

Amendatory Section:

WAC 230-07-051 Accumulating excessive reserves. A charitable or nonprofit organization must not accumulate excessive reserves. Organizations accumulating excessive reserves may be deemed as organized primarily for purposes of gambling. Reserves must be computed by using the financial data most recently filed with us. ~~((Funds transferred to an endowment or specifically restricted trust fund will not be treated))~~ We will not treat funds as excessive reserves if the following restrictions are met:

(1) ~~((The endowment or dedicated trust fund is either legally irrevocable or restricted in a manner that approval is required by a majority of the membership prior to use or transfer of the endowment or dedicated trust principal))~~ A majority of the organization's membership approves the accumulation of excessive reserves; and

(2) The funds are expressly dedicated for funding new programs, capital projects, or to endow service-providing activities; and

(3) The funds are saved according to a plan that includes the amount to be reserved, the purpose for which the funds are being reserved, and the estimated time the reserves will be used; and

(4) The organization's officers or board of director's approves the plan ~~((is approved by the organization's officers or board of directors and documentation for the endowment or trust fund is submitted to us for review and approval))~~; and

(5) The organization submits the plan to us for review and approval; and

(6) The total amount of ~~((net gambling income that is transferred to endowment or trust funds))~~ excessive reserves may exceed ~~((two))~~ four million dollars only if the organization petitions the director to exceed this limitation and the director approves the petition. The director may disapprove with written comments or approve a modified level based on facts presented. The director's decision may be appealed to the commission. Appeal of this decision will be heard at a regular public meeting of the commission. The commission's decision shall be final. Petitions for relief must include:

(a) The reason for the request, including whether the increased reserves are for charitable or nonprofit purposes and planned timelines for use; and

(b) The total amount of reserves requested; and

(c) The impact on programs if the petition is denied; and

(d) Alternative sources of funding available.

[Statutory Authority: RCW 9.46.070. WSR 08-03-062 (Order 623), § 230-07-051, filed 1/14/08, effective 2/14/08.]