



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

April 2, 2014

TO: All County Treasurers

FROM: Kathy Beith, Assistant Director, Property Tax Division *Kathy Beith*

SUBJECT: ADMINISTRATIVE PROPERTY TAX REFUND CLAIMS FILED BY NORTHWEST OPEN ACCESS NETWORK

Last October, Northwest Open Access Network (NoaNet) filed property tax refund claims with 32 counties seeking a refund of tax and interest under Chapter 84.69 RCW. These administrative refund claims covered the second half of 2010 through the first half of 2013. Attached is a list of the counties that received a NoaNet administrative refund claim.

NoaNet is a nonprofit corporation created under the Interlocal Cooperation Act, which allows public agencies to work together for their mutual advantage. NoaNet asserted that it is a "municipal corporation" and that its property is exempt from property tax under the Government Property exemption provided in Article VII, section 1 of the Washington Constitution and RCW 84.36.010.

This issue was litigated in Benton County. On January 17, 2014, Judge Salvador Mendoza ruled in favor of NoaNet, concluding that their property is exempt from property tax. The defendants in that case (the Department of Revenue and each of the 39 counties) have agreed not to appeal the ruling. A final judgment was entered on March 25, 2014.

Counties should begin the process of approving claims

Chapter 84.69 RCW permits a refund of property taxes paid as a result of "manifest error" in the description of the subject property. Under WAC 458-14-005(14), a manifest error includes tax assessed on exempt property.

Because a Washington State court has determined that NoaNet's property is exempt, each county that received an administrative refund claim from NoaNet should process and approve the claim if it meets all the requirements under RCW 84.69.030. That section sets out the requirements for claiming a refund from the county and provides:

- No orders for a refund under this chapter shall be made except on a claim:*
- (1) Verified by the person who paid the tax, the person's guardian, executor or administrator; and*
 - (2) Filed with the county treasurer within three years after the due date of the payment sought to be refunded; and*
 - (3) Stating the statutory grounds upon which the refund is claimed.*

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See also WAC 458-18-210 (describing refund procedure). If you conclude that the NoaNet administrative refund claim filed with your office meets these requirements, the claim should be approved.

In addition to the administrative refund claims filed by NoaNet, the Benton County court case resulted in a judgment requiring refunds of property taxes NoaNet paid under protest for the second half of 2013. Thus, for **most counties** there are two refunds that need to be processed: (1) the administrative refund claim covering the payments made for the second half of 2010 through the first half of 2013, and (2) the court ordered refund covering the payments made for the second half of 2013.

- Seven counties owe no refunds: Adams, Columbia, Ferry, Garfield, Klickitat, Stevens, and Wahkiakum.
- Seven counties owe refunds only as a result of NoaNet's administrative refund claim: Asotin, Grays Harbor, Island, Jefferson, Pend Oreille, San Juan, and Walla Walla.
- The remaining 25 counties owe refunds as a result of NoaNet's administrative refund claim and as a result of the judgment entered in the Benton County case.

Once your county has issued the refund(s) to NoaNet, please notify the Department of Revenue so we can update our records. What we need is confirmation that the refund was sent, the date it was sent, and the total amount of the refund. Notification should be sent to:

Harold Smith, Exemptions & Deferrals Program Manager
Property Tax Division, Department of Revenue
Email: HaroldS@DOR.WA.GOV
Phone: (360) 534-1411

The Department is in the process of notifying assessors of a correction to the NoaNet assessments made in 2013 for taxes scheduled for collection in 2014, effectively cancelling those taxes.

If you have any questions regarding the refund process, please contact Harold Smith at the number listed above. If you have questions about the Benton County court case, or need a copy of the final judgment in that case, please contact Chuck Zalesky, Assistant Attorney General, at (360) 586-0756.

Attachment (1): List of counties receiving administrative refund claims from NoaNet.

cc: All County Assessors