



State of Washington
Department of Revenue

Excise Tax Advisory

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 They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

NUMBER: 569.61.411/412 (REET)

CONVERSION DATE: July 1, 1998

This ETA is cancelled effective December 29, 2006

REET

DOCUMENTATION OF TRANSFERS BY INHERITANCE.
DOCUMENTATION OF TRANSFERS TO AND FROM TRUSTS.

Issued: December 31, 1994

This ETB provides a clarification of the documentation requirements to claim an exemption for Real Estate Excise Tax (REET) purposes when real property is transferred by inheritance, or, by or to trusts other than revocable trusts. To claim the exemption for revocable trusts, the exemption must be specifically claimed on the affidavit and no other documentation is required. See: WAC 458-61-375.

WAC 458-61-412 Exemption --Inheritances. provides:

(4) **Documentation:** Completion of the real estate excise tax affidavit is required for transfers by inheritance.

A copy of the trust instrument, will, or court order must be attached to the real estate excise tax affidavit provided to the department if an exemption from the real estate excise tax is claimed.

WAC 458-61-411 Exemption--Irrevocable trusts. provides:

(3) **Documentation.** A copy of the trust instrument must be attached to the real estate excise tax affidavit provided to the department if an exemption from the real estate excise tax is claimed.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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A copy of the appropriate instrument (will, trust, etc.) is always sufficient documentation of the exemption. The following paragraphs explain the documentation which is sufficient when attached to the affidavit instead of attaching a copy of the instrument itself.

I.
Inheritances

(1) **Estates Administered under chapter 11.68 RCW.** When real property is transferred by an estate, including an intestate estate, which is administered under chapter 11.68 RCW, Settlement of Estates Without Administration, a copy of the order of solvency entered pursuant to RCW 11.68.010 attached to the real estate excise tax affidavit is sufficient documentation for purposes of WAC 458-61-412(4).

(2) **Other Estates.** When real property is transferred by an estate administered by Title 11 RCW, other than pursuant to chapter 11.68 RCW, a copy of letters testamentary or administration issued under chapter 11.28 RCW and a copy of the order of distribution-settlement, if available, attached to the real estate excise tax affidavit is sufficient documentation for purposes of WAC 458-61-412(4).

(a) When property is transferred pursuant to a community property agreement, a copy of the recorded agreement attached to the real estate excise tax affidavit is sufficient documentation for purposes of WAC 458-61-412(4).

II.
Trusts

When real property is transferred to or from a testamentary trust, or, real property is transferred to or from an irrevocable trust, a statement signed by the trustee or the grantor, or the representative of the trustee or grantor is sufficient documentation for purposes of WAC 458-61-412(4) and WAC 458-61-411(3) when the statement is attached to the real estate tax affidavit and contains the following information:

(1) The name, address, and telephone number of the trustee or grantor, and/or representative of the trustee or grantor.

(2) The character of the trust, e.g., testamentary, irrevocable living trust, etc.

(3) The nature of the transfer:

(a) If the transfer is to or from a testamentary trust, the nature of and reason for the transfer. For example:

(i) A surviving spouse transfers property to the trust;

(ii) Under the terms of the trust, the trust is being terminated, or the beneficiary has reached the age of distribution, etc.;

(iii) A revocable trust has become an irrevocable testamentary trust by the death of the grantor(s) and the property is being transferred to the beneficiary(s) under the terms of the trust.

(iv) An irrevocable living trust has become a testamentary trust by the death of a grantor(s) and property is being distributed according to its terms.

(v) The transfer to a testamentary trust by an estate is governed by section I, Inheritances, above, and the documentation requirements for the estate apply. Neither a copy of the trust or the statement as provided in this section II, Trusts, is required.

(b) If the transfer is to or from an irrevocable living trust: (i) The nature and reason for the transfer; for example: the funding of the trust; the property is being re-financed; a non-testamentary distribution of the property, etc.

- (ii) Whether or not the property is encumbered with debt; and,
 - (iii) Whether or not the trustee may, at the time of the transfer, distribute income and/or principal to a person(s) other than the grantor(s).
- (4) If (1), above, names a representative, and/or the statement is signed by the representative of the trustee or grantor, the statement must contain a provision that the representative:
 - (a) Is authorized by the trustee or grantor to represent the trustee or grantor in the making of the statement, and,
Is authorized to represent the trustee or grantor before the Department of Revenue in the event of inquiries regarding the transfer.