

Evergreen Fact sheet
Proposed -7 or -8 amendment to HB 4005

I was unable at the time to respond to Senator Hass' question about the differences between OMSI and Evergreen's theater. I hope this information is helpful.

Point #1

Comparison and distinction between museums:

| | |
|---------------------------|-------------------------------------|
| OMSI Museum | 100% exempt |
| Evergreen Museum | 95% exempt |
| Oregon Coast Aquarium | All exempt except for the gift shop |
| Pendleton Round up Museum | Exempt |

Point #2

The issue here is not about whether the museums are exempt or taxable; it is about what portions of the property are appropriately exempt. Most of the Evergreen Museum's property is exempt which is consistent with OMSI and the other museums identified. The law requires that the use be primarily and exclusively for the exempt purpose. Fundamentally this is a question of how much of the space is used for the exempt purpose.

The court found the following:

“After careful consideration of the testimony and evidence, the court concludes that some of Plaintiffs’ personal property is not exclusively used for its charitable and scientific work. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiffs’ appeal is denied for its personal property that is not exclusively used for Plaintiffs’ charitable and scientific work.”

Presiding Magistrate Tanner

This space is used for non museum purposes includes wedding, dances, receptions, wine festivals, and corporate meetings. The theater shows Hollywood movies including John Wayne, Alfred Hitchcock, polar express, Jerusalem, Cirque du Soleil for example. Mondays are scheduled by Mr. Smith for corporate board meetings. For these reason the assessor has placed a small percentage of the property in a taxable status. The facility can change that any time they want by following the example of OMSI and using the space exclusively for its exempt purpose. They are in control of the use of the facility.

Point#3

The language of the -8 is so broad that there would appear to be no property that they could build or use on that site that would not qualify for this exemption.

Point #4

This issue is being litigated. Now is not the time to preempt the court's ruling on the current law.

February 24, 2014
Senate Finance and Revenue Committee
John Phillips
Department of Revenue

Testimony on the -7 and -8 proposed amendments to HB 4005

Senator Hass asked me, “Are OMSI and the Evergreen Museum being treated the same. The answer is an unqualified yes. I understand that your concerns are that they be treated fairly and uniformly.

This amendment, rather than bringing parity to tax treatment between similar museums however, creates preferential treatment for Evergreen, and just for Evergreen alone.... Potentially the Pendleton Roundup Museum may also qualify.

1. The special treatment for Evergreen under this amendment is that it broadens the exemption to seemingly every imaginable property or use at the site. What is missing is the test that all other non profits have which is that they use the property primarily and exclusively for their corporate purpose.

If it's a church, they can't use church space for a corporate meeting place for a For- Profit Corporation on a regular basis, they can't lease it out to any and all, they must use the space for religious purposes. The same is true for volunteer fire departments, benevolent and charitable organizations, as well as art museums.

2. The special treatment for Evergreen under this amendment also broadens the exemption in a different way. Art on display, for sale, in art museums, is not exempt. If airplanes on display at the Evergreen Museum are for sale, however, they may be exempt under this proposed amendment. If this is true, you should be aware that you will be treating this museum with an especial exemption not enjoyed by art museums.

In order to administer this we need to know from you, what is the limit or parameter, if any, to the uses allowed under this amendment? Is there any use that you would say, “we didn't intend that to be an exempt use?”