
SUBSTITUTE HOUSE BILL 1728

State of Washington

69th Legislature

2025 Regular Session

By House Finance (originally sponsored by Representatives Orcutt, Morgan, Manjarrez, Mendoza, Dufault, Jacobsen, Barnard, Thai, and Eslick)

READ FIRST TIME 02/28/25.

1 AN ACT Relating to adding a nonfamilial heir to the estate tax
2 deduction; amending RCW 83.100.046; creating a new section; and
3 providing an effective date.

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

5 **Sec. 1.** RCW 83.100.046 and 2010 c 106 s 236 are each amended to
6 read as follows:

7 (1) For the purposes of determining the Washington taxable
8 estate, 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
11 under 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code,
12 if the decedent was at the time of his or her death a citizen or
13 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, or any qualified
16 nonfamilial heir for a qualified use on the date of the decedent's
17 death, reduced by any amounts allowable as a deduction in respect of
18 the tangible personal property under 26 U.S.C. Sec. 2053(a)(4) of the
19 federal internal revenue code, if all of the requirements of
20 subsection (10) (~~(f)~~) (h)(i)(A) of this section are met and the

1 decedent was at the time of his or her death a citizen or resident of
2 the United States.

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

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

13 (a) The property is so considered under 26 U.S.C. Sec. 1014(b) of
14 the federal internal revenue code;

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

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

19 (3) If the decedent and the decedent's surviving spouse at any
20 time held qualified real property as community property, the interest
21 of the surviving spouse in the property must be taken into account
22 under this section to the extent necessary to provide a result under
23 this section with respect to the property which is consistent with
24 the result which would have obtained under this section if the
25 property had not been 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
32 first decedent to the surviving spouse of the first decedent, active
33 management of the farm by the surviving spouse must be treated as
34 material participation by the surviving spouse in the operation of
35 the 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,
39 partnership, or trust are used in 26 U.S.C. Sec. 2032A(g) of the
40 federal internal revenue code. In order to qualify for a deduction

1 under this subsection, the interest, in addition to meeting the other
2 tests for qualification under this section, must qualify under 26
3 U.S.C. Sec. 6166(b)(1) of the federal internal revenue code as an
4 interest in a closely held business on the date of the decedent's
5 death and for sufficient other time, combined with periods of direct
6 ownership, to equal at least five years of the eight-year period
7 preceding the death.

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

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

22 (8) Property may be deducted under this section whether or not
23 special valuation is elected under 26 U.S.C. Sec. 2032A of the
24 federal internal revenue code on the federal return. For the purposes
25 of determining the deduction under this section, the value of
26 property is its value as used to determine the value of the gross
27 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
31 or any member of the decedent's family must be treated as a period
32 during which there was ownership, use, or material participation, as
33 the case may be, with respect to the qualified replacement property.

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

38 (c) For the purposes of this subsection (9), the following
39 definitions apply:

40 (i)(A) "Qualified replacement property" means any real property:

1 (I) Which is acquired in an exchange which qualifies under 26
2 U.S.C. Sec. 1031 of the federal internal revenue code; or

3 (II) The acquisition of which results in the nonrecognition of
4 gain under 26 U.S.C. Sec. 1033 of the federal internal revenue code.

5 (B) The term "qualified replacement property" only includes
6 property which is used for the same qualified use as the replaced
7 property was being used before the exchange.

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

9 (A) Transferred in the exchange which qualifies under 26 U.S.C.
10 Sec. 1031 of the federal internal revenue code; or

11 (B) Compulsorily or involuntarily converted within the meaning of
12 26 U.S.C. Sec. 1033 of the federal internal revenue code.

13 (10) For the purposes of this section, the following definitions
14 apply:

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

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

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

28 ((-e)) (d) "Farming purposes" means:

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

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

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

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

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

3 (A) An ancestor of the individual;

4 (B) The spouse or state registered domestic partner of the
5 individual;

6 (C) A lineal descendant of the individual, of the individual's
7 spouse or state registered domestic partner, or of a parent of the
8 individual; or

9 (D) The spouse or state registered domestic partner of any lineal
10 descendant described in ~~((d))~~ (e)(i)(C) of this subsection.

11 (ii) For the purposes of this subsection (10)~~((d))~~ (e), a
12 legally adopted child of an individual must be treated as the child
13 of such individual by blood.

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

17 ~~((f))~~ (g) "Qualified nonfamilial heir" means an employee of a
18 farm who materially participated in the operation of the farm and who
19 acquired property, or to whom property passed, from the decedent. For
20 the purposes of this subsection (10)(g), material participation must
21 be determined in a manner similar to the manner used for purposes of
22 26 U.S.C. Sec. 1402(a)(1) of the federal internal revenue code.

23 (h)(i) "Qualified real property" means real property which was
24 acquired from or passed from the decedent to a qualified heir of the
25 decedent and which, on the date of the decedent's death, was being
26 used for a qualified use by the decedent or a member of the
27 decedent's family, but only if:

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

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

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

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

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

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

7 (II) There was material participation by the decedent or a member
8 of the decedent's family in the operation of the farm. For the
9 purposes of this subsection ~~((f))~~ (10)(h)(i)(C)(II), material
10 participation must be determined in a manner similar to the manner
11 used for purposes of 26 U.S.C. Sec. 1402(a)(1) of the federal
12 internal revenue code.

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

15 (A) In the case of the gross estate, the value of the gross
16 estate, determined without regard to any special valuation under 26
17 U.S.C. Sec. 2032A of the federal internal revenue code, reduced by
18 any amounts allowable as a deduction under 26 U.S.C. Sec. 2053(a)(4)
19 of the federal internal revenue code; or

20 (B) In the case of any real or personal property, the value of
21 the property for purposes of chapter 11 of the federal internal
22 revenue code, determined without regard to any special valuation
23 under 26 U.S.C. Sec. 2032A of the federal internal revenue code,
24 reduced by any amounts allowable as a deduction in respect of such
25 property under 26 U.S.C. Sec. 2053(a)(4) of the federal internal
26 revenue code.

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

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

40 (i) Is used in timber operations; and

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

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

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

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

8 NEW SECTION. **Sec. 2.** This act applies to decedents dying on or
9 after August 1, 2025.

10 NEW SECTION. **Sec. 3.** This act takes effect August 1, 2025.

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