The Taxation of Nonprofit Organizations in Washington State

SENATE WAYS AND MEANS COMMITTEE
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TAXATION OF NONPROFIT ORGANIZATIONS
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TAXATION OF NONPROFIT ORGANIZATIONS

I. INTRODUCTION

It is often assumed that nonprofit organizations are exempt from taxes imposed by the state of Washington because they are exempt from the federal income tax or even simply because the organizations are not operated on a profit-making basis. This is not necessarily correct. Many nonprofit organizations are therefore unaware of or confused about their state tax liabilities. The introduction of legislation each year exempting various nonprofit organizations from one or more of the state's taxes is clear evidence of the confusion in this area.

This report is a survey of all state tax liabilities and state tax exemptions regarding nonprofit organizations. This survey discovered numerous inconsistencies and apparent contradictions in the taxation of non-profits. It is hoped that the report can be used both by nonprofit organizations to determine which taxes and which exemptions may apply and by policy makers as a tool for evaluating future tax exemption requests.

II. SUMMARY

A. Excise Taxation

Nonprofit organizations are subject to the business and occupation (B&O) tax on their gross incomes. The only nonprofit organizations exempt from B&O tax are adult family homes, artistic and cultural organizations, blood, tissue, and blood and tissue banks, boarding homes, comprehensive cancer centers, credit unions, credit and debt counseling organizations, fraternal benefit societies[1], organ procurement organizations, the Red Cross, sheltered workshops, and student loan guarantee agencies.

While most nonprofit organizations are subject to the B&O tax, there are several general exemptions for certain <u>types of income</u> that apply to all nonprofit organizations. These include income from fund-raising activities, investment income, initiation fees, dues, contributions, donations, and tuition fees. Except for a few limited exceptions[2], all other income is taxable.

In general, retail sales and use taxes apply to goods and services <u>purchased</u> by nonprofit organizations, unless the purchase is for resale. There are only a few limited exemptions for

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[1] While fraternal benefit societies are exempt from tax, the exemption is limited to charges directly attributable to insurance or death benefits provided.

[2] Not subject to B&O tax are 1) payments from governmental entities to health and social welfare agencies for services, 2) income for patient care by kidney dialysis facilities, hospice agencies, and nursing homes, 3) payments from the Department of Social and Health Services to group training homes, 4) church-provided day care, 5) child-care resource and referral services, 6) admission and space charges at professional trade shows, and 7) income from sales at camps and conference centers.

purchases by nonprofit organizations[3]. However, the use of personal property donated to a nonprofit organization is exempt from use tax. In addition, nonprofit organizations must collect sales tax on goods and services sold by the organization if the goods or services are otherwise subject to the sales tax. Again, there are only a few exceptions to this collection requirement, the most significant being fund-raising sales[4].

B. Property Taxation

Property owned by nonprofit organizations is subject to property tax unless the property is specifically exempt. Property tax exemptions applicable to nonprofit organizations are limited to property that is used by the organization for specified purposes. While property used for these specified purposes which is owned by the specified nonprofit organization always qualifies for exemption, some exemptions also extend to property that is leased or rented to the nonprofit organization.

Major exemptions for nonprofit organizations listed in magnitude of tax savings to the affected organizations include churches, convents, and parsonages, nonprofit hospitals, private schools and colleges, retirement homes, nonsectarian charitable organizations, nursing homes, art collections/museums, and medical research or training facilities.

To qualify for exemption, the property must be used exclusively for the purpose for which the exemption was granted. However, the property may be loaned or rented if the property would be exempt if it were owned by the organization to which it is loaned or rented (except for veterans associations, public assembly halls, museums, and facilities used to produce or perform musical, dance, artistic, dramatic, or literary works) and the rents or donations received are reasonable and do not exceed the maintenance and operation expenses incurred[5]. Only property of veterans associations, property used as a public assembly hall, museums, and facilities used to produce or perform musical, dance, artistic, dramatic, or literary works may be used for pecuniary gain. Upon loss of exemption, back taxes for up to 3 years may be due. Back taxes apply to most nonprofit property tax exemptions.

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[3] Exempt from sales tax are purchases by 1) health and social welfare organizations of construction materials for alternative housing for youth in crisis, 2) the Red Cross, 3) blood, tissue, and blood and tissue banks of materials, chemicals, and supplies, 4) comprehensive cancer centers of materials, chemicals, and supplies, 5) organ procurement organizations of materials, chemicals, and supplies, and 6) free hospitals of items necessary for operation.

[4] Also exempt from sales tax are sales of 1) amusement, recreation, and other personal services by youth organizations, 2) human blood, tissue, organs, bodies, or body parts for medical research, and 3) certain goods and services by camps and conference centers.

[5] By rule of the Department of Revenue, the property may be loaned or rented for an amount that exceeds maintenance and operation expenses if the property is rented for less than 15 consecutive days and all income received is devoted exclusively to the exempt purpose of the nonprofit organization receiving the property tax exemption.

III. EXCISE TAXATION

A. Overview

The B&O tax applies to all persons engaging in business activities. RCW 82.04.220. "Person" is defined to include any firm, copartnership, joint venture, club, company, joint stock company, business trust, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. RCW 82.04.030. As a result, nonprofit organizations are subject to the B&O on their income.

Because the retail sales and use tax applies to each retail sale to a consumer, nonprofit organizations must collect sales taxes on their sales unless specifically exempted by statute. RCW 82.08.020 and 82.12.020. Exemption from federal income tax does not automatically provide an exemption for state taxes.

Most nonprofit organizations provide services and therefore pay B&O tax at the services rate of 1.5 percent. However, because of the $420 per year small business B&O tax credit, nonprofit organizations with gross incomes below $28,000 per year owe no B&O tax. RCW 82.04.4451.

For a complete list of all tax exemptions for nonprofit organizations, see Appendix A, page 18.

B. Nonprofit Organizations Exempt from B&O Tax

Most nonprofit organizations are subject to the B&O tax. However, current law exempts the following nonprofit organizations from B&O tax.

1. Adult Family Homes

Income of adult family homes licensed by the state is exempt from B&O tax. RCW 82.04.327.

2. Artistic or Cultural Organizations

Governmental grants, tuition from classes, items manufactured for their own use, and all business income received by nonprofit artistic or cultural organizations is exempt from B&O tax. RCW 82.04.4322, 82.04.4324, 82.04.4326, 82.04.4327, and 82.04.4328.

3. Blood, Tissue, and Blood and Tissue Banks

Income of blood, tissue, and blood and tissue banks is exempt from B&O tax to the extent the income is exempt from federal income tax. The organization must be exempt from federal income tax under section 501(c)(3) of the federal internal revenue code. RCW 82.04.324.

4. Boarding Homes

Income of boarding homes from providing room and domiciliary care is exempt from B&O tax. The home must be operated as a religious or charitable organization, exempt from federal income tax under section 501(c)(3) of the federal internal revenue code, incorporated under chapter 24.03 RCW, operated as part of a nonprofit hospital, or operated as part of a public hospital district. RCW 82.04.--- (2005 c 514 s 301).

5. Credit and Debt Counseling Organizations

Income received by nonprofit organizations for providing credit and debt counseling is exempt from B&O tax. RCW 82.04.368.

6. Credit Unions

The income of credit unions organized under the laws of this state, any other state, or the United States is exempt from B&O tax. RCW 82.04.405.

7. Comprehensive Cancer Clinics

Income of comprehensive cancer clinics is exempt from B&O tax to the extent the income is exempt from federal income tax. The organization must be recognized by the national cancer institute as a comprehensive cancer center and must be exempt from federal income tax under section 501(c)(3) of the federal internal revenue code. RCW 82.04.--- (2005 c 514 s 401).

8. Fraternal Benefit Societies and Fraternal Fire Insurance Associations

Fraternal benefit societies or fraternal fire insurance associations, and nonprofit beneficiary corporations or societies that provide in their bylaws for the payment of death benefits, are exempt from B&O tax. The exemption is limited to gross income from premiums, fees, assessments, dues, or other charges directly attributable to the insurance or death benefits provided. RCW 82.04.370.

9. Organ Procurement Organizations

Income received by nonprofit organ procurement organizations under 42 U.S.C. Sec. 273(b) is exempt from B&O tax to the extent the income is exempt from federal income tax. RCW 82.04.326.

10. Red Cross

Corporations incorporated under any federal act to furnish volunteer aid to members of the armed forces of the United States and to carry on a system of national and international relief are exempt from B&O tax. RCW 82.04.380.

11. Sheltered Workshops

The income of nonprofit organizations from the operation of sheltered workshops is exempt from B&O tax. This includes the performance of business activities on or off the premises of the nonprofit organization for the primary purpose of (1) providing gainful employment or rehabilitation services to the handicapped or (2) providing evaluation and work adjustment services for handicapped individuals. RCW 82.04.385.

12. Student Loan Guarantee Agencies

Nonprofit organizations that are guarantee agencies under the federal guaranteed student loan program or that provide guarantees for student loans under other programs are exempt from B&O tax. RCW 82.04.367.

C. Income Exempt from B&O Tax

There are several exemptions for particular types of income received by nonprofit organizations. These exemptions can have the effect of completely exempting the organization from B&O tax.

1. Income from Fund-Raising Activities

Nonprofit organizations are exempt from B&O tax and do not have to collect sales tax on amounts received from fund-raising activities. Fund-raising is the soliciting or accepting contributions of money or other property and activities involving the anticipated exchange of goods or services for money for the purpose of furthering the goals of the nonprofit organization. Fund-raising activities do not include the operation of a regular place of business in which sales are made or from which services are provided or performed during regular hours. The sale of used books, used videos, used sound recordings, or similar used information products in a library is not the operation of a regular place of business if the proceeds of the sales are used to support the library. RCW 82.04.3651.

Nonprofit organization includes organizations exempt from tax under section 501(c) (3), (4), or (10) of the federal Internal Revenue Code or that would be exempt if it was organized as a nonprofit corporation. Section 501(c)(3) includes organizations that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes; or to foster national or international amateur sports competition; or for the prevention of cruelty to children or animals. Section 501(c)(4) includes civic leagues. Section 501(c)(10) includes fraternal societies operating under the lodge system. In addition, nonprofit organization includes organizations that meet all of the following criteria:

(1) The members, stockholders, officers, directors, or trustees of the organization do not receive any part of the organization's gross income, except as payment for services rendered;

(2) The compensation received by any person for services rendered to the organization does not exceed an amount reasonable under the circumstances; and

(3) The activities of the organization do not include a substantial amount of political activity, including influencing legislation and participation in any campaign on behalf of any candidate for political office.

2. Initiation Fees, Dues, Contributions, Donations, & Tuition Fees.

Bona fide initiation fees, dues, contributions, donations, and tuition fees may be deducted from income in computing tax liability unless the dues are in exchange for any significant amount of goods or services or the dues are graduated upon the amount of goods or services rendered. RCW 82.04.4282 and 82.04.4332. However, membership dues and fees charged by nonprofit youth organizations and charges for the use of camping facilities by nonprofit youth organizations are exempt from B&O tax. A nonprofit youth organization is defined as an organization engaged in character building of youth and that qualifies for a property tax exemption. RCW 82.04.4271.

3. Investment Income

A deduction is allowed for income from investments, dividends or distributions from the capital account by a parent from its subsidiary entities, and interest on loans between subsidiary entities and a parent entity or between subsidiaries of a common parent entity, but only if the total investment and loan income is less than five percent of gross receipts of the business annually. The deduction is not allowed for those engaged in banking, loan, and security businesses. This deduction is not limited to nonprofit organizations. RCW 82.04.4281.

4. Health or Social Welfare Services

Income from the provision of health care and social services is generally subject to tax. However, there are 3 limited exemptions provided to nonprofit organizations.

a. Health or Social Welfare Services

Nonprofit health and social welfare agencies are allowed a deduction from the B&O tax for payments from governmental entities for health or social services. Examples include health care, family and drug counseling, services for the sick, elderly, and disabled, day care, vocational training and employment services, legal services for the indigent, and services for low-income homeowners and renters. This exemption has been construed to apply to Medicaid and Medicare payments to hospitals that qualify as health and social welfare organizations when made directly by federal, state, or local governments. RCW 82.04.4297.

b. Public Health Benefits from Third-parties

Nonprofit hospitals that qualify as health and social welfare organizations, public hospitals, nonprofit community health centers, and networks of nonprofit community health centers are allowed a deduction from B&O tax for payments they receive from organizations under contract with the federal or state government to manage health benefits for medicare, medical assistance, children's health, or the basic health plan. A community health center is a federally qualified health center as defined in 42 U.S.C. 1396d. RCW 82.04.4311.

c. Patient Services

An exemption from the B&O tax exists for compensation received for services rendered to patients and from sales of prescription drugs to patients by nonprofit kidney dialysis facilities, hospice agencies, and nursing homes and homes for unwed mothers operated as religious or charitable organizations. RCW 82.04.4289.

d. Group Training Home Care

Income received from the department of social and health services (DSHS) by nonprofit group training homes certified by DSHS for the cost of care, maintenance, support, and training of persons with developmental disabilities is exempt from B&O tax. RCW 82.04.385.

5. Child-Related Services

Income from the provision of child-related services is generally subject to tax. However, there are 2 exemptions provided to nonprofit organizations.

a. Church-Provided Day Care

Income received by a church from the provision of day care is exempt from B&O tax. RCW 82.04.339.

b. Child-Care Resource and Referral Services

Income received by a nonprofit organization for child-care resource and referral services is exempt from B&O tax. RCW 82.04.3395.

6. Miscellaneous

a. Trade Shows

Charges by nonprofit trade or professional organizations for admission to or occupying space at a trade show not open to the public is exempt from B&O tax. RCW 82.04.4282.

b. Camps and Conference Centers

The sale of certain goods and services by nonprofit camps and conference centers is exempt from B&O tax. The activity must be conducted on property exempt from property tax as a nonsectarian charitable organization, church camp, or youth character-building organization. The exemption is limited to sales of: (a) lodging, conference and meeting rooms, camping facilities, and parking; (b) food and meals; and c) books, tapes, and other products available exclusively to participants at the camp or conference and not available to the general public. RCW 82.04.363.

c. Government Grants for Salmon Restoration

Grants received by a nonprofit organization from the federal government or state or local government to support salmon restoration are exempt from B&O tax.

D. Application of Retail Sales and Use Taxes to Nonprofit Organizations

In general, retail sales and use taxes apply to goods and services purchased by nonprofit organizations, and the nonprofit organization must collect retail sales tax on goods and services sold by the nonprofit organization unless a specific exemption is provided by law.

1. Purchases by Nonprofit Organizations

Nonprofit organizations are subject to the retail sales tax on items purchased by the organization and the use tax on items used by the organization unless the purchase is statutorily exempt. The use tax applies if the property was acquired in a transaction that was not subject to the retail sales tax, such as items purchased from out-of-state companies by mail order or otherwise. Retail sales and use tax exemptions generally apply to particular types of property rather than to particular types of buyers. Major sales and use tax exemptions include such things as food, prescription drugs, and motor vehicle fuel. RCW 82.08.0293, 82.12.0293, 82.08.0281, 82.12.0275, 82.08.0255, and 82.12.0256. Sales and use tax exemptions for sales to nonprofit organizations include sales to:

a. Nonprofit health and social welfare organizations of materials used in construction of alternative housing for youth in crisis (RCW 82.08.02915 and 82.12.02915);
b. Corporations created by Congress to provide aid to members of the armed forces (Red Cross - RCW 82.08.0258 and 82.12.0259);
c. Nonprofit blood, tissue, and blood and tissue banks of medical supplies, chemicals, and materials (RCW 82.08.02805 and 82.12.02747);
d. Nonprofit comprehensive cancer centers of medical supplies, chemicals, and materials (RCW 82.08.--- and 82.12.--- [2005 c 514 ss 402 & 403]);
e. Nonprofit organ procurement organizations of medical supplies, chemicals, and materials (RCW 82.08.02807 and 82.12.02749); and

f. Free hospitals of items necessary to operate the hospital (RCW 82.08.02795 and 82.12.02745).

2. Use of Donated Items and Services by Nonprofit Organizations

The use by a nonprofit charitable organization of tangible personal property, services rendered in respect to installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property, and amusement and recreation services donated to the nonprofit organization is exempt from use tax. RCW 82.12.02595.

3. Sales by Nonprofit Organizations

Nonprofit organizations must collect the sales tax on sales made by the organization except in the following cases.

a. Fund-Raising Sales

Nonprofit organizations do not have to collect sales tax on fund-raising sales if the income is exempt from the B&O tax. Fund-raising sales do not include the operation of a regular place of business in which sales are made during regular hours. RCW 82.08.02573. For a description of the nonprofit organizations eligible for this exemption, see the B&O tax exemption for fund-raising activities on page 5.

b. Amusement and Recreation Services

Sales of amusement, recreation, and other personal services by nonprofit youth organizations are exempt from sales tax. RCW 82.08.0291.

c. Human Blood, Tissue, Organs, Bodies, or Body Parts

The sale and use of human blood, tissue, organs, bodies, or body parts for medical research and quality control testing purposes are exempt from sales and use tax. RCW 82.08.02806 and 82.12.02748. Although not limited to sales by blood, tissue, and blood and tissue banks, presumably these organizations are the beneficiaries of the exemption.

d. Camps and Conference Centers

The sale of certain goods and services by nonprofit camps and conference centers are exempt from retail sales tax. The activity must be conducted on property exempt from property tax as a nonsectarian charitable organization, church camp, or youth character-building organization. The exemption is limited to sales of: (a) lodging, conference and meeting rooms, camping facilities, and parking; (b) food and meals; and ©) books, tapes, and other products available exclusively to participants at the camp or conference and not available to the general public.

RCW 82.08.830. There is no use tax exemption for the use of the property by the purchaser. Therefore, this exemption merely eliminates the requirement that the nonprofit organization collect the sales tax.

IV. PROPERTY TAXATION

A. Constitutional Authority

The state Constitution exempts all property of the United States and of the state, counties, school districts, and other municipal corporations. The Legislature is authorized to exempt other property by general law. Article 7, section 1 of the state Constitution.

B. Statutory Exemptions for Property of Nonprofit Organizations

All property is subject to the property tax unless specifically exempted. RCW 84.36.005. Exemptions exist for personal property, private property, public property, and property of nonprofit organizations that is used for specific purposes. While property owned by the nonprofit organization always qualifies for exemption, some statutes extend the exemption to property that is leased or rented to the nonprofit organization.

Not all nonprofit organizations qualify for a property tax exemption. Chapter 84.36 RCW allows property tax exemptions only for certain specific types of activities or organizations. To qualify as nonprofit, no part of the income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except for services rendered by the organization. Any salary or compensation paid to officers must be for actual services rendered and must compare to the salary or compensation of like positions within the public services of the state. RCW 84.36.800.

Major exemptions for nonprofit organizations listed in magnitude of the total tax savings to the affected organizations include churches, convents, and parsonages (RCW 84.36.020), nonprofit hospitals (RCW 84.36.040(1)), private schools and colleges (RCW 84.36.050(1)), retirement homes (RCW 84.36.041), nonsectarian charitable organizations (RCW 84.36.030), nursing homes (RCW 84.36.040(1)), art collections/museums and facilities used to produce or perform musical, dance, artistic, dramatic, or literary works (RCW 84.36.060), and medical research or training facilities (RCW 84.36.045).

A caretaker's residence located on exempt property may qualify for exemption if (1) the caretaker's duties include regular surveillance, patrolling of the exempt property, and routine maintenance services; (2) the size of the residence is reasonable and appropriate in light of the caretaker's duties and the size of the exempt property; and (3) the caretaker receives the use of the residence as part of his or her compensation and does not pay rent. Reimbursement of utility expenses created by the caretaker's presence is not considered rent. WAC 458-16-165(9). While an exemption for caretaker residences is authorized for church property and property of organizations engaged in character building of children under 18 years of age as “buildings and improvements required for the maintenance and safeguarding of such property” (RCW 84.36.020

and 84.36.030(3)) and for art collections and museums as property for "safekeeping" the collections (RCW 84.36.060(1), no specific statutory authority exists for other exempt property.

For a complete list of the exemptions for nonprofit organizations, see Appendix B, page 20.

C. Application Procedures

1. Initial Application for Exemptions

In order to obtain a property tax exemption for real or personal property, all nongovernmental nonprofit organizations must file an application with the Department of Revenue by March 31st or within 60 days of acquiring the property or converting the use of the property to an exempt activity. RCW 84.36.815 and WAC 458-16-110.

2. Renewal of Exemptions

When the property has acquired exempt status, the department mails a renewal form to each exempt entity by January 1st of each year. RCW 84.36.820. The form contains an affidavit certifying the exempt status of the property. The renewal form must be submitted to the department by March 31st each year. RCW 84.36.815.

3. Fees

The fee for initial applications is $35. The fee for renewals is $8.75. These fees may be waived by the department for a church or cemetery whose gross income from use of the property for exempt purposes for the preceding year did not exceed $2,500. Any application filed after the filing deadline is subject to a late filing penalty. This penalty is computed at $10 per month, or any portion of a month. RCW 84.36.825.

4. Effective Date of Exemptions

If the application is approved, the property is exempt from property taxes due in the following year. No exemption is provided for taxes owed in the year of purchase or in the year the property is converted to an exempt use. RCW 84.36.815. By rule, an application for a retroactive exemption may be filed within 3 years of the date taxes on the property were paid. Such an application is subject to the late filing penalty. WAC 458-16-110(8).

5. Approval or Denial

The department must review each application by August 1st for applications received by March 31st and by August 1st or 30 days of the date received, whichever is later, for all other applications. The department must either approve or deny the request and clearly state the reasons for denial in written notification by mail to the applicant. RCW 84.36.830.

6. Appeals

If an exemption application is denied, either in whole or in part, the applicant may petition the state Board of Tax Appeals to review the application and determine if (1) the property is entitled to an exemption and (2) the amount of the exemption. A county assessor may also appeal an approved application for a property tax exemption if the assessor feels the exemption is not warranted. The appeal must be made within 30 days of the date the denial or approval was mailed by the department. RCW 84.36.850.

D. Additional Requirements for Exemptions

Nonprofit organizations receiving a property tax exemption must follow the conditions contained in the enacting statute. In addition, most nonprofit organizations are also subject to the following conditions in RCW 84.36.805.

1. Exclusive Use

The exempt property must be used exclusively for the purpose for which the exemption was granted, subject to the following exceptions.

a. Loan or Rental

The property may be loaned or rented if:

i. The property would be exempt if it was owned by the organization to which it is loaned or rented, unless the property is owned by war veterans associations, nonprofit public assembly halls or meeting places, museums, and facilities used to produce or perform musical, dance, artistic, dramatic, or literary works. RCW 84.36.805(1) and WAC 458-16-165(3)(a). Museums and facilities used to produce or perform musical, dance, artistic, dramatic, or literary works may be rented to entities not eligible for property tax exemption for up to 25 days each year. RCW 84.36.060(3).

ii. The rents or donations received for the use of the property are reasonable and **do not exceed** the maintenance and operation expenses incurred for the property loaned or rented.

By rule of the Department, the property may be loaned or rented for an amount that **exceeds** maintenance and operation expenses if the property is rented for less than 15 consecutive days and all income received is devoted exclusively to the exempt purpose of the nonprofit organization receiving the property tax exemption. WAC 458-16-165(3)(a)(i).

b. Fund-Raising Activities

The property may be used for fund- raising activities without jeopardizing the exemption if the fund-raising activities are consistent with the purposes for which the exemption was granted. Fund raising is not defined in the statute. By rule, fund raising is defined as any revenue generating activity less than 5 days in length that disburses 51 percent or more of the profit realized from the fund-raising activity to the exempt nonprofit organization sponsoring or holding the activity that takes place on exempt property. WAC 458-16-165(3)(b).

c. Use for Pecuniary Gain or to Promote Business Activities

As a general rule, exempt property that is used, loaned, or rented with the intent to produce income, promote business, or for pecuniary gain, will lose its exempt status. If a portion of exempt property is used for profit-making purposes, that portion of the property must be segregated from the exempt property and taxed. WAC 458-l6-165(3)(a)(ii). For example, hospital gift shops are segregated and taxed. In the case of public assembly halls and meeting places, the exempt property may be used for pecuniary gain or to promote business activities for 7 days or less each year and also can be used for dance lessons, art classes, or music lessons in counties under 10,000 in population. RCW 84.36.037. The property of veterans associations may be used for pecuniary gain or to promote business activities for 3 days or less each year. RCW 84.36.030(4). The property of museums and facilities used to produce or perform musical, dance, artistic, dramatic, or literary works may be used by the lessee for pecuniary gain or to promote business activities for 7 days or less each year. RCW 84.36.060(3).

2. Irrevocable Dedication

Exempt property must be irrevocably dedicated to the purpose for which the exemption was granted. In other words, upon liquidation, dissolution, or abandonment by a nonprofit organization, the property may not directly or indirectly benefit any shareholder or individual except a nonprofit organization that would be entitled to a property tax exemption if it applied for one. RCW 84.36.805(2).

Leased property is not required to be irrevocably dedicated if the nonprofit organization receives the benefit of the property tax exemption under the terms of a loan or rental agreement. This exception to the dedication requirement applies to all leased property which may qualify for tax exemption. Specifically, it includes:

a. Blood, tissue, and blood and tissue banks. RCW 84.36.035.
b. Nonprofit day care centers. RCW 84.36.040(1).
c. Libraries. RCW 84.36.040(1).
d. Orphanages. RCW 84.36.040(1).
e. Nursing homes (homes for the sick or infirm). RCW 84.36.040(1).
f. Hospitals. RCW 84.36.040(1).
g. Outpatient dialysis facilities. RCW 84.36.040(1).

h. Homes for the aging (retirement homes). RCW 84.36.041.
i. Emergency or transitional housing for low-income homeless persons or victims of domestic violence. RCW 84.36.043.
j. Medical research or training facilities. RCW 84.36.045.
k. Cancer clinics or centers. RCW 84.36.046.
l. Public radio and TV rebroadcast facilities. RCW 84.36.047.
m. Private schools and colleges. RCW 84.36.050(1).
n. Foundations of institutions of higher education for property leased to the institution. RCW 84.36.050(2).
o. Facilities used to produce or perform musical, dance, artistic, dramatic, or literary works. RCW 84.36.060.
p. Housing for low-income persons with developmental disabilities. RCW 84.36.042.
q. Housing/mobile home space for very-low income households. RCW 84.36.560.
r. Property used to solicit gifts, donations, and grants for individual artists. RCW 84.36.650.

3. Discrimination Prohibited

Exempt property and the activities conducted thereon must be available to all persons regardless of race, color, national origin, or ancestry. RCW 84.36.805(3).

4. Compliance with Licensing Requirements

In order to obtain a property tax exemption, a nonprofit organization must comply with all applicable licensing and/or certification requirements contained in law or regulation. RCW 84.36.805(4).

5. Duty to Produce Financial Records

RCW 84.36.805(6) authorizes the department to review the financial records of a nonprofit organization applying for or renewing a property tax exemption in order to determine whether the property is entitled to an exemption, except the authority does not extend to organizations that solicit charitable contributions for other nonprofit organizations (RCW 84.36.550). RCW 84.36.805(6).

6. Affected Nonprofit Organizations

The requirements of RCW 84.36.805 apply to all property that may qualify for exemption, except churches, convents, and parsonages (RCW 84.36.020), cemeteries (RCW 84.36.020), administrative offices of religious organizations (RCW 84.36.032), caretakers residences (RCW 84.36.020 and WAC 458-16-165), water distribution cooperatives (RCW 84.36.250), and real property interests used for conservation by nonprofit conservancy organizations (RCW 84.36. 260). Specifically, the following organizations are subject to the additional requirements in RCW 84.36.805:

a. Character building, benevolent, protective or rehabilitative social services organizations, church camp facilities, youth character building organizations, veterans organizations, relief organizations (the Red Cross), and student loan guarantee agencies. RCW 84.36.030.
b. Blood, tissue, and blood and tissue banks. RCW 84.36.035.
c. Public assembly halls and meeting places. RCW 84.36.037.
d. Day care centers, libraries, orphanages, nursing homes (homes for the sick or infirm), hospitals, and outpatient dialysis facilities. RCW 84.36.040(1).
e. Homes for the aging (retirement homes). RCW 84.36.041.
f. Emergency or transitional housing for low-income homeless persons or victims of domestic violence. RCW 84.36.043.
g. Medical research or training facilities. RCW 84.36.045.
h. Cancer clinics or centers. RCW 84.36.046.
i. Public radio and TV rebroadcast facilities. RCW 84.36.047.
j. Private schools and colleges. RCW 84.36.050(1).
k. Foundations of institutions of higher education for property leased to the institution. RCW 84.36.050(2).
l. Art, scientific, and historical collections and property used to maintain the collections; associations engaged in production and performance of musical, dance, artistic, dramatic, or literary works; fire engines, implements, and buildings of cities, towns, or fire companies; and humane societies. RCW 84.36.060.
m. Sheltered workshops for the handicapped. RCW 84.36.350.
n. Fair associations. RCW 84.36.480.
o. Property used for solicitation or collection of gifts, donations, or grants by a nonprofit organization. RCW 84.36.550.
p. Housing for low-income persons with developmental disabilities. RCW 84.36.042.
q. Housing/mobile home space for very-low income households. RCW 84.36.560.
r. Demonstration farm and related research facilities used by a state university. RCW 84.36.570.
s. Property used to solicit gifts, donations, and grants for individual artists. RCW 84.36.650.

E. Additional Tax on Loss of Exemption

1. Additional Taxes

Additional taxes are due when ownership of the property is transferred or when 51 percent or more of the area of the property loses its exempt status because the use of property is changed to a non-exempt use. RCW 84.36.810 and WAC 458-16-150.

2. Amount of Tax

The amount of the additional tax is equal to the taxes which would have been paid on the property if it had not been exempt during the preceding 3 years, or the life of the exemption if less, together with the interest at the same rate and computed in the same manner as interest on delinquent property taxes. Where the property has been granted an exemption for more than 10 years, no tax or interest is due. RCW 84.36.810(1)(a). The 10 years must be contiguous. *Franciscan ElderCare Corp. v. Department of Revenue*, BTA Docket 50220, 12/10/97. For nonprofit institutions of higher education, additional taxes apply for up to 7 years. RCW 84.36.810(1)(b). Additional taxes apply for up to 10 years for real property interests used for conservation by nonprofit conservancy organizations. RCW 84.36.262.

3. Exceptions

The additional tax is not imposed if the cessation of use resulted solely from:

a. Transfer to a nonprofit organization which is exempt from property tax;
b. A transfer through the exercise of eminent domain or the threat of eminent domain;
c. Official action by an agency of the state, county, or city which disallows the present use of the property;
d. A natural disaster such as a flood, windstorm, earthquake, or other such calamity rather than by act of the organization;
e. Relocation of the activity and use of another location or site, except for undeveloped properties of church camp facilities exempted under RCW 84.36.030;
f. Cancellation of a lease on property that had been exempt;
g. A change in the exempt portion of a home for the aging (retirement home) under RCW 84.36.041(3), as long as some portion of the home remains exempt.

4. Affected Nonprofit Organizations

All organizations subject to the administrative requirements of RCW 84.36.805 (i.e., all organizations except churches, cemeteries, administrative offices of religious organizations, caretakers residences, water distribution cooperatives, and real property interests used for conservation by nonprofit nature conservancy organizations) are subject to the additional tax provisions of RCW 84.36.810, except blood, tissue, and blood and tissue banks (RCW 84.36.035), medical research or training facilities (RCW 84.36.045), public radio and TV rebroadcast facilities (RCW 84.36.047), sheltered workshops (RCW 84.36.350), and fair associations (RCW 84.36.480). Specifically, the following organizations are subject to the additional tax requirements in RCW 84.36.810:

a. Character building, benevolent, protective or rehabilitative social services organizations, church camp facilities, youth character building organizations, veterans organizations, relief organizations (the Red Cross), and student loan guarantee agencies. RCW 84.36.030.

b. Public assembly halls and meeting places. RCW 84.36.037.
c. Day care centers, libraries, orphanages, nursing homes (homes for the sick or infirm), hospitals, outpatient dialysis facilities, and persons owning property leased to a public hospital owned by a public hospital district. RCW 84.36.040(1).
d. Homes for the aging (retirement homes). RCW 84.36.041.
e. Emergency or transitional housing for low-income homeless persons or victims of domestic violence. RCW 84.36.043.
f. Cancer clinics or centers. RCW 84.36.046.
g. Private schools and colleges. RCW 84.36.050(1).
h. Foundations of institutions of higher education for property leased to the institution. RCW 84.36.050(2).
i. Art, scientific, and historical collections and property used to maintain the collections; associations engaged in production and performance of musical, dance, artistic, dramatic, or literary works; fire engines, implements, and buildings of cities, towns, or fire companies; and humane societies. RCW 84.36.060.
j. Property used for solicitation or collection of gifts, donations, or grants by a nonprofit organization. RCW 84.36.550.
k. Housing for low-income persons with developmental disabilities. RCW 84.36.042.
l. Housing/mobile home space for very-low income households. RCW 84.36.560.
m. Demonstration farm and related research facilities used by a state university. RCW 84.36.570.
n. Property used to solicit gifts, donations, and grants for individual artists. RCW 84.36.650.

F. Change to Taxable Status

When property changes from exempt to taxable status, the assessor places the property on the assessment roll for taxes due the following year. RCW 84.36.855. It is also subject to a pro rata share of taxes for the remaining portion of the year after the date that the property loses its exempt status. If only a portion of the property loses its exempt status, only that portion is subject to tax. RCW 84.40.360. The property is assessed with reference to its value on the date the property loses its exempt status unless the property had been previously listed and assessed. RCW 84.40.370.

Appendix A - Tax Exemptions for Nonprofit Organizations[1]

	Exemptions			RCW Cite		
Activity or Organization	B&O[2]	Sales	Property	B&O	Sales	Property
Administrative Offices of Religious Organizations		No	Yes			84.36.032
Art, Scientific, Historical Collections/Museums	Yes[3]	Yes[4]	Yes	82.04.4322-4328	82.08.031	84.36.060(1)(a)
Artist support, property used to solicit funds for artists	No	No	Yes			84.36.650
Artistic, Musical, Dance, Dramatic, Literary Assn.	Yes[3]	Yes[4]	Yes	82.04.4322-4328	82.08.031	84.36.060(1)(b)
Blood, Tissue, and Blood and Tissue Banks	Yes	Yes[5]	Yes	82.04.324	82.08.02805 82.12.02747 82.08.02806 82.12.02748	84.36.035
Boarding Homes	Yes	No	No	82.04.---		
Camps & Conference Centers	Yes	Yes	Yes	82.04.363	82.08.830	84.36.030(1)-(3)
Cancer Clinic or Center	Yes	Yes[6]	Yes	82.04.---	82.08.--- 82.12.---	84.36.046
Caretakers Residences	No	No	Yes			84.36.020
Cemeteries	No	No	Yes			84.36.020
Character Building of Persons under 18	Yes	Yes[7]	Yes	82.04.4271	82.08.0291	84.36.030(3)
Character Building, Benevolent, Protective, or Rehabilitative Social Service Organizations	No[8]	No[9]	Yes	82.04.327	82.08.2915 82.12.2915	84.36.030(1)
Child-care resource & referral services	Yes	No	No	82.04.3395		
Church Camps	Yes	Yes	Yes	82.04.363	82.08.830	84.36.030(2)
Churches, Convents, Parsonages, Future sites	No[10]	No	Yes	82.04.339		84.36.020
Conservation Futures on Agricultural Land	No	No	Yes			84.36.500
Credit and Debt Counseling Organizations	Yes	No	No	82.04.368		
Credit Unions	Yes	No	No	82.04.405		
Day Care Centers/Pre-schools	No[10]	No	Yes	82.04.339		84.36.040(1)(a)
Demonstration farm w/related facilities used by state university	No	No	Yes			84.36.570
Dialysis facilities (outpatient)	Yes	No	Yes	82.04.4289		84.36.040(1)(f)
Emergency/Transitional Housing	No	Yes[11]	Yes		82.08.299	84.36.043
Fair Associations	Yes	No	Yes	82.04.335		84.36.480
Fire Engines or Companies	No	No	Yes			84.36.060(1)(c)
Foundations of institutions of higher education for property leased to the institution	No	No	Yes			84.36.050(2)
Fund Raising Organizations	No	No	Yes			84.36.550
Group Training Home for the Developmentally Disabled	Yes	No	Yes	82.04.385		84.36.030(1)
Health & Social Welfare Organizations	Yes	No	No	82.04.4297		
Homes for the Aging (Retirement Homes)	No	No	Yes			84.36.041
Homes for the Sick or Infirm (Nursing Homes)	Yes	No	Yes	82.04.4289		84.36.040(1)(d)
Hospices	Yes	No	Yes	82.04.4289		84.36.030(1)
Hospitals	Yes	No[12]	Yes	82.04.4297 82.04.4311	82.08.02795 82.12.02745	84.36.040(1)(e)
Housing for low-income developmentally disabled	No	No	Yes			84.36.042
Housing/mobile home space for very-low-income persons	No	No	Yes			84.36.560
Humane Societies	No	No	Yes			84.36.060(1)(d)
Libraries	No	No	Yes			84.36.040(1)(b)
Medical Research/Training Facilities	No	No	Yes			84.36.045
Nature Conservancies (Open space/Park Lands)	No	No	Yes			84.36.260
Organ Procurement Organizations	Yes	Yes[5]	No	82.04.326	82.08.02807 82.12.02749	
Orphanages	No	No	Yes			84.36.040(1)(c)

Appendix A - Tax Exemptions for Nonprofit Organizations (Continued)

Activity or Organization	Exemptions			RCW Cite		
	B&O[2]	Sales	Property	B&O	Sales	Property
Public Assembly Halls & Meeting Places, Community Celebration Facilities	No	No	Yes			84.36.037
Public Radio/TV Transmission Stations	No	No	Yes			84.36.047
Red Cross (Federally Incorporated Relief Organizations)	Yes	Yes	Yes	82.04.380	82.08.0258 82.12.0259	84.36.030(5)
Salmon Restoration - Government Grants	Yes	No	No	82.04.4339		
Schools/Colleges	Yes[13]	No	Yes	82.04.4282		84.36.050
Sheltered Workshops for the Handicapped	Yes	No	Yes	82.04.385		84.36.350
Student Loan Agencies - Guarantee agencies (federal guaranteed student loan program) & other agencies that guarantee student loans	Yes	No	Yes[14]	82.04.367		84.36.030(6)
Veterans Associations	No	No	Yes			84.36.030(4)
Water Distribution Companies	No	No	Yes			84.36.250

NOTES:

[1] Some organizations may qualify under more than one category.

[2] Not including the following general exemptions applicable to all nonprofit organizations:

Initiation fees, dues, contributions, and donations - RCW 82.04.4282.

Income from fund-raising activities - RCW 82.04.366.

Use tax on items donated to the organization - RCW 82.12.02595.

[3] B&O tax deductions are provided for governmental grants, tuition received for classes, items manufactured for their own use, and all business income (admission charges).

[4] Purchases by artistic or cultural organizations of objects acquired for exhibition or presentation to the public are exempt from sales tax.

[5] a) The purchase of medical supplies, chemicals, materials & b) the sale of blood, tissue, body parts are exempt from sales tax.

[6] The purchase of medical supplies, chemicals, materials are exempt from sales tax.

[7] The sale of amusement & recreaction services, including physical fitness and other personal services, is exempt from sales tax

[8] Income from adult family homes is exempt from B&O tax.

[9] Construction materials for alternative housing for youth in crisis is exempt from sales tax.

[10] Church-provided day care is exempt from B&O tax.

[11] Emergency lodging under shelter voucher program administered by cities, counties, or groups providing emergency food and shelter services is exempt from sales tax.

[12] Purchases by free hospitals of items for operation or to provide health care are exempt from sales tax.

[13] Tuition fees are exempt from B&O tax.

[14] Only guarantee agencies are exempt from property taxation.

Appendix B - Property Tax Exemptions for Nonprofit Organizations

			Property Exempt			Administrative Provisions	
RCW Cite	WAC Cite	Activity or Organization	Real	Personal	Leased	General	Back taxes
84.36.032		Administrative Offices of Religious Organizations	Yes	Yes	No	No	No
84.36.060(1)(a)	458-16-280	Art, Scientific, Historical Collections/Museums	Yes	Yes	No	Yes	Yes
84.36.650		Artist support, property used to solicit funds for	Yes	Yes	Yes	Yes	Yes
84.36.060(1)(b)	458-16-282	Artistic, Musical, Dance, Dramatic, Literary Assn.	Yes	Yes	Yes	Yes	Yes
84.36.035		Blood, Tissue, and Blood and Tissue Banks	Yes	Yes	Yes	Yes	No
84.36.046		Cancer Clinics or Centers	Yes	Yes	Yes	Yes	Yes
84.36.020	458-16-165/190	Caretakers Residences	Yes	Yes	No	No	No
84.36.020	458-16-180	Cemeteries	Yes	Yes	Yes	No	No
84.36.030(3)	458-16-230	Character Building of Persons under 18	Yes	Yes	No	Yes	Yes
84.36.030(1)	458-16-210	Character Building, Benevolent, Protective, or Rehabilitative Social Service Organizations	Yes	Yes	No	Yes	Yes
84.36.030(2)	458-16-220	Church Camps	Yes	Yes	No	Yes	Yes
84.36.020	458-16-190/200	Churches, Convents, Parsonages, Future sites	Yes	Yes	No	No	No
84.36.500		Conservation Futures on Agricultural Land	No	Yes	N/A	N/A	N/A
84.36.040(1)(a)	458-16-260	Day Care Centers/Pre-schools	Yes	Yes	Yes	Yes	Yes
84.36.570		Demonstration farm w/related facilities used by state university	Yes	Yes	No	Yes	Yes
84.36.040(1)(f)	458-16-260	Dialysis Facilities (outpatient)	Yes	Yes	Yes	Yes	Yes
84.36.043	458-16-320	Emergency/Transitional Housing	Yes	Yes	Yes	Yes	Yes
84.36.480		Fair Associations	Yes	Yes	No	Yes	No
84.36.060(1)(c)	458-16-284	Fire Engines or Companies	Yes	Yes	No	Yes	Yes
84.36.050(2)		Foundations of institutions of higher education for property leased to the institution	Yes	Yes	No	Yes	Yes
84.36.550	458-16-215	Fund Raising Organizations	Yes	Yes	No	Yes	Yes
84.36.041	458-16A	Homes for the Aging (Retirement Homes)	Yes	Yes	Yes	Yes	Yes
84.36.040(1)(d)	458-16-260	Homes for the Sick or Infirm (Nursing Homes)	Yes	Yes	Yes	Yes	Yes
84.36.040(1)(e)	458-16-260	Hospitals	Yes	Yes	Yes	Yes	Yes
84.36.042		Housing for low-income developmentally disabled	Yes	Yes	Yes	Yes	Yes
84.36.560		Housing/mobile home space for very-low-income persons	Yes	Yes	Yes	Yes	Yes
84.36.060(1)(d)	458-16-286	Humane Societies	Yes	Yes	No	Yes	Yes
84.36.040(1)(b)	458-16-260	Libraries	Yes	Yes	Yes	Yes	Yes
84.36.045		Medical Research/Training Facilities	Yes	Yes	Yes	Yes	No
84.36.260	458-16-290	Nature Conservancies (Open space/Park Lands)	Yes	Yes	No	No	No
84.36.040(1)(c)	458-16-260	Orphanages	Yes	Yes	Yes	Yes	Yes
84.36.037	458-16-300/310	Public Assembly Halls & Meeting Places, Community Celebration Facilities	Yes	Yes	No	Yes	Yes
84.36.047		Public Radio/TV Transmission Stations	Yes	Yes	Yes	Yes	No
84.36.030(5)	458-16-165	Red Cross (Federally Incorporated Relief Organizations)	Yes	Yes	No	Yes	Yes
84.36.050(1)	458-16-270	Schools/Colleges	Yes	Yes	Yes	Yes	Yes
84.36.350	458-16-330	Sheltered Workshops for the Handicapped	Yes	Yes	No	Yes	No
84.36.030(6)	458-16-245	Student Loan Guarantee Agencies	Yes	Yes	No	Yes	Yes
84.36.030(4)	458-16-240	Veterans Associations	Yes	Yes	No	Yes	Yes
84.36.250		Water Distribution Companies	Yes	Yes	No	No	No