



EXPEDITED RULE MAKING

CR-105 (June 2024) (Implements RCW 34.05.353)

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STATE OF WASHINGTON
FILED

DATE: October 22, 2025

TIME: 11:52 AM

WSR 25-21-160

Agency: Department of Revenue

Title of rule and other identifying information: (describe subject) WAC 458-57-105, Nature of Estate Tax, Definitions; WAC 458-57-115, Valuation of Property, Property subject to estate tax and how to calculate the tax; WAC 458-57-155, Farm deduction; and WAC 458-57-175 Qualified family-owned business interests.

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

The rules have been revised to incorporate 2025 estate tax legislation adopted in ESSB 5813 to increase funding for the education legacy trust account. .

Reasons supporting proposal: The Washington Legislature enacted statutory changes in 2025 that require updates to the rules.

Statutory authority for adoption: RCW 83.100.200; RCW 83.100.020; RCW 83.100.040; RCW 83.100.046; RCW 833.100.048

Statute being implemented: RCW 83.100.040

Is rule necessary because of a:

Federal Law?

☐ Yes

☒ No

Federal Court Decision?

☐ Yes

☒ No

State Court Decision?

☐ Yes

☒ No

If yes, CITATION:

Name of proponent: (person or organization) Department of Revenue

☐ Private

☐ Public

☒ Governmental

Name of agency personnel responsible for:

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Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Expedited Adoption - Which of the following criteria was used by the agency to file this notice:

- ☐ Relates only to internal governmental operations that are not subject to violation by a person;
- ☒ Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- ☐ Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- ☒ Content is explicitly and specifically dictated by statute;
- ☐ Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- ☐ Is being amended after a review under RCW 34.05.328.

Expedited Repeal - Which of the following criteria was used by the agency to file notice:

- ☐ The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- ☐ The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- ☐ The rule is no longer necessary because of changed circumstances; or
- ☐ Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):**NOTICE**

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO

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BEGINNING (date/time) 10/22/25 /12:00 pm **AND RECEIVED BY** (date/time) 12/22/25 11:59 pm

Date: 10/22/25

Name: Perry Stern

Title: Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 14-14-075, filed 6/27/14, effective 7/28/14)

WAC 458-57-105 Nature of estate tax, definitions. (1) **Introduction.** This rule applies to deaths occurring on or after May 17, 2005, and describes the nature of Washington state's estate tax as it is imposed by chapter 83.100 RCW (Estate and Transfer Tax Act). It also defines terms that will be used throughout chapter 458-57 WAC (Washington Estate and Transfer Tax Reform Act rules). ~~((The estate tax rule on the nature of estate tax and definitions for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-005.))~~

(2) **Nature of Washington's estate tax.** The estate tax is neither a property tax nor an inheritance tax. It is a tax imposed on the transfer of the entire taxable estate and not upon any particular legacy, devise, or distributive share.

(a) **Relationship of Washington's estate tax to the federal estate tax.** The department administers the estate tax under the legislative enactment of chapter 83.100 RCW, which references the Internal Revenue Code (IRC) as it existed January 1, 2005. Federal estate tax law changes enacted after January 1, 2005, do not apply to the reporting requirements of Washington's estate tax. The department will follow federal Treasury Regulations section 20 (Estate tax regulations), in existence on January 1, 2005, to the extent they do not conflict with the provisions of chapter 83.100 RCW or 458-57 WAC. For deaths occurring January 1, 2009, and after, Washington has different estate tax reporting and filing requirements than the federal government. There will be estates that must file an estate tax return with the state of Washington, even though they are not required to file with the federal government. The Washington state estate and transfer tax return and the instructions for completing the return can be found on the department's website at <http://www.dor.wa.gov/> under the heading titled forms.

(b) **Lifetime transfers.** Washington estate tax taxes lifetime transfers only to the extent included in the federal gross estate. The state of Washington does not have a gift tax.

(3) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Absentee distributee" means any person who is the beneficiary of a will or trust who has not been located;

(b) "Applicable exclusion amount" means:

(i) One million five hundred thousand dollars for decedents dying before January 1, 2006;

(ii) Two million dollars for estates of decedents dying on or after January 1, 2006, ~~((and))~~ but before January 1, 2014; ~~((and))~~

(iii) Two million twelve thousand dollars for estates of decedents dying on or after January 1, 2014, but before January 1, 2015;

(iv) Two million fifty-four thousand dollars for estates of decedents dying on or after January 1, 2015, but before January 1, 2016;

(v) Two million seventy-nine thousand dollars for estates of decedents dying on or after January 1, 2016, but before January 1, 2017;

(vi) Two million one hundred twenty-nine thousand dollars for estates of decedents dying on or after January 1, 2017, but before January 1, 2018;

(vii) Two million one hundred ninety-three thousand dollars for estates of decedents dying on or after January 1, 2018, but before July 1, 2025;

(viii) Three million dollars for estates of decedents dying on or after July 1, 2025, but before January 1, 2026; and

(ix) For estates of decedents dying in calendar year ((2014)) 2026 and each calendar year thereafter, the amount in (b) ((+ii)) (viii) of this subsection must be adjusted annually, except as otherwise provided in ((b) (iii) of this subsection)) this subsection (b) (ix). The annual adjustment is determined by multiplying ((two million dollars by one plus)) \$3,000,000 by the sum of one and the percentage by which the most recent October consumer price index exceeds the consumer price index for October ((2012)) 2024, and rounding the result to the nearest ((one thousand dollars)) \$1,000. No adjustment is made for a calendar year if the adjustment would result in the same or a lesser applicable exclusion amount than the applicable exclusion amount for the immediately preceding calendar year. The applicable exclusion amount under ((b) (iii) of this subsection)) this subsection (b) (ix) for the decedent's estate is the applicable exclusion amount in effect as of the date of the decedent's death.

(c) "Consumer price index," for purposes of this subsection, means the consumer price index for all urban customers, all items, for the Seattle((Tacoma-Bremerton)) metropolitan area as calculated by the United States Bureau of Labor Statistics. For purposes of this subsection, "Seattle metropolitan area" means the geographic area sample that includes Seattle and surrounding areas;

(d) "Decedent" means a deceased individual;

(e) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;

(f) "Escheat" of an estate means that whenever any person dies, whether a resident of this state or not, leaving property in an estate subject to the jurisdiction of this state and without being survived by any person entitled to that same property under the laws of this state, such estate property shall be designated escheat property and shall be subject to the provisions of RCW 11.08.140 through 11.08.300;

(g) "Federal return" means any tax return required by chapter 11 (Estate tax) of the Internal Revenue Code;

(h) "Federal tax" means tax under chapter 11 (Estate tax) of the Internal Revenue Code;

(i) "Federal taxable estate" means the taxable estate as determined under chapter 11 of the Internal Revenue Code without regard to:

(i) The termination of the federal estate tax under section 2210 of the IRC or any other provision of law; and

(ii) The deduction for state estate, inheritance, legacy, or succession taxes allowable under section 2058 of the IRC.

(j) "Gross estate" means "gross estate" as defined and used in section 2031 of the Internal Revenue Code;

(k) "Internal Revenue Code" or "IRC" means, for purposes of this chapter, the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, 2005;

(l) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

(m) "Person required to file the federal return" means any person required to file a return required by chapter 11 of the Internal Revenue Code, such as the personal representative (executor) of an estate;

(n) "Property," when used in reference to an estate tax transfer, means property included in the gross estate;

(o) "Resident" means a decedent who was domiciled in Washington at time of death;

(p) "Spouse" means two individuals with a valid marriage recognized under this or another jurisdiction's laws and includes state registered domestic partners and same-sex spouses. It does not include a marriage prohibited under Washington state law because of close kinship, incest, or bigamy;

(q) "State return" means the Washington estate tax return required by RCW 83.100.050;

(r) "Taxpayer" means a person upon whom tax is imposed under this chapter, including an estate or a person liable for tax under RCW 83.100.120;

(s) "Transfer" means "transfer" as used in section 2001 of the Internal Revenue Code and includes any shifting upon death of the economic benefit in property or any power or legal privilege incidental to the ownership or enjoyment of property. However, "transfer" does not include a qualified heir disposing of an interest in property qualifying for a deduction under RCW 83.100.046;

(t) "Washington taxable estate" means the "federal taxable estate" and includes, but is not limited to, the value of any property included in the gross estate under section 2044 of the Internal Revenue Code, regardless of whether the decedent's interest in such property was acquired before May 17, 2005:

(i) Plus amounts required to be added to the Washington taxable estate under RCW 83.100.047 for the marital deduction and surviving spouse benefits that includes state registered domestic partners and same-sex spouses;

(ii) Less:

(A) The applicable exclusion amount;

(B) The amount of any deduction allowed under RCW 83.100.046 for a qualified farm;

(C) Amounts allowed to be deducted from the Washington taxable estate under RCW 83.100.047 for the marital deduction and surviving spouse benefits that includes state registered domestic partners and same-sex spouses; and

(D) The amount of any deduction allowed under RCW 83.100.048 for the qualified family-owned business interest.

AMENDATORY SECTION (Amending WSR 14-14-075, filed 6/27/14, effective 7/28/14)

WAC 458-57-115 Valuation of property, property subject to estate tax, and how to calculate the tax. (1) **Introduction.** This rule applies to deaths occurring on or after May 17, 2005, and is intended to help taxpayers prepare their return and pay the correct amount of Washington state estate tax. It explains the necessary steps for determining the tax and how the tax is calculated. ~~((The estate tax rule on valuation of property etc., for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-015.))~~

(2) **Determining the property subject to Washington's estate tax.**

(a) **General valuation information.** The value of every item of property in a decedent's gross estate is its date of death fair market value. However, the personal representative may elect to use the alternate valuation method under section 2032 of the Internal Revenue Code, and in that case the value is the fair market value at that date, including the adjustments prescribed in that section of the Internal Revenue Code. The alternate valuation method must match the federal estate return, when a federal return is filed. The valuation of certain farm property and closely held business property, properly made for federal estate tax purposes pursuant to an election authorized by section 2032A of the Internal Revenue Code of 2005, is binding on the estate for state estate tax purposes.

(b) **How is the gross estate determined?** The first step in determining the value of a decedent's Washington taxable estate is to determine the total value of the gross estate. The value of the gross estate includes the value of all the decedent's tangible and intangible property at the time of death. In addition, the gross estate may include property in which the decedent did not have an interest at the time of death. A decedent's gross estate for estate tax purposes may therefore be different from the same decedent's estate for local probate purposes. Sections 2031 through 2046 of the Internal Revenue Code provide a detailed explanation of how to determine the value of the gross estate.

(c) **Deductions from the gross estate.** The value of the taxable estate is determined by subtracting the authorized exemption and deductions from the value of the gross estate. Under various conditions and limitations, deductions are allowable for expenses, indebtedness, taxes, losses, charitable transfers, and transfers to a surviving spouse. While sections 2051 through 2056A of the Internal Revenue Code provide a detailed explanation of how to determine the value of the taxable estate the following areas are of special note:

(i) **Funeral expenses.**

(A) Washington is a community property state and under *Estate of Julius C. Lang v. Commissioner*, 97 Fed. 2d 867 (9th Cir. 1938) affirming the reasoning of *Wittwer v. Pemberton*, 188 Wash. 72, 76, 61 P.2d 993 (1936) funeral expenses reported for a married decedent must be halved. Administration expenses are not a community debt and are reported at 100%.

(B) **Example.** John, a married man, died in ~~((2005))~~ 2020 with an estate valued at ~~((\$2.5 million. On Schedule J of the federal estate tax return listed))~~ \$3,500,000. The following were listed as expenses on Schedule J of the federal estate tax return:

SCHEDULE J - Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims			
Item Number	Description	Expense Amount	Total Amount
1	A. Funeral expenses: Burial and services	\$4,000	
	(1/2 community debt)	(\$2,000)	
	Total funeral expenses		\$2,000
	B. Administration expenses:		
	1. Executors' commissions - amount estimated/agreed upon paid. (Strike out the words that do not apply.)		\$10,000
	2. Attorney fees - amount estimated/agreed upon/paid. (Strike out the words that do not apply.)		\$5,000

The funeral expenses, as a community debt, were properly reported at 50% and the other administration expenses were properly reported at 100%.

(ii) **Mortgages and liens on real property.** Real property listed on Schedule A should be reported at its fair market value without deduction of mortgages or liens on the property. Mortgages and liens are reported and deducted using Schedule K.

(iii) **Washington qualified terminable interest property (QTIP) election.**

(A) A personal representative may choose to make a larger or smaller percentage or fractional QTIP election on the Washington return than taken on the federal return in order to reduce Washington estate liability while making full use of the federal unified credit.

(B) Section 2056 (b)(7) of the Internal Revenue Code states that a QTIP election is irrevocable once made. For the taxpayer that makes this election, any amount deducted by reason of section 2056 (b)(7) of the Internal Revenue Code is added to, and the value of the property for which a Washington election is made is deducted from, the Washington taxable estate. For the estate of the surviving spouse, the amount included in the estate's gross estate pursuant to section 2044 (a) and (b)(1)(A) of the Internal Revenue Code is deducted from, and the value of any property for which an election under this section was previously made is added to, the Washington taxable estate. A QTIP election made on the Washington return is irrevocable, and a surviving spouse who is the lifetime beneficiary of property for which a Washington QTIP election was made must include the value of the remaining property in his or her gross estate for Washington estate tax purposes. If the value of property for which a federal QTIP election was made is different, this value is not includible in the surviving spouse's gross estate for Washington estate tax purposes; instead, the value of property for which a Washington QTIP election was made is includible.

(C) The Washington QTIP election must adequately identify the assets, by schedule and item number, included as part of the election, either on the return or, if those assets have not been determined when the estate tax return is filed, on a statement to that effect, prepared when the assets are definitively identified. Identification of the assets is necessary when reviewing the surviving spouse's return, if a return is required to be filed. This statement may be filed with the department at that time or when the surviving spouse's estate tax return is filed.

(iv) **Washington qualified domestic trust (QDOT) election.**

(A) A deduction is allowed for property passing to a surviving spouse who is not a U.S. citizen in a qualified domestic trust (a

"QDOT"). An executor may elect to treat a trust as a QDOT on the Washington estate tax return even though no QDOT election is made with respect to the trust on the federal return; and also may forgo making an election on the Washington estate tax return to treat a trust as a QDOT even though a QDOT election is made with respect to the trust on the federal return. An election to treat a trust as a QDOT may not be made with respect to a specific portion of an entire trust that otherwise would qualify for the marital deduction, but if the trust is actually severed pursuant to authority granted in the governing instrument or under local law prior to the due date for the election, a QDOT election may be made for any one or more of the severed trusts.

(B) A QDOT election may be made on the Washington estate tax return with respect to property passing to the surviving spouse in a QDOT, and also with respect to property passing to the surviving spouse if the requirements of section 2056 (d)(2)(B) of the Internal Revenue Code are satisfied. Unless specifically stated otherwise herein, all provisions of sections 2056(d) and 2056A of the Internal Revenue Code, and the federal regulations promulgated thereunder, are applicable to a Washington QDOT election. Section 2056A(d) of the Internal Revenue Code states that a QDOT election is irrevocable once made. Similarly, a QDOT election made on the Washington estate tax return is irrevocable. For purposes of this subsection, a QDOT means, with respect to any decedent, a trust described in section 2056A(a) of the Internal Revenue Code, provided, however, that if an election is made to treat a trust as a QDOT on the Washington estate tax return but no QDOT election is made with respect to the trust on the federal return:

(I) The trust must have at least one trustee that is an individual citizen of the United States resident in Washington state, or a corporation formed under the laws of the state of Washington, or a bank as defined in section 581 of the Internal Revenue Code that is authorized to transact business in, and is transacting business in, the state of Washington (the trustee required under this subsection is referred to herein as the "Washington Trustee");

(II) The Washington Trustee must have the right to withhold from any distribution from the trust (other than a distribution of income) the Washington QDOT tax imposed on such distribution;

(III) The trust must be maintained and administered under the laws of the state of Washington; and

(IV) The trust must meet the additional requirements intended to ensure the collection of the Washington QDOT tax set forth in (c)(iv)(D) of this subsection.

(C) The QDOT election must adequately identify the assets, by schedule and item number, included as part of the election, either on the return, or, if those assets have not been determined when the estate tax return is filed, or a statement to that effect, prepared when the assets are definitively identified. This statement may be filed with the department at that time or when the first taxable event with respect to the trust is reported to the department.

(D) In order to qualify as a QDOT, the following requirements regarding collection of the Washington QDOT tax must be satisfied.

(I) If a QDOT election is made to treat a trust as a QDOT on both the federal and Washington estate tax returns, the Washington QDOT election will be valid so long as the trust satisfies the statutory requirements of Treas. Reg. Section 20.2056A-2(d).

(II) If an election is made to treat a trust as a QDOT only on the Washington estate tax return, the following rules apply:

If the fair market value of the trust assets exceeds \$2 million as of the date of the decedent's death, or, if applicable, the alternate valuation date, the trust must comply with Treas. Reg. Section 20.2056A-2 (d)(1)(i), except that: If the bank trustee alternative is used, the bank must be a bank that is authorized to transact business in, and is transacting business in, the state of Washington, or a bond or an irrevocable letter of credit meeting the requirements of Treas. Reg. Section 20.2056A-2 (d)(1)(i)(B) or (C) must be furnished to the department.

If the fair market value of the trust assets is \$2 million or less as of the date of the decedent's death, or, if applicable, the alternate valuation date, the trust must comply with Treas. Reg. Section 20.2056A-2 (d)(1)(ii), except that not more than 35 percent of the fair market value of the trust may be comprised of real estate located outside of the state of Washington.

A taxpayer may request approval of an alternate plan or arrangement to assure the collection of the Washington QDOT tax. If such plan or arrangement is approved by the department, such plan or arrangement will be deemed to meet the requirements of this (c)(iv)(D).

(E) The Washington estate tax will be imposed on:

(I) Any distribution before the date of the death of the surviving spouse from a QDOT (except those distributions excepted by section 2056A (b)(3) of the Internal Revenue Code); and

(II) The value of the property remaining in the QDOT on the date of the death of the surviving spouse (or the spouse's deemed date of death under IRC section 2056A (b)(4)). The tax is computed using Table W. The tax is due on the date specified in IRC section 2056A (b)(5). The tax shall be reported to the department in a form containing the information that would be required to be included on federal Form 706-QDT with respect to the taxable event, and any other information requested by the department, and the computation of the Washington tax shall be made on a supplemental statement. If Form 706-QDT is required to be filed with the Internal Revenue Service with respect to a taxable event, a copy of such form shall be provided to the department. Neither the residence of the surviving spouse or other QDOT beneficiary nor the situs of the QDOT assets are relevant to the application of the Washington tax. In other words, if Washington state estate tax would have been imposed on property passing to a QDOT at the decedent's date of death but for the deduction allowed by this subsection (c)(iv)(E)(II), the Washington tax will apply to the QDOT at the time of a taxable event as set forth in this subsection (c)(iv)(E)(II) regardless of, for example, whether the distribution is made to a beneficiary who is not a resident of Washington, or whether the surviving spouse was a nonresident of Washington at the date of the surviving spouse's death.

(F) If the surviving spouse of the decedent becomes a citizen of the United States and complies with the requirements of section 2056A (b)(12) of the Internal Revenue Code, then the Washington tax will not apply to: Any distribution before the date of the death of the surviving spouse from a QDOT; or the value of the property remaining in the QDOT on the date of the death of the surviving spouse (or the spouse's deemed date of death under section 2056A (b)(4) of the Internal Revenue Code).

(d) **Washington taxable estate.** The estate tax is imposed on the "Washington taxable estate." The "Washington taxable estate" is defined in WAC 458-57-105 (3)(t).

(e) **Federal taxable estate.** The "federal taxable estate" is defined in WAC 458-57-105 (3) (i).

(3) **Calculation of Washington's estate tax.**

(a) The tax is calculated by applying Table W to the Washington taxable estate.

Table W

(For deaths occurring on or after July 1, 2025)

<u>Washington Taxable Estate is at Least</u>	<u>But Less Than</u>	<u>The Amount of Tax Equals Initial Tax Amount</u>	<u>Plus Tax Rate %</u>	<u>Of Washington Taxable Estate Value Greater Than</u>
<u>\$0</u>	<u>\$1,000,000</u>	<u>\$0</u>	<u>10.00%</u>	<u>\$0</u>
<u>\$1,000,000</u>	<u>\$2,000,000</u>	<u>\$100,000</u>	<u>15.00%</u>	<u>\$1,000,000</u>
<u>\$2,000,000</u>	<u>\$3,000,000</u>	<u>\$250,000</u>	<u>17.00%</u>	<u>\$2,000,000</u>
<u>\$3,000,000</u>	<u>\$4,000,000</u>	<u>\$420,000</u>	<u>19.00%</u>	<u>\$3,000,000</u>
<u>\$4,000,000</u>	<u>\$6,000,000</u>	<u>\$610,000</u>	<u>23.00%</u>	<u>\$4,000,000</u>
<u>\$6,000,000</u>	<u>\$7,000,000</u>	<u>\$1,070,000</u>	<u>26.00%</u>	<u>\$6,000,000</u>
<u>\$7,000,000</u>	<u>\$9,000,000</u>	<u>\$1,330,000</u>	<u>30.00%</u>	<u>\$7,000,000</u>
<u>\$9,000,000</u>		<u>\$1,930,000</u>	<u>35.00%</u>	<u>\$9,000,000</u>

Table W

(For deaths occurring ~~((on or after))~~ January 1, 2014 to June 30, 2025)

<u>Washington Taxable Estate is at Least</u>	<u>But Less Than</u>	<u>The Amount of Tax Equals Initial Tax Amount</u>	<u>Plus Tax Rate %</u>	<u>Of Washington Taxable Estate Value Greater Than</u>
<u>\$0</u>	<u>\$1,000,000</u>	<u>\$0</u>	<u>10.00%</u>	<u>\$0</u>
<u>\$1,000,000</u>	<u>\$2,000,000</u>	<u>\$100,000</u>	<u>14.00%</u>	<u>\$1,000,000</u>
<u>\$2,000,000</u>	<u>\$3,000,000</u>	<u>\$240,000</u>	<u>15.00%</u>	<u>\$2,000,000</u>
<u>\$3,000,000</u>	<u>\$4,000,000</u>	<u>\$390,000</u>	<u>16.00%</u>	<u>\$3,000,000</u>
<u>\$4,000,000</u>	<u>\$6,000,000</u>	<u>\$550,000</u>	<u>18.00%</u>	<u>\$4,000,000</u>
<u>\$6,000,000</u>	<u>\$7,000,000</u>	<u>\$910,000</u>	<u>19.00%</u>	<u>\$6,000,000</u>
<u>\$7,000,000</u>	<u>\$9,000,000</u>	<u>\$1,100,000</u>	<u>19.50%</u>	<u>\$7,000,000</u>
<u>\$9,000,000</u>		<u>\$1,490,000</u>	<u>20.00%</u>	<u>\$9,000,000</u>

~~((Table W~~

~~(For deaths occurring before January 1, 2014)~~

<u>Washington Taxable Estate is at Least</u>	<u>But Less Than</u>	<u>The Amount of Tax Equals Initial Tax Amount</u>	<u>Plus Tax Rate %</u>	<u>Of Washington Taxable Estate Value Greater Than</u>
<u>\$0</u>	<u>\$1,000,000</u>	<u>\$0</u>	<u>10.00%</u>	<u>\$0</u>
<u>\$1,000,000</u>	<u>\$2,000,000</u>	<u>\$100,000</u>	<u>14.00%</u>	<u>\$1,000,000</u>
<u>\$2,000,000</u>	<u>\$3,000,000</u>	<u>\$240,000</u>	<u>15.00%</u>	<u>\$2,000,000</u>
<u>\$3,000,000</u>	<u>\$4,000,000</u>	<u>\$390,000</u>	<u>16.00%</u>	<u>\$3,000,000</u>
<u>\$4,000,000</u>	<u>\$6,000,000</u>	<u>\$550,000</u>	<u>17.00%</u>	<u>\$4,000,000</u>
<u>\$6,000,000</u>	<u>\$7,000,000</u>	<u>\$890,000</u>	<u>18.00%</u>	<u>\$6,000,000</u>
<u>\$7,000,000</u>	<u>\$9,000,000</u>	<u>\$1,070,000</u>	<u>18.50%</u>	<u>\$7,000,000</u>
<u>\$9,000,000</u>		<u>\$1,440,000</u>	<u>19.00%</u>	<u>\$9,000,000))</u>

(b) Each year the department will publish each calendar year's "applicable exclusion amount." The "applicable exclusion amount" is adjusted annually and is defined in WAC 458-57-105 (3) (b).

AMENDATORY SECTION (Amending WSR 06-07-051, filed 3/9/06, effective 4/9/06)

WAC 458-57-155 Farm deduction. (1) **Introduction.** This rule applies to deaths occurring on or after May 17, 2005, and is intended to help taxpayers determine if the estate is eligible for the farm deduction and to correctly calculate the deduction.

(2) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Active management" means the making of the management decisions of a farm, other than the daily operating decisions;

(b) "Employee of a farm" means a person hired by the decedent, or a member of the decedent's family, to work on the farm and who receives a set wage, salary, or benefits. The person must be an active employee of the farm on the date of the death of the decedent. "Employee of a farm" does not include a self-employed person, independent contractor, or tenant farmer;

(c) "Farm" includes stock, dairy, poultry, fruit, furbearing animal, and truck farms; plantation; ranches; nurseries; ranges; greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities; and orchards and woodlands;

~~((e))~~ (d) "Farming purposes" means:

(i) Cultivating the soil or raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of animals on a farm;

(ii) Handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and

(iii)(A) The planting, cultivating, caring for, or cutting of trees; or

(B) The preparation, other than milling, of trees for market.

~~((d))~~ (e) "Member of the family" means, with respect to any individual, only:

(i) An ancestor of the individual;

(ii) Spouse of the individual;

(iii) A lineal descendant of the individual; of the individual's spouse, or a parent of the individual; or

(iv) The spouse of any lineal descendant described in ~~((d))~~ (e) (iii) of this subsection.

A legally adopted child of an individual shall be treated as the child of such individual by blood.

~~((e))~~ (f) "Qualified heir" means, with respect to any property, a member of the decedent's family who acquired property, or to whom property passed, from the decedent.

~~((f))~~ When farm property is held in a trust, only the individuals with a present-beneficiary interest in the trust may qualify as a "qualified heir" or "member of decedent's family" under this rule.

(g) "Qualified nonfamilial heir" means an employee of a farm who materially participated in the operation of the farm and who acquired property, or to whom property passed, from the decedent. For the purposes of this subsection (g), material participation must be determined in a manner similar to the manner used for purposes of 26 U.S.C. Sec. 1402(a)(1) of the federal Internal Revenue Code.

(h)(i) "Qualified real property" means real property which was acquired from or passed from the decedent to a qualified heir of the

decedent and which, on the date of the decedent's death, was being used for a qualified use by the decedent or a member of the decedent's family, but only if:

(A) Fifty percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which:

(I) On the date of the decedent's death, was being used for a qualified use by the decedent or a member of the decedent's family; and

(II) Was acquired from or passed from the decedent to a qualified heir of the decedent;

(B) Twenty-five percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of ~~((f))~~ (h)(i)(A)(II) and (C) of this subsection; and

(C) During the eight-year period ending on the date of the decedent's death there have been periods aggregating five years or more during which:

(I) The real property was owned by the decedent or a member of the decedent's family and used for a qualified use by the decedent or a member of the decedent's family; and

(II) There was material participation by the decedent or a member of the decedent's family in the operation of the farm. For the purposes of this subsection ~~((f))~~ (h)(i)(C)(II), material participation shall be determined in a manner similar to the manner used for purposes of section 1402 (a)(1) of the Internal Revenue Code (IRC).

(ii) For the purposes of this subsection, the term "adjusted value" means:

(A) In the case of the gross estate, the value of the gross estate, determined without regard to any special valuation under section 2032A of the IRC, reduced by any amounts allowable as a deduction under section 2053 (a)(4) of the IRC; or

(B) In the case of any real or personal property, the value of the property for purposes of chapter 11 of the IRC, determined without regard to any special valuation under section 2032A of the IRC, reduced by an amount allowable as a deduction in respect of such property under section 2053 (a)(4) of the IRC.

~~((g))~~ (i) "Qualified use" means the property is used as a farm for farming purposes. In the case of real property which meets the requirements of ~~((f))~~ (h)(i)(C) of this subsection, residential buildings and related improvements on the real property occupied on a regular basis by the owner or lessee for the purpose of operating or maintaining the real property, and roads, buildings, and other structures and improvements functionally related to the qualified use shall be treated as real property devoted to the qualified use. For tangible personal property eligible for a deduction under subsection ~~((1)(b))~~ (3)(a) of this section, "qualified use" means the property is used primarily for farming purposes on a farm.

~~((h))~~ (j) "Qualified woodland" means any real property which:

(i) Is used in timber operations; and

(ii) Is an identifiable area of land such as an acre or other area for which records are normally maintained in conducting timber operations.

~~((i))~~ (k) "Timber operations" means:

(i) The planting, cultivating, caring for, or cutting of trees;

or

(ii) The preparation, other than milling, of trees for market.

(3) Farm deduction—Qualification criteria.

(a) A deduction from the Washington taxable estate is available for the value of qualified real property and the value of any tangible personal property used by the decedent or a member of the decedent's family for a qualified use. The value of tangible personal property used by any qualified nonfamilial heir for a qualified use may be included in the deduction. In certain circumstances an estate of a tenant farmer may deduct the value of agricultural personal property. See subsection (7) of this section. If the estate is eligible for the federal special valuation of farmland it would also be eligible for the state deduction. The estate does not have to elect special valuation treatment for federal purposes in order to take the state deduction. Unlike the federal special valuation for farmland there is no requirement that the heir to the land and equipment continue farming.

(b) There are several criteria that must be met before the deduction can be taken:

(i) Decedent at the time of his or her death was a citizen or resident of the United States;

(ii) Fifty percent or more of the estate's adjusted value must be in agricultural real and personal property;

(iii) On the date of the decedent's death the real and personal property must have been used for a qualified use (farming) by the decedent or a member of the decedent's family;

(iv) The real and personal property must pass from the decedent to a qualified heir; and

(v) Twenty-five percent or more of the estate consists of agricultural real property (land) that was actively managed by the decedent or the decedent's family.

(4) **What does "acquired from the decedent" mean?** Property shall be considered to have been acquired from or to have passed from the decedent if:

(a) The property is so considered under section 1014(b) of the IRC;

(b) The property is acquired by any person from the estate; or

(c) The property is acquired by any person from a trust, to the extent the property is includible in the gross estate of the decedent.

(5) **Treatment of qualified real property held as a community property.** If the decedent and the decedent's surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in the property shall be taken into account under this section.

(6) **Value of trees growing on woodlands.** In the case of qualified woodland, the value of trees growing on the woodland may be deducted if otherwise qualified under this section.

(7) **Tenant farmers.** If the following criteria are met, the estate of a tenant farmer may deduct from the Washington taxable estate the value of the agricultural personal property:

(a) Decedent at the time of his or her death was a citizen or resident of the United States;

(b) Fifty percent or more of the estate adjusted value must be in agricultural personal property;

(c) On the date of the decedent's death the personal property must have been used for a qualified use (farming) by the decedent or a member of the decedent's family; and

(d) The personal property must pass from the decedent to a qualified heir.

(8) **Examples.**

(a) The decedent died May 18, ((2005)) 2020, with an adjusted gross estate valued at ((~~\$4 million~~)) \$4,000,000. The decedent was a dry land wheat farmer and owned 2000 acres of land valued at ((~~\$2 million~~)) \$2,000,000 (\$1,000 per acre) and \$500,000 in farm equipment. The decedent was a U.S. citizen, owned and worked the acreage for the last ((~~twenty~~)) 20 years, and left the farm to his son, a qualified heir. The value of the farm acreage and equipment exceeds the required 50% or more of the adjusted gross estate ($\$2,000,000 + \$500,000 > \$4,000,000 \times 50\%$). The value of the 2000 acres and the farm equipment can be deducted from the decedent's federal taxable estate. In this example, estate tax is not due. The calculations are shown below:

Federal taxable estate	\$4,000,000
Less \$2,500,000 farm deduction	- \$2,500,000
Less \$1,500,000 statutory exemption	- \$1,500,000
Washington taxable estate	\$0

Although Washington estate tax is not due, the estate is still required to file a Washington estate tax return along with a photocopy of the filed and signed federal return and all supporting documentation.

(b) The decedent died August 28, ((2005)) 2020, with an adjusted gross estate valued at ((~~\$5 million~~)) \$5,000,000. The decedent was a hay farmer and owned 600 acres of land valued at ((~~\$1.8 million~~)) \$1,800,000 (\$3,000 per acre) and \$500,000 in farm equipment. The decedent was a U.S. citizen, owned and worked the acreage for the last ((~~twenty~~)) 20 years, and left the farm to his son, a qualified heir. The value of the farm acreage and equipment did not meet the required 50% or more of the adjusted gross estate, therefore, the estate cannot deduct the value of the farm and farm equipment ($\$1,800,000 + \$500,000 < \$5,000,000 \times 50\%$). Here are the calculations:

Federal taxable estate	\$4,000,000
Less \$1,500,000 statutory exemption	- \$1,500,000
Washington taxable estate	\$3,500,000

Based on the tax table, the estate owes \$470,000 in Washington estate tax.

(c) The decedent died May 23, ((2005)) 2020, with an adjusted gross estate valued at ((~~\$1.6 million~~)) \$1,600,000. The decedent was a tenant hay farmer that owned \$400,000 of hay in storage that had been harvested but not sold and \$800,000 in farm equipment. The decedent was a U.S. citizen, used the farm equipment in a qualified use for the last six years, and left the equipment to his son-in-law, a qualified heir. The value of the farm equipment met the required 50% or more of the adjusted gross estate so it can be deducted from the decedent's federal taxable estate ($\$800,000 = \$1,600,000 \times 50\%$). In this example no estate tax is due. The calculations are shown below:

Federal taxable estate	\$1,600,000
Less \$800,000 farm deduction	- \$800,000
Less \$1,500,000 statutory exemption	- \$1,500,000
Washington taxable estate	\$0

Although Washington estate tax is not due, the estate is still required to file a Washington estate tax return along with a photocopy of the filed and signed federal return and all supporting documentation.

(d) The decedent died April 7, ((2006)) 2021, with an adjusted gross estate valued at ((~~\$2.5 million~~)) \$2,500,000. The decedent owned 100 acres of timberland valued at \$100,000 (\$1,000 per acre), timber valued at \$800,000 (\$80,000 per acre), 200 acres of pasture land valued at \$500,000 (\$2,500 per acre) and \$50,000 in farm equipment. The decedent was a U.S. citizen, owned and worked the acreage for the last ((ten)) 10 years, and left the timber and farm land to his daughter, a qualified heir. The value of the timberland and farm acreage and equipment exceeded the required 50% or more of the adjusted gross estate therefore the estate can deduct the value of the timber and farm land and farm equipment (\$100,000 + \$800,000 + \$500,000 + \$50,000 > \$2,500,000 x 50%). The calculations are shown below:

Federal taxable estate	\$2,500,000
Less \$1,450,000 farm deduction	- \$1,450,000
Less \$2,000,000 statutory exemption	- \$2,000,000
Washington taxable estate	\$0

Although Washington estate tax is not due, the estate is still required to file a Washington estate tax return along with a photocopy of the filed and signed federal return and all supporting documentation.

AMENDATORY SECTION (Amending WSR 14-14-075, filed 6/27/14, effective 7/28/14)

WAC 458-57-175 Qualified family-owned business interests. (1)

Introduction. This rule applies to deaths occurring on or after January 1, 2014, and is intended to determine if the estate is eligible for the qualified family-owned business interest deduction and to correctly calculate the deduction.

(2) **Definitions.** For purposes of this section, the following definitions apply:

(a) "Applicable deduction amount" means:

(i) Two million five hundred thousand dollars for estates of decedents dying on or after January 1, 2014, but before July 1, 2025;

(ii) Three million dollars for estates of decedents dying on or after July 1, 2025, but before January 1, 2026; and

(iii) For estates of decedents dying in calendar year 2026 and each calendar year thereafter, the amount in (a)(ii) of this subsection must be adjusted annually, except as otherwise provided in this subsection. The annual adjustment is determined by multiplying \$3,000,000 by the sum of one and the percentage by which the most recent October consumer price index for October 2024 and rounding the result to the nearest \$1,000. No adjustment is made for a calendar year if the adjustment would result in the same or a lesser applicable deduction amount than the applicable deduction amount for the immediate preceding calendar year.

(b) "Consumer price index" has the same meaning as in WAC 458-57-105.

(c) "Material participation" has the same meaning as provided in section 2032A (e)(6) of the Internal Revenue Code as amended or renumbered as of January 1, 2005. Under the federal tax provision, "material participation" generally means the individual is materially involved in making significant management decisions for the trade or business, but not necessarily the day-to-day operating decisions.

A decedent or a qualified heir will not be treated as materially participating in the family-owned business if:

(i) The income derived from carrying out the trade or business is from the management decisions of another individual or entity under an arrangement between the other individual or entity and the decedent or qualified heir.

(ii) The activities that constitute material participation of any agent of the decedent or qualified heir are not considered the activities of the decedent or qualified heir when determining their material participation in the family-owned business.

(iii) A trustee's activities managing a trust for the benefit of other individuals shall not be considered when determining whether any of the present interest beneficiaries of the trust materially participate in the family-owned business.

~~((b))~~ (d) "Member of the decedent's family" and "member of the family" have the same meaning as "member of the family" in RCW 83.100.046(10).

~~((e))~~ (e) "Qualified family-owned business interest" has the same meaning as provided in section 2057(e) of the Internal Revenue Code of 1986 as amended and renumbered as of December 31, 2003.

~~((d))~~ (f) "Qualified heir" has the same meaning as provided in section 2057(i) of the Internal Revenue Code of 1986 as amended and renumbered as of December 31, 2003.

~~((e))~~ (g) When a business interest is held in a trust, only the individuals with a present-beneficiary interest in the trust may qualify as a "qualified heir" or "member of decedent's family" under this rule.

(3) Criteria for claiming the deduction.

(a) For the purposes of determining the tax due under this chapter, a deduction is allowed for the value of the decedent's qualified family-owned business interests. The total deduction may not exceed ~~((two million five hundred thousand dollars))~~ the applicable deduction amount.

(b) The deduction is available only if all the following criteria are met:

(i) The value of the decedent's qualified family-owned business interests must exceed ~~((fifty))~~ 50 percent of the decedent's Washington taxable estate determined without regard to the deduction for the applicable exclusion amount provided in RCW 83.100.020 ~~((1)(a))~~;

(ii) During the eight-year period ending on the date of the decedent's death, there must have been periods aggregating five years or more during which:

(A) Such interests were owned by the decedent or a member of the decedent's family;

(B) There was material participation, within the meaning of section 2032A (e)(6) of the Internal Revenue Code, by the decedent or a member of the decedent's family in the operation of the trade or business to which such interests relate;

(iii) The qualified family-owned business interests are acquired by any qualified heir from, or passed to any qualified heir from, the decedent, within the meaning of RCW 83.100.046(2), and the decedent was at the time of his or her death a citizen or resident of the United States; and

(iv) The value of the decedent's qualified family-owned business interests is not more than ~~((six million dollars))~~ \$6,000,000.

(4) Amounts deductible under this section.

(a) Only amounts included in the decedent's federal taxable estate may be deducted under this subsection.

(b) Amounts deductible under RCW 83.100.046 regarding property used for farming may not be deducted under this section.

(5) Additional estate tax imposed - Circumstances - Amount.

(a) If the qualified heir, within three years of decedent's death and prior to the qualified heir's death, meets one of the four criteria listed below, that qualified heir will be assessed additional estate tax.

(i) The material participation requirements described in section 2032A (c)(6)(b)(ii) of the Internal Revenue Code are not met with respect to the qualified family-owned business interest which was acquired or passed from the decedent;

(ii) The qualified heir disposes of any portion of a qualified family-owned business interest, other than by a disposition to a member of the qualified heir's family or a person with an ownership interest in the qualified family-owned business or through a qualified conservation contribution under section 170(h) of the Internal Revenue Code;

(iii) The qualified heir loses United States citizenship within the meaning of section 877 of the Internal Revenue Code or with respect to whom section 877 (e)(1) applies, and such heir does not comply with the requirements of section 877(g) of the Internal Revenue Code; or

(iv) The principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

(b) The amount of the additional estate tax imposed under this subsection if one of the four criteria in (a) of this subsection is met is equal to the amount of tax savings with respect to the qualified family-owned business interest acquired or passed from the decedent.

(c) Interest applies to the tax due under this subsection for the period beginning on the date that the estate tax liability was due under this chapter and ending on the date the additional estate tax due under this subsection is paid. Interest under this subsection must be computed as provided in RCW 83.100.070(2).

(d) The additional estate tax imposed by this subsection is due the day that is six months after any taxable event described in (a) of this subsection occurred and must be reported on a return as provided by the department.

(e) The qualified heir is personally liable for the additional tax imposed by this subsection unless he or she has furnished a bond in favor of the department for such amount and for such time as the department determines necessary to secure the payment of amounts due under this subsection. The qualified heir, on furnishing a bond satisfactory to the department, is discharged from personal liability for any additional estate tax and interest under this subsection and is entitled to a receipt or writing showing such discharge.

(f) Amounts due under this subsection attributable to any qualified family-owned business interest are secured by a lien in favor of the state on the property in respect to which such interest relates. The lien arises at the time the Washington return is filed on which a deduction under this section is taken and continues in effect until:

(i) The additional estate tax liability under this subsection has been satisfied or has become unenforceable by reason of lapse of time; or

(ii) The department is satisfied that no further tax liability will arise under this subsection.

(g) Security acceptable to the department may be substituted for the lien imposed by (f) of this subsection.

(h) For purposes of the assessment or correction of an assessment for additional estate taxes and interest imposed under this subsection, the limitations period in RCW 83.100.095 begins to run on the due date of the return required under (d) of this subsection.

(i) For purposes of this subsection, a qualified heir may not be treated as disposing of an interest described in section 2057 (e)(1)(A) of the Internal Revenue Code by reason of ceasing to be engaged in a trade or business so long as the property to which such interest relates is used in a trade or business by any member of the qualified heir's family.

(6) Information to be furnished to the department:

(a) The personal representative of the estate claiming the deduction is required to provide the names and contact information of all qualified heirs on forms prescribed by the department.

(b) Any qualified heir upon the department's request, must submit to the department on an ongoing basis such information as the department determines necessary or useful in determining whether the qualified heir is subject to the additional tax imposed in subsection (5) of this section. The department may not require such information more frequently than twice per year. The department may impose a penalty on

a qualified heir who fails to provide the information requested within ~~((thirty))~~ 30 days of the date the department's written request for the information was sent to the qualified heir. The amount of the penalty under this subsection is ~~((five hundred dollars))~~ \$500 and may be collected in the same manner as the tax imposed under subsection (5) of this section.

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