FINAL BILL REPORT
HB 2224

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Synopsis as Enacted

Brief Description: Concerning Washington estate tax apportionment.

Sponsors: Representatives Nealey and Pedersen; by request of Washington State Bar Association.

House Committee on Judiciary
Senate Committee on Judiciary

Background:

The estate tax is a tax on the value of the estate of a person living in Washington at the time of his or her death or a non-resident who owns property in Washington at the time of his or her death. The personal representative of a decedent's estate is required to file a state tax return within nine months of the decedent's death if the gross estate or taxable estate plus any taxable gifts is valued at $2 million or more. The taxable estate is calculated by subtracting $2 million and any other applicable statutory deductions from the gross estate. Washington's estate tax ranges from 10 percent to 19 percent of the taxable estate, depending on the estate's value.

Washington has adopted the Uniform Estate Tax Apportionment Act (Act). The Act provides a default system for apportioning the estate tax among those interested in an estate in the event that a decedent has not done so. If a decedent's will or revocable trust provides for apportionment of the estate tax among beneficiaries, that provision will be followed. However, if no such provision is made, or to the extent that the apportionment provision is incomplete, the estate tax is apportioned ratably among the persons who have an interest in the estate, with some exceptions.

Summary:

The Washington Uniform Estate Tax Apportionment Act is modified to provide that beneficiaries receiving specific pecuniary gifts or specific gifts of tangible personal property are exonerated from apportionment of the estate tax up to a certain amount. Beneficiaries receiving specific gifts of tangible personal property are exonerated from apportionment of the estate tax up to the value of property permitted to pass by affidavit for small estates pursuant to probate code (currently $100,000), and beneficiaries receiving specific gifts of

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money are exonerated from apportionment of the estate tax up to half the value of property permitted to pass by affidavit for small estates pursuant to probate code (currently $50,000). The tax associated with the exonerated gifts is reapportioned among the beneficiaries receiving non-exonerated gifts.

If the aggregate value of a decedent's gifts of money or tangible personal property exceeds the exoneration ceiling for that kind of gift, each beneficiary receiving that kind of gift will share the maximum exoneration amount (either $50,000 or $100,000 depending on whether the gift is pecuniary or in the form of tangible personal property) on a pro rata basis with the other beneficiaries receiving that kind of gift. That is, a percentage of each beneficiary's gift of money or tangible personal property will be exonerated in the amount of the total exoneration limit that reflects that beneficiary's proportional share of all gifts of money or tangible personal property from the estate.

Gifts must meet certain criteria to qualify for exoneration. First, the exoneration only applies to specific gifts. If a gift is made of the residual estate, this apportionment exoneration does not apply. Second, the exoneration only applies to qualifying gifts of money and tangible personal property.

Votes on Final Passage:

House	94	0
Senate	45	3

Effective: June 7, 2012