thousand, the rental or use of the property by nonprofit community
12 groups or other nonprofit organizations that might not qualify for
13 exemption if they owned the property so long as the use of the property
14 does not result in pecuniary gain, does not involve business
15 activities, and provided such uses are for the general public good and
16 all income received from rental or use of the exempt property is used
17 for capital improvements to the exempt property, maintenance and
18 operation of the exempt property, or for exempt purposes.

19 (6) Property owned by all corporations, incorporated under any act
20 of congress, whose principal purposes are to furnish volunteer aid to
21 members of the armed forces of the United States and also to carry on
22 a system of national and international relief and to apply the same in
23 mitigating the sufferings caused by pestilence, famine, fire, floods,
24 and other national calamities and to devise and carry on measures for
25 preventing the same.

26 ~~((+6))~~ (7) Property owned by nonprofit organizations exempt from
27 federal income tax under section 501(c)(3) of the internal revenue code
28 of 1954, as amended, that are guarantee agencies under the federal
29 guaranteed student loan program or that issue debt to provide or
30 acquire student loans.

31 ~~((+7))~~ (8) To be exempt under this section, the property must be
32 used exclusively for the purposes for which exemption is granted,
33 except as provided in RCW 84.36.805.

34 **Sec. 2.** RCW 84.36.031 and 1969 c 137 s 2 are each amended to read
35 as follows:

36 Property leased, loaned, sold with the option to repurchase, or
37 otherwise made available to organizations as set out in RCW 84.36.030

1 above shall not be exempt from taxation: PROVIDED, That property which
2 is owned by an organization as set out in RCW 84.36.030 may loan,
3 lease, or rent the property to another organization for the same
4 purpose as set out in RCW 84.36.030.

5 **Sec. 3.** RCW 84.36.037 and 1998 c 311 s 19 and 1998 c 189 s 1 are
6 each reenacted and amended to read as follows:

7 (1) Real or personal property owned by a nonprofit organization,
8 association, or corporation in connection with the operation of a
9 public assembly hall or meeting place is exempt from taxation. (~~The~~
10 ~~area exempt under this section includes the building or buildings, the~~
11 ~~land under the buildings, and an additional area necessary for parking,~~
12 ~~not exceeding a total of one acre.~~) When property for which exemption
13 is sought is essentially unimproved except for restroom facilities and
14 structures and this property has been used primarily for annual
15 community celebration events for at least ten years, the exempt
16 property shall not exceed twenty-nine acres.

17 (2) To qualify for this exemption the property must be used
18 exclusively for public gatherings and be available to all organizations
19 or persons desiring to use the property, but the owner may impose
20 conditions and restrictions which are necessary for the safekeeping of
21 the property and promote the purposes of this exemption. Membership
22 shall not be a prerequisite for the use of the property.

23 (3) The use of the property for pecuniary gain or (~~to promote~~)
24 for business activities, except as provided in this section, nullifies
25 the exemption otherwise available for the property for the (~~assessment~~
26 ~~year~~) calendar month in which the use occurs. The exemption is not
27 nullified by:

28 (a) The collection of rent or donations if (~~the amount is~~
29 ~~reasonable and does not exceed maintenance and operation expenses~~
30 ~~created by the user~~) all funds collected are used for capital
31 improvements to the exempt property or maintenance and operation of the
32 exempt property.

33 (b) Fund-raising activities conducted by a nonprofit organization.

34 (c) The use of the property for pecuniary gain (~~to~~) to promote
35 business activities, or by individuals, groups, or organizations for
36 private purposes for periods of not more than (~~seven~~) fifteen days
37 (~~in a~~) each assessment year so long as all income received from

1 rental or use of the exempt property is used for capital improvements
2 to the exempt property or maintenance and operation of the exempt
3 property.

4 (d) In a county with a population of less than (~~ten~~) thirty
5 thousand, the use of the property to promote the following business
6 activities: Dance lessons, art classes, or music lessons.

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

12 (~~((4) The department of revenue shall narrowly construe this~~
13 ~~exemption.))~~

14 **Sec. 4.** RCW 84.36.800 and 1998 c 311 s 24 are each amended to read
15 as follows:

16 As used in this chapter:

17 (1) "Church purposes" means the use of real and personal property
18 owned by a nonprofit religious organization for religious worship or
19 related administrative, educational, eleemosynary, and social
20 activities. This definition is to be broadly construed;

21 (2) "Convent" means a house or set of buildings occupied by a
22 community of clergy or nuns devoted to religious life under a superior;

23 (3) "Hospital" means any portion of a hospital building, or other
24 buildings in connection therewith, used as a residence for persons
25 engaged or employed in the operation of a hospital, or operated as a
26 portion of the hospital unit;

27 (4) "Nonprofit" means, without further qualification or
28 restriction, an organization, association or corporation no part of the
29 income of which is paid directly or indirectly to its members,
30 stockholders, officers, directors or trustees except in the form of
31 services rendered by the organization, association, or corporation in
32 accordance with its purposes and bylaws and the salary or compensation
33 paid to officers of such organization, association or corporation is
34 for actual services rendered and is less than or compares to the salary
35 or compensation of like positions within the public services of the
36 state;

1 (5) "Parsonage" means a residence occupied by a member of the
2 clergy who has been designated for a particular congregation and who
3 holds regular services therefor.

4 **Sec. 5.** RCW 84.36.805 and 2003 c 121 s 2 are each amended to read
5 as follows:

6 (1) In order to qualify for an exemption under this chapter, the
7 nonprofit organizations, associations, or corporations must satisfy the
8 conditions in this section.

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

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

15 (i) ~~The rents and donations received for the use of ((the portion~~
16 ~~of)) the property are ((reasonable and do not exceed the maintenance~~
17 ~~and operation expenses attributable to the portion of the property~~
18 ~~loaned or rented)) used for capital improvements to the exempt
19 property, maintenance and operation of the exempt property, or for
20 exempt purposes; and~~

21 (ii) ~~((Except for the exemptions under RCW 84.36.030(4), 84.36.037,~~
22 ~~and 84.36.060(1) (a) and (b), the property would be exempt from tax if~~
23 ~~owned by the organization to which it is loaned or rented)) The loan or
24 rental of the property does not impair, restrict, or prevent the use of
25 the property for activities for which exemption is granted; and~~

26 (iii) The loan or rental is to a nonprofit organization,
27 association, or corporation as defined in RCW 84.36.800(4);

28 (b) The use of the property for fund-raising activities sponsored
29 by a nonprofit organization, association, or corporation as defined in
30 RCW 84.36.800 is not restricted and does not subject the property to
31 tax if fifty-one percent or more of the profits realized from the fund-
32 raising activities are ((consistent with the purposes for which the
33 exemption is granted)) disbursed to the nonprofit organization,
34 association, or corporation sponsoring the fund-raising activities or
35 are used for capital improvements to the exempt property, for
36 maintenance and operation of the exempt property, or for exempt
37 purposes;

1 (c) The rental or use of the property for pecuniary gain, for
2 business activities, or by individuals, groups, or organizations for
3 public or private purposes for a maximum of fifteen days each
4 assessment year does not subject the property to tax if the rents and
5 donations received are used for capital improvements to the exempt
6 property, maintenance and operation of the exempt property, or for
7 exempt purposes;

8 (d) Use of the property for programs provided by independent
9 contractors does not subject the property to tax if the programs are
10 compatible and consistent with the purposes of the exempt organization,
11 association, or corporation and program fees, as determined by the
12 exempt organization, association, or corporation, are used to offset
13 program expenses, for maintenance and operation of the exempt property,
14 or for exempt purposes.

15 (3) The property must be irrevocably dedicated to the purpose for
16 which exemption has been granted, and on the liquidation, dissolution,
17 or abandonment by said organization, association, or corporation, said
18 property will not inure directly or indirectly to the benefit of any
19 shareholder or individual, except a nonprofit organization,
20 association, or corporation which too would be entitled to property tax
21 exemption. This property need not be irrevocably dedicated if it is
22 leased or rented to those qualified for exemption under this chapter or
23 RCW 84.36.560 for leased property, but only if under the terms of the
24 lease or rental agreement the nonprofit organization, association, or
25 corporation receives the benefit of the exemption.

26 (4) The facilities and services must be available to all regardless
27 of race, color, national origin or ancestry.

28 (5) The organization, association, or corporation must be duly
29 licensed or certified where such licensing or certification is required
30 by law or regulation.

31 (6) Property sold to organizations, associations, or corporations
32 with an option to be repurchased by the seller shall not qualify for
33 exempt status. This subsection does not apply to property sold to a
34 nonprofit entity, as defined in RCW 84.36.560(7), by:

35 (a) A nonprofit as defined in RCW 84.36.800 that is exempt from
36 income tax under section 501(c) of the federal internal revenue code;

37 (b) A governmental entity established under RCW 35.21.660,
38 35.21.670, or 35.21.730;

- 1 (c) A housing authority created under RCW 35.82.030;
- 2 (d) A housing authority meeting the definition in RCW
- 3 35.82.210(2)(a); or
- 4 (e) A housing authority established under RCW 35.82.300.
- 5 (7) The department shall have access to its books in order to
- 6 determine whether the nonprofit organization, association, or
- 7 corporation is exempt from taxes under this chapter.
- 8 (8) This section does not apply to exemptions granted under RCW
- 9 84.36.020, 84.36.032, 84.36.250, and 84.36.260.

10 **Sec. 6.** RCW 84.36.810 and 2003 c 344 s 2 are each amended to read
11 as follows:

12 (1)~~((a))~~ Upon willful cessation of a use under which an exemption
13 has been granted pursuant to RCW 84.36.030, 84.36.037, 84.36.040,
14 84.36.041, 84.36.042, 84.36.043, 84.36.046, 84.36.050, 84.36.060,
15 84.36.550, 84.36.650, 84.36.560, and 84.36.570, ~~((except as provided in~~
16 ~~(b) of this subsection,~~) the county treasurer shall collect all taxes
17 which would have been paid ~~((had the property not been exempt during~~
18 ~~the three years preceding, or the life of such exemption, if such be~~
19 ~~less, together with the interest at the same rate and computed in the~~
20 ~~same way as that upon delinquent property taxes. If the property has~~
21 ~~been granted an exemption for more than ten consecutive years, taxes~~
22 ~~and interest shall not be assessed under this section.~~

23 ~~(b) Upon cessation of use by an institution of higher education of~~
24 ~~property exempt under RCW 84.36.050(2) the county treasurer shall~~
25 ~~collect all taxes which would have been paid had the property not been~~
26 ~~exempt during the seven years preceding, or the life of the exemption,~~
27 ~~whichever is less)) in the year cessation of use occurs.~~

28 (2) Subsection (1) of this section applies only when ownership of
29 the property is transferred or when fifty-one percent or more of the
30 area of the property loses its exempt status. The additional tax under
31 subsection (1) of this section shall not be imposed if the cessation of
32 use resulted solely from:

33 (a) Transfer to a nonprofit organization, association, or
34 corporation for a use which also qualifies and is granted exemption
35 under this chapter;

36 (b) A taking through the exercise of the power of eminent domain,

1 or sale or transfer to an entity having the power of eminent domain in
2 anticipation of the exercise of such power;

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

6 (d) A natural disaster such as a flood, windstorm, earthquake, or
7 other such calamity rather than by virtue of the act of the
8 organization, association, or corporation changing the use of such
9 property;

10 (e) Relocation of the activity and use of another location or site
11 except for undeveloped properties of camp facilities exempted under RCW
12 84.36.030;

13 (f) Cancellation of a lease on leased property that had been exempt
14 under this chapter; (~~or~~)

15 (g) A change in the exempt portion of a home for the aging under
16 RCW 84.36.041(3), as long as some portion of the home remains exempt;
17 or

18 (h) Transfer to an agency of the state of Washington or the county
19 or city within which the property is located.

20 (3) Subsection(~~s~~) (2)(e) and (f) of this section do not apply to
21 property leased to a state institution of higher education and exempt
22 under RCW 84.36.050(2).

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