

June 17, 2014

Legislative Update – Standardized Criteria Established for Exempt Nonprofits

The 2014 Legislature passed Senate Bill 6405 which takes effect June 12, 2014. This measure provides standardized opportunities for nonprofit organizations to rent or loan their exempt property to the public.

Under the current law

Generally, only nonprofit public assembly halls, performing arts facilities, and museums can regularly share, rent or loan their exempt property to individuals or organizations for non-exempt activities. These organizations, on a limited basis may use their property for business activities on up to 15 days per calendar year. There are a few exceptions, but most exempt nonprofits are strictly prohibited from allowing any non-exempt use or business use of their exempt property.

Under the new law

Senate Bill 6405 eliminates inequities by standardizing the “use” criteria placed on exempt property. In most cases, the new law creates flexible opportunities for nonprofit organizations share, rent or loan their exempt property. This act does not change the exemptions provided for nonprofit public assembly halls, performing arts facilities, or museums; nor does it place any additional limits or restrictions on the use of exempt property.

Specifically, the new law allows:

- **Loan or rental of exempt property 50 days a year**

The bill permits the loan or rental of exempt property to individuals or organizations for non-exempt purposes up to 50 days per year. The rent or donation received must not exceed the maintenance and operation costs attributable to the portion of the property loaned or rented.

- **Use of property for pecuniary gain or to promote business activities 15 of the 50 days**

Of the 50 days granted above, the bill permits the use of exempt property for pecuniary gain or to promote business activity up to 15 days per year.

Set-up and takedown days are not included in the 50 days a year

Days that immediately precede or follow an event that are only used for set-up or take down activities do not count against the 50- and 15-day allowances.

Effective in 2014

This new flexibility and criteria will first apply to activities that occur on tax-exempt property in the 2014 calendar year and affect the exemption of the property from taxes due and payable in 2015.

Fundraising events

The manner in which exempt property can be used to conduct *qualifying* fundraising has not changed.

To qualify:

- The fundraiser must be consistent with the purpose for which the exemption is granted; or
- The fundraiser must be conducted by an exempt nonprofit organization; and
- The fundraiser must be occasional and of short duration; and
- The nonprofit host or sponsor must receive 51 percent of the net proceeds gained from the event.

Festivals, bazaars, or other fundraising events which do not meet the criterion above, can now be conducted on exempt property and should be counted as business activity.

Keep accurate records

Nonprofits and churches should maintain accurate records of the use of their exempt property throughout the year. The records should include the following information:

- Date of the shared use, loan or rental;
- Name of the person or organization using the property;
- Purpose of the use;
- Amount of any rent/donation paid for the use; and
- An indication if the property was used for pecuniary gain or business purposes.

Additional information and questions

Regulations in the Washington Administrative Code pertaining to property tax exemptions for nonprofit organizations will be revised in the upcoming months to reflect the statutory changes. The Department of Revenue will also prepare and distribute statute-specific educational materials on the expanded use of exempt property resulting from the passage of Senate Bill 6405 (Chapter 99, Laws of 2014).

If you have questions or need additional information about this or other topics related to property tax exemptions for nonprofit organizations, please contact Cindy Armstrong at (360) 534-1412 or Sindya@dor.wa.gov. You may also contact the Property Tax Division at (360) 534-1400.