

SENATE BILL REPORT

HB 2224

As of February 17, 2012

Title: An act relating to Washington estate tax apportionment.

Brief Description: Concerning Washington estate tax apportionment.

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

Brief History: Passed House: 2/09/12, 93-0.

Committee Activity: Judiciary: 2/17/12.

SENATE COMMITTEE ON JUDICIARY

Staff: Katherine Taylor (786-7434)

Background: The estate tax is a tax on the value of the estate of a person living in Washington at the time of their death or a non-resident who owns property in Washington at the time of their 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. 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 estate taxes 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 each person who has an interest in the estate, with some exceptions.

Summary of Bill: The 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 money are exonerated from apportionment of the estate tax up to half the value of property permitted to pass by affidavit

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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 will not apply. Second, the exoneration will only apply to qualifying gifts of money and tangible personal property.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This benefits people who receive property gifts of \$100,000 or cash gifts of \$50,000 who don't have the money to pay taxes on the gift from a decedent. It is a good balance on how and who pays the taxes. This only affects estates of \$2,000,000 or more or \$5,000,000 at the federal level. All estates in Washington are subject to tax. This helps people who get small, specific gifts to not pay taxes, to an extent.

Persons Testifying: PRO: Kathryn Leathers, WA State Bar Assn.; Ben Porter, WA Bar Association Tax Section.