

WAC 458-57-105 Nature of estate tax, definitions. (1) **Introduction.** This rule applies to deaths occurring on or after May 17, 2005, and describes the nature of Washington state's estate tax as it is imposed by chapter 83.100 RCW (Estate and Transfer Tax Act). It also defines terms that will be used throughout chapter 458-57 WAC (Washington Estate and Transfer Tax Reform Act rules). The estate tax rule on the nature of estate tax and definitions for deaths occurring on or before May 16, 2005, can be found in WAC 458-57-005.

(2) **Nature of Washington's estate tax.** The estate tax is neither a property tax nor an inheritance tax. It is a tax imposed on the transfer of the entire taxable estate and not upon any particular legacy, devise, or distributive share.

(a) **Relationship of Washington's estate tax to the federal estate tax.** The department administers the estate tax under the legislative enactment of chapter 83.100 RCW, which references the Internal Revenue Code (IRC) as it existed January 1, 2005. Federal estate tax law changes enacted after January 1, 2005, do not apply to the reporting requirements of Washington's estate tax. The department will follow federal Treasury Regulations section 20 (Estate tax regulations), in existence on January 1, 2005, to the extent they do not conflict with the provisions of chapter 83.100 RCW or 458-57 WAC. For deaths occurring January 1, 2009, and after, Washington has different estate tax reporting and filing requirements than the federal government. There will be estates that must file an estate tax return with the state of Washington, even though they are not required to file with the federal government. The Washington state estate and transfer tax return and the instructions for completing the return can be found on the department's website at <http://www.dor.wa.gov/> under the heading titled forms.

(b) **Lifetime transfers.** Washington estate tax taxes lifetime transfers only to the extent included in the federal gross estate. The state of Washington does not have a gift tax.

(3) **Definitions.** The following terms and definitions are applicable throughout chapter 458-57 WAC:

(a) "Absentee distributee" means any person who is the beneficiary of a will or trust who has not been located;

(b) "Applicable exclusion amount" means:

(i) One million five hundred thousand dollars for decedents dying before January 1, 2006;

(ii) Two million dollars for estates of decedents dying on or after January 1, 2006, and before January 1, 2014; and

(iii) For estates of decedents dying in calendar year 2014 and each calendar year thereafter, the amount in (b)(ii) of this subsection must be adjusted annually, except as otherwise provided in (b)(iii) of this subsection. The annual adjustment is determined by multiplying two million dollars by one plus the percentage by which the most recent October consumer price index exceeds the consumer price index for October 2012, and rounding the result to the nearest one thousand dollars. No adjustment is made for a calendar year if the adjustment would result in the same or a lesser applicable exclusion amount than the applicable exclusion amount for the immediately preceding calendar year. The applicable exclusion amount under (b)(iii) of this subsection for the decedent's estate is the applicable exclusion amount in effect as of the date of the decedent's death.

(c) "Consumer price index," for purposes of this subsection, means the consumer price index for all urban customers, all items, for

the Seattle-Tacoma-Bremerton metropolitan area as calculated by the United States Bureau of Labor Statistics;

(d) "Decedent" means a deceased individual;

(e) "Department" means the department of revenue, the director of that department, or any employee of the department exercising authority lawfully delegated to him by the director;

(f) "Escheat" of an estate means that whenever any person dies, whether a resident of this state or not, leaving property in an estate subject to the jurisdiction of this state and without being survived by any person entitled to that same property under the laws of this state, such estate property shall be designated escheat property and shall be subject to the provisions of RCW 11.08.140 through 11.08.300;

(g) "Federal return" means any tax return required by chapter 11 (Estate tax) of the Internal Revenue Code;

(h) "Federal tax" means tax under chapter 11 (Estate tax) of the Internal Revenue Code;

(i) "Federal taxable estate" means the taxable estate as determined under chapter 11 of the Internal Revenue Code without regard to:

(i) The termination of the federal estate tax under section 2210 of the IRC or any other provision of law; and

(ii) The deduction for state estate, inheritance, legacy, or succession taxes allowable under section 2058 of the IRC.

(j) "Gross estate" means "gross estate" as defined and used in section 2031 of the Internal Revenue Code;

(k) "Internal Revenue Code" or "IRC" means, for purposes of this chapter, the United States Internal Revenue Code of 1986, as amended or renumbered on January 1, 2005;

(l) "Person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity and, to the extent permitted by law, any federal, state, or other governmental unit or subdivision or agency, department, or instrumentality thereof;

(m) "Person required to file the federal return" means any person required to file a return required by chapter 11 of the Internal Revenue Code, such as the personal representative (executor) of an estate;

(n) "Property," when used in reference to an estate tax transfer, means property included in the gross estate;

(o) "Resident" means a decedent who was domiciled in Washington at time of death;

(p) "Spouse" means two individuals with a valid marriage recognized under this or another jurisdiction's laws and includes state registered domestic partners and same-sex spouses. It does not include a marriage prohibited under Washington state law because of close kinship, incest, or bigamy;

(q) "State return" means the Washington estate tax return required by RCW 83.100.050;

(r) "Taxpayer" means a person upon whom tax is imposed under this chapter, including an estate or a person liable for tax under RCW 83.100.120;

(s) "Transfer" means "transfer" as used in section 2001 of the Internal Revenue Code and includes any shifting upon death of the economic benefit in property or any power or legal privilege incidental to the ownership or enjoyment of property. However, "transfer" does not include a qualified heir disposing of an interest in property qualifying for a deduction under RCW 83.100.046;

(t) "Washington taxable estate" means the "federal taxable estate" and includes, but is not limited to, the value of any property

included in the gross estate under section 2044 of the Internal Revenue Code, regardless of whether the decedent's interest in such property was acquired before May 17, 2005:

(i) Plus amounts required to be added to the Washington taxable estate under RCW 83.100.047 for the marital deduction and surviving spouse benefits that includes state registered domestic partners and same-sex spouses;

(ii) Less:

(A) The applicable exclusion amount;

(B) The amount of any deduction allowed under RCW 83.100.046 for a qualified farm;

(C) Amounts allowed to be deducted from the Washington taxable estate under RCW 83.100.047 for the marital deduction and surviving spouse benefits that includes state registered domestic partners and same-sex spouses; and

(D) The amount of any deduction allowed under RCW 83.100.048 for the qualified family-owned business interest.

[Statutory Authority: RCW 83.100.200, 82.32.300, 82.01.060(2), 83.100.020, 83.100.040, 83.100.047, 83.100.048, 83.100.120, and 83.100.210. WSR 14-14-075, § 458-57-105, filed 6/27/14, effective 7/28/14. Statutory Authority: RCW 82.32.300 and 82.01.060(2). WSR 09-04-008, § 458-57-105, filed 1/22/09, effective 2/22/09. Statutory Authority: RCW 83.100.047 and 83.100.200. WSR 06-07-051, § 458-57-105, filed 3/9/06, effective 4/9/06.]