
HOUSE BILL 3361

State of Washington 60th Legislature 2008 Regular Session

By Representatives Grant, McIntire, Fromhold, Linville, and Newhouse

Read first time 02/08/08. Referred to Committee on Finance.

1 AN ACT Relating to a deduction for property used in the growing,
2 processing, bottling, or selling of wine; amending RCW 83.100.046; and
3 creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 83.100.046 and 2005 c 514 s 1201 are each amended to
6 read as follows:

7 (1) For the purposes of determining the Washington taxable estate,
8 a deduction is allowed from the federal taxable estate for:

9 (a) The value of qualified real property reduced by any amounts
10 allowable as a deduction in respect of the qualified real property and
11 tangible personal property under Title 26, section 2053(a)(4) of the
12 internal revenue code, if the decedent was at the time of his or her
13 death a citizen or resident of the United States.

14 (b) The value of any tangible personal property used by the
15 decedent or a member of the decedent's family for a qualified use on
16 the date of the decedent's death, reduced by any amounts allowable as
17 a deduction in respect of the tangible personal property under Title
18 26, section 2053(a)(4) of the internal revenue code, if all of the

1 requirements of subsection (10)(f)(i)(A) of this section are met and
2 the decedent was at the time of his or her death a citizen or resident
3 of the United States.

4 (c) The value of real property that is not deductible under (a) of
5 this subsection solely by reason of subsection (10)(f)(i)(B) of this
6 section, reduced by any amounts allowable as a deduction in respect of
7 the qualified real property and tangible personal property under Title
8 26, section 2053(a)(4) of the internal revenue code, if the
9 requirements of subsection (10)(f)(i)(C) of this section are met with
10 respect to the property and the decedent was at the time of his or her
11 death a citizen or resident of the United States.

12 (2) Property shall be considered to have been acquired from or to
13 have passed from the decedent if:

14 (a) The property is so considered under Title 26, section 1014(b)
15 of the internal revenue code;

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

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

19 (3) If the decedent and the decedent's surviving spouse at any time
20 held qualified real property as community property, the interest of the
21 surviving spouse in the property shall be taken into account under this
22 section to the extent necessary to provide a result under this section
23 with respect to the property which is consistent with the result which
24 would have obtained under this section if the property had not been
25 community property.

26 (4) In the case of any qualified woodland, the value of trees
27 growing on the woodland may be deducted if otherwise qualified under
28 this section.

29 (5) If property is qualified real property with respect to a
30 decedent, hereinafter in this subsection referred to as the "first
31 decedent," and the property was acquired from or passed from the first
32 decedent to the surviving spouse of the first decedent, active
33 management of the farm by the surviving spouse shall be treated as
34 material participation by the surviving spouse in the operation of the
35 farm.

36 (6) Property owned indirectly by the decedent may qualify for a
37 deduction under this section if owned through an interest in a
38 corporation, partnership, or trust as the terms corporation,

1 partnership, or trust are used in Title 26, section 2032A(g) of the
2 internal revenue code. In order to qualify for a deduction under this
3 subsection, the interest, in addition to meeting the other tests for
4 qualification under this section, must qualify under Title 26, section
5 6166(b)(1) of the internal revenue code as an interest in a closely
6 held business on the date of the decedent's death and for sufficient
7 other time, combined with periods of direct ownership, to equal at
8 least five years of the eight-year period preceding the death.

9 (7)(a) If, on the date of the decedent's death, the requirements of
10 subsection (10)(f)(i)(C)(II) of this section with respect to the
11 decedent for any property are not met, and the decedent (i) was
12 receiving old age benefits under Title II of the social security act
13 for a continuous period ending on such date, or (ii) was disabled for
14 a continuous period ending on this date, then subsection
15 (10)(f)(i)(C)(II) of this section shall be applied with respect to the
16 property by substituting "the date on which the longer of such
17 continuous periods began" for "the date of the decedent's death" in
18 subsection (10)(f)(i)(C) of this section.

19 (b) For the purposes of (a) of this subsection, an individual shall
20 be disabled if the individual has a mental or physical impairment which
21 renders that individual unable to materially participate in the
22 operation of the farm.

23 (8) Property may be deducted under this section whether or not
24 special valuation is elected under Title 26, section 2032A of the
25 internal revenue code on the federal return. For the purposes of
26 determining the deduction under this section, the value of property is
27 its value as used to determine the value of the gross estate.

28 (9)(a) In the case of any qualified replacement property, any
29 period during which there was ownership, qualified use, or material
30 participation with respect to the replaced property by the decedent or
31 any member of the decedent's family shall be treated as a period during
32 which there was ownership, use, or material participation, as the case
33 may be, with respect to the qualified replacement property.

34 (b) Subsection (9)(a) of this section shall not apply to the extent
35 that the fair market value of the qualified replacement property, as of
36 the date of its acquisition, exceeds the fair market value of the
37 replaced property, as of the date of its disposition.

1 (c) For the purposes of this subsection (9), the following
2 definitions apply:

3 (i) "Qualified replacement property" means any real property:

4 (A) Which is acquired in an exchange which qualifies under Title
5 26, section 1031 of the internal revenue code; or

6 (B) The acquisition of which results in the nonrecognition of gain
7 under Title 26, section 1033 of the internal revenue code.

8 The term "qualified replacement property" only includes property
9 which is used for the same qualified use as the replaced property was
10 being used before the exchange.

11 (ii) "Replaced property" means the property was:

12 (A) Transferred in the exchange which qualifies under Title 26,
13 section 1031 of the internal revenue code; or

14 (B) Compulsorily or involuntarily converted within the meaning of
15 Title 26, section 1033 of the internal revenue code.

16 (10) For the purposes of this section, the following definitions
17 apply:

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

20 (b) "Farm" includes stock, dairy, poultry, fruit, furbearing
21 animal, and truck farms; plantations; ranches; nurseries; wineries;
22 ranges; greenhouses or other similar structures used primarily for the
23 raising of agricultural or horticultural commodities; and orchards and
24 woodlands.

25 (c) "Farming purposes" means:

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

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

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

35 (B) The preparation, other than milling, of trees for market; and

36 (iv) Vinification, bottling wine, storing wine, or selling wine if:

37 (A) The vinification, bottling, storing, and selling activities occur

1 on real property used to raise and harvest grapes; and (B) the wine
2 produced, bottled, stored, or sold is primarily derived from grapes
3 raised and harvested on the real property.

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

6 (i) An ancestor of the individual;

7 (ii) The spouse of the individual;

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

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

12 For the purposes of this subsection (10)(d), a legally adopted
13 child of an individual shall be treated as the child of such individual
14 by blood.

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

18 (f)(i) "Qualified real property" means real property which was
19 acquired from or passed from the decedent to a qualified heir of the
20 decedent and which, on the date of the decedent's death, was being used
21 for a qualified use by the decedent or a member of the decedent's
22 family, but only if:

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

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

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

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

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

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

1 (II) There was material participation by the decedent or a member
2 of the decedent's family in the operation of the farm. For the
3 purposes of this subsection (f)(i)(C)(II), material participation shall
4 be determined in a manner similar to the manner used for purposes of
5 Title 26, section 1402(a)(1) of the internal revenue code.

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

8 (A) In the case of the gross estate, the value of the gross estate,
9 determined without regard to any special valuation under Title 26,
10 section 2032A of the internal revenue code, reduced by any amounts
11 allowable as a deduction under Title 26, section 2053(a)(4) of the
12 internal revenue code; or

13 (B) In the case of any real or personal property, the value of the
14 property for purposes of chapter 11 of the internal revenue code,
15 determined without regard to any special valuation under Title 26,
16 section 2032A of the internal revenue code, reduced by any amounts
17 allowable as a deduction in respect of such property under Title 26,
18 section 2053(a)(4) of the internal revenue code.

19 (g) "Qualified use" means the property is used as a farm for
20 farming purposes. In the case of real property which meets the
21 requirements of (f)(i)(C) of this subsection, residential buildings and
22 related improvements on the real property occupied on a regular basis
23 by the owner or lessee of the real property or by persons employed by
24 the owner or lessee for the purpose of operating or maintaining the
25 real property, and roads, buildings, and other structures and
26 improvements functionally related to the qualified use shall be treated
27 as real property devoted to the qualified use. For tangible personal
28 property eligible for a deduction under subsection (1)(b) of this
29 section, "qualified use" means the property is used primarily for
30 farming purposes on a farm.

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

32 (i) Is used in timber operations; and

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

36 (i) "Timber operations" means:

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

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

1 NEW SECTION. **Sec. 2.** This act applies to the estates of decedents
2 dying on or after the effective date of this act.

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