

Property Tax Advisory

Property Tax Advisories (PTA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. PTAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxing officials and taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the PTA.

NUMBER: PTA 18.0.2017

ISSUE DATE: August 21, 2017

BTA Non-acquiescence

Background

The Board of Tax Appeals (BTA), a separate agency from the Department of Revenue, decides both formal and informal administrative appeals from determinations made and actions taken by the Department. BTA decisions bind the Department only for the individual taxpayer's case and for the time period under appeal. BTA decisions in informal cases, by law, cannot be appealed by the Department.

All BTA decisions are available to the public. The Department does not always agree with adverse BTA decisions. In some cases, the Department needs to inform the public, tax practitioners, and the Department's employees that it disagrees with an adverse BTA decision. The Department has decided to issue these statements via this property tax advisory (PTA) or revision to this PTA to avoid misunderstandings about how the Department will apply these BTA decisions to other taxpayers' situations.

Any statement issued about a BTA decision may be withdrawn or modified at any time. The lack of a statement issued by the Department about any BTA decision has no meaning. It neither implies agreement or disagreement with a BTA decision.

The Department issued its non-

Sustainable NE Seattle

The Department of Revenue does not acquiesce to *Sustainable NE Seattle v. Department of Revenue*, BTA Informal Docket Nos. 87679 to 87686 (Mar. 23, 2017).

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**acquiescence
to the
following
decision on
August 21,
2017**

The BTA ruled that a tool library loaning construction tools and other implements to members, free of charge, qualified for a “benevolent social service” property tax exemption. RCW 84.36.030(1)(a); WAC 458-16-210. To qualify for the exemption the organization must, among other things, “relieve some public obligation.” *Adult Student Housing, Inc. v. Department of Revenue*, 41 Wn.App. 583, 593-94, 705 P.2d 793, 798-99 (1985)) (a student housing provider seeking property tax exemption could not claim that it relieved county taxpayers of burden, since county had no statutory obligation to provide such housing). In *Sustainable NE Seattle*, the BTA broadly interpreted the relief requirement and found that the tool library relieved a public obligation by promoting home and community maintenance, thus lessening a government burden to confront consequences of dilapidated neighborhoods, and by enabling financial assistance recipients to allocate more income to nutrition, education, healthcare, and other expenses.

The Department does not believe the *Sustainable NE Seattle* decision is supported by pertinent law. The decision does not comport with the principle of statutory interpretation that property tax exemptions be narrowly construed. *See Belas v. Kiga*, 135 Wn.2d 913 (1998) (exemptions are subsidies to encourage publicly desired objectives; a key principle is that all property is taxable unless specifically exempt, and exemptions are to be narrowly construed); *see also, e.g., Adult Student Housing, Inc.*, 41 Wn.App. at 592-93, 705 P.2d at 798 (applying narrow meaning to “benevolent” requirement). In addition, neither Washington state agencies nor local governments are legally obligated to provide tools to citizens to promote home and community maintenance or to relieve poverty.
