Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

HB 1795

Brief Description: Making the estate tax more progressive.

Sponsors: Representatives Street, Ramel, Reed, Ryu, Senn, Lekanoff, Fitzgibbon, Bateman, Ormsby, Pollet, Walen, Gregerson and Simmons.

Brief Summary of Bill

- Makes changes to the Washington estate tax, including increasing the exclusion amount, changing deductions, and making changes to the rates and rate structure.
- Directs any increased estate tax revenues into the newly created Progressive Policy Account.

Hearing Date: 2/14/23

Staff: Tracey Taylor (786-7152).

Background:

Washington State Estate Tax.
Washington does not have an inheritance tax. However, Washington does have an estate tax. In general terms, an inheritance tax is a tax on the beneficiaries of an estate whereas an estate tax is a tax on the decedent's estate. If you are a person living in Washington who inherits property or money, you do not owe Washington taxes on your inheritance. The estate tax is a tax on the right to transfer property at the time of death. A person residing in Washington or a non-resident who owns property in Washington may owe an estate tax depending on the value of their estate.

The executor for a decedent's estate is required to file an estate tax return if the gross estate meets the filing threshold for the date of death. The current threshold amount is $2.193 million.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

If the total gross estate is below the filing threshold, no estate tax return needs to be filed. If the total gross estate is above the filing threshold, an estate tax return must be filed even if no tax would be due. If a Washington return is required to be filed and a federal estate tax return is filed, a copy of the federal return must be included with the Washington estate tax filing.

All assets owned by the decedent on the date of death should be included in the estate. All assets, even if located in another state, should be reported on the estate tax return as part of the gross estate.

Deductions and Adjustments to the Taxable Estate.
Deductions are made from the total gross estate, including funeral expenses, debts of the decedent, and charitable gifts and bequests.

For the estate of a married decedent, all of the community property and all of the decedent's separate property are reported on the estate tax return. The community property assets are then reduced by 50 percent to reflect the decedent's share of the property. Even if the entire estate will pass to the surviving spouse and no taxes may be due, an estate tax return must be filed if the decedent's half of the community property plus the decedent's separate property meets the filing threshold.

The value of a qualified family-owned business interest (QFOBI) may be deducted from the taxable value of an estate so long as certain requirements are met. The QFOBI deduction is limited to the lesser value of the QFOBI or $2.5 million. An heir to the QFOBI must continue the trade or business for three years from the date of death. Failure to meet this requirement for the QFOBI will result in additional tax due.

The value of farms and timberlands may also be deducted from the taxable value of an estate so long as certain requirements are met. This deduction applies to land, farm structure and farming equipment. It is an unlimited deduction and an heir to the farm does not have to continue farming in order for the estate to take the deduction.

Exclusion Amount.
The adjusted taxable estate is the value of the estate after all deductions and adjustments are made. The applicable exclusion amount is an amount deducted from the adjusted taxable estate prior to calculating estate tax due. The current exclusion amount is $2.193 million. The exclusion amount was adjusted annually based on the Consumer Price Index (CPI) for the Seattle-Tacoma-Bremerton metropolitan area as calculated by the United States Bureau of Labor Statistics (BLS). However, the CPI for this statistical area is no longer calculated by the U.S. BLS, and as a result, the exclusion amount for the estate tax has not changed since 2018.

Washington Taxable Estate Tax Rates.
For deaths occurring on or after January 1, 2014, the Washington estate tax rates are as follows on the decedent's Washington taxable estate (the remaining estate value after all allowable adjustments and deductions, including the exclusion amount):

If the Washington taxable estate is at least…	But less than…	The amount of tax equals: initial tax amount	Plus tax rate percent	Of Washington taxable estate value greater than:
$0	$1,000,000	$0	10%	$0
$1,000,000	$2,000,000	$100,000	14%	$1,000,000
$2,000,000	$3,000,000	$240,000	15%	$2,000,000
$3,000,000	$4,000,000	$390,000	16%	$3,000,000
$4,000,000	$6,000,000	$550,000	18%	$4,000,000
$6,000,000	$7,000,000	$910,000	19%	$6,000,000
$7,000,000	$9,000,000	$1,100,000	19.5%	$7,000,000
$9,000,000		$1,490,000	20%	$9,000,000

Estate Tax Revenues.
The proceeds of the estate tax are deposited into the Education Legacy Trust Account (ELTA). The ELTA may be used only for the support of the common schools, and for expanding access to higher education through funding for new enrollments and financial aid, and other educational improvement efforts.

Summary of Bill:

For estates of decedents dying on or after August 1, 2023, changes are made to the estate tax. The exclusion amount is increased to $2.659 million and the language providing for annual adjustment is updated to reflect the change in the CPI for the Seattle metropolitan area.

The rates for Washington taxable estate values over $3 million through $9 million are increased. Additional rate classes are created for Washington taxable estate values over $9 million.

The following table summarizes the new rates for a Washington taxable estate.

If the Washington taxable estate is at least…	But less than…	The amount of tax equals: initial tax amount	Plus tax rate percent	Of Washington taxable estate value greater than:
$0	$1,000,000	$0	10%	$0
$1,000,000	$2,000,000	$100,000	14%	$1,000,000
$2,000,000	$3,000,000	$240,000	15%	$2,000,000
$3,000,000	$4,000,000	$400,000	18%	$3,000,000
$4,000,000	$6,000,000	$580,000	22%	$4,000,000

$6,000,000	$7,000,000	$1,020,000	24%	$6,000,000
$7,000,000	$9,000,000	$1,260,000	26%	$7,000,000
$9,000,000	$12,500,000	$1,780,000	28%	$9,000,000
$12,500,000	$22,500,000	$2,760,000	29%	$12,500,000
$22,500,000	$100,000,000	$5,660,000	30%	$100,000,000
$100,000,000	$1,000,000,000	$28,910,000	35%	$100,000,000
$1,000,000,000		$343,910,000	40%	$1,000,000,000

When calculating the Washington taxable estate, an estate must add back into the estate value 25 percent of the first $100 million deducted from the federal taxable estate for bequests, legacies, devises, and other charitable deduction to a family foundation. A Washington estate must add back in 75 percent of these deductions made in excess of $100 million. A family foundation is defined as a foundation or charity that is defined as a foundation or charity that:

- is defined as a private foundation under Internal Revenue Code (IRC)section 509 or a public charity excluded under the IRC section 509(a)(1), (2), (3) or (4);
- received money or assets from the decedent while the decedent was alive;
- had the decedent or a family member serve on its governing board in the past; and
- has a family member or employee currently serving on the governing board.

The deduction for a QFOBI is expanded for a newspaper business. A QFOBI in a newspaper business may deduct up to $5 million. A newspaper business is defined as a business or portion of a business consisting of a newspaper that is distributed primarily to paying customers, including subscribers and persons reselling the newspapers.

The requirement to file a Washington estate tax return is not required if the estate is not subject to the estate tax and if the decedent's gross estate after deducting the decedent's interest in a qualifying family residence is less than the applicable exclusion amount. The residence must have been occupied by the decedent and the decedent's spouse for six of the 12 months prior to the decedent's date of death. There are exceptions to the occupancy requirement for time spent by the decedent and spouse in a hospital, nursing home, assisted living facility, adult family home, or the home of a family member for the purposes of long-term care.

The increased estate tax revenues due to the changes made under this act must be calculated by November 1 and May 1 each year by the Department of Revenue (DOR) and the DOR must notify the Office of the State Treasurer (OST). This amount must be transferred by OST by December 1 and June 1 each year to the newly created Progressive Policy Account (Account). The Account may only be used to address intergenerational poverty, beginning with the implementation of recommendations from the legislative-executive WorkFirst Poverty Reduction Oversight Task Force and the Homeownership Disparities Work Group.

This act is exempt from the requirements of a Tax Preference Performance Statement, a Joint Legislative Audit and Review Committee report, and an automatic 10 year expiration of any tax preferences included in the act.

Appropriation: None.

Fiscal Note: Requested on February 9, 2023.

Effective Date: The bill takes effect on August 1, 2023.