

---

HOUSE BILL 1401

---

State of Washington

58th Legislature

2003 Regular Session

By Representatives Grant, Armstrong, Morris, Shabro, Talcott, Hatfield, Condotta, Nixon, Carrell, Kristiansen, Bush, Crouse, Linville, Hinkle, Wallace, Ericksen, Roach, Cairnes, Benson, Skinner, Alexander, Holmquist, Chandler, Newhouse, Cox, Bailey, Sump, Sehlin, Schoesler, Woods, Pearson, McDonald, Pflug, Campbell, Mielke and McMahan

Read first time 01/24/2003. Referred to Committee on Finance.

1 AN ACT Relating to updating state law to conform to changes in  
2 federal estate tax; amending RCW 11.02.005 and 83.100.020; and creating  
3 a new section.

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

5 **Sec. 1.** RCW 11.02.005 and 2001 c 320 s 1 are each amended to read  
6 as follows:

7 When used in this title, unless otherwise required from the  
8 context:

9 (1) "Personal representative" includes executor, administrator,  
10 special administrator, and guardian or limited guardian and special  
11 representative.

12 (2) "Net estate" refers to the real and personal property of a  
13 decedent exclusive of homestead rights, exempt property, the family  
14 allowance and enforceable claims against, and debts of, the deceased or  
15 the estate.

16 (3) "Representation" refers to a method of determining distribution  
17 in which the takers are in unequal degrees of kinship with respect to  
18 the intestate, and is accomplished as follows: After first determining  
19 who, of those entitled to share in the estate, are in the nearest

1 degree of kinship, the estate is divided into equal shares, the number  
2 of shares being the sum of the number of persons who survive the  
3 intestate who are in the nearest degree of kinship and the number of  
4 persons in the same degree of kinship who died before the intestate but  
5 who left issue surviving the intestate; each share of a deceased person  
6 in the nearest degree shall be divided among those of the deceased  
7 person's issue who survive the intestate and have no ancestor then  
8 living who is in the line of relationship between them and the  
9 intestate, those more remote in degree taking together the share which  
10 their ancestor would have taken had he or she survived the intestate.  
11 Posthumous children are considered as living at the death of their  
12 parent.

13 (4) "Issue" includes all the lawful lineal descendants of the  
14 ancestor and all lawfully adopted children.

15 (5) "Degree of kinship" means the degree of kinship as computed  
16 according to the rules of the civil law; that is, by counting upward  
17 from the intestate to the nearest common ancestor and then downward to  
18 the relative, the degree of kinship being the sum of these two counts.

19 (6) "Heirs" denotes those persons, including the surviving spouse,  
20 who are entitled under the statutes of intestate succession to the real  
21 and personal property of a decedent on the decedent's death intestate.

22 (7) "Real estate" includes, except as otherwise specifically  
23 provided herein, all lands, tenements, and hereditaments, and all  
24 rights thereto, and all interest therein possessed and claimed in fee  
25 simple, or for the life of a third person.

26 (8) "Will" means an instrument validly executed as required by RCW  
27 11.12.020.

28 (9) "Codicil" means a will that modifies or partially revokes an  
29 existing earlier will. A codicil need not refer to or be attached to  
30 the earlier will.

31 (10) "Guardian" or "limited guardian" means a personal  
32 representative of the person or estate of an incompetent or disabled  
33 person as defined in RCW 11.88.010 and the term may be used in lieu of  
34 "personal representative" wherever required by context.

35 (11) "Administrator" means a personal representative of the estate  
36 of a decedent and the term may be used in lieu of "personal  
37 representative" wherever required by context.

1 (12) "Executor" means a personal representative of the estate of a  
2 decedent appointed by will and the term may be used in lieu of  
3 "personal representative" wherever required by context.

4 (13) "Special administrator" means a personal representative of the  
5 estate of a decedent appointed for limited purposes and the term may be  
6 used in lieu of "personal representative" wherever required by context.

7 (14) "Trustee" means an original, added, or successor trustee and  
8 includes the state, or any agency thereof, when it is acting as the  
9 trustee of a trust to which chapter 11.98 RCW applies.

10 (15) "Nonprobate asset" means those rights and interests of a  
11 person having beneficial ownership of an asset that pass on the  
12 person's death under a written instrument or arrangement other than the  
13 person's will. "Nonprobate asset" includes, but is not limited to, a  
14 right or interest passing under a joint tenancy with right of  
15 survivorship, joint bank account with right of survivorship, payable on  
16 death or trust bank account, transfer on death security or security  
17 account, deed or conveyance if possession has been postponed until the  
18 death of the person, trust of which the person is grantor and that  
19 becomes effective or irrevocable only upon the person's death,  
20 community property agreement, individual retirement account or bond, or  
21 note or other contract the payment or performance of which is affected  
22 by the death of the person. "Nonprobate asset" does not include: A  
23 payable-on-death provision of a life insurance policy, annuity, or  
24 other similar contract, or of an employee benefit plan; a right or  
25 interest passing by descent and distribution under chapter 11.04 RCW;  
26 a right or interest if, before death, the person has irrevocably  
27 transferred the right or interest, the person has waived the power to  
28 transfer it or, in the case of contractual arrangement, the person has  
29 waived the unilateral right to rescind or modify the arrangement; or a  
30 right or interest held by the person solely in a fiduciary capacity.  
31 For the definition of "nonprobate asset" relating to revocation of a  
32 provision for a former spouse upon dissolution of marriage or  
33 declaration of invalidity of marriage, RCW 11.07.010(5) applies. For  
34 the definition of "nonprobate asset" relating to revocation of a  
35 provision for a former spouse upon dissolution of marriage or  
36 declaration of invalidity of marriage, see RCW 11.07.010(5). For the  
37 definition of "nonprobate asset" relating to testamentary disposition  
38 of nonprobate assets, see RCW 11.11.010(7).

1 (16) "Internal Revenue Code" (~~means the United States Internal~~  
2 ~~Revenue Code of 1986, as amended or renumbered as of January 1, 2001~~)  
3 is given the same meaning as provided in RCW 83.100.020.

4 (17) References to "section 2033A" of the Internal Revenue Code in  
5 wills, trust agreements, powers of appointment, beneficiary  
6 designations, and other instruments governed by or subject to this  
7 title shall be deemed to refer to the comparable or corresponding  
8 provisions of section 2057 of the Internal Revenue Code, as added by  
9 section 6006(b) of the Internal Revenue Service Restructuring Act of  
10 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A  
11 "exclusion" shall be deemed to mean the section 2057 deduction.

12 Words that import the singular number may also be applied to the  
13 plural of persons and things.

14 Words importing the masculine gender only may be extended to  
15 females also.

16 **Sec. 2.** RCW 83.100.020 and 2001 c 320 s 15 are each amended to  
17 read as follows:

18 As used in this chapter:

19 (1) "Decedent" means a deceased individual;

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

23 (3) "Federal credit" means (a) for a transfer, the maximum amount  
24 of the credit for state taxes allowed by section 2011 of the Internal  
25 Revenue Code; and (b) for a generation-skipping transfer, the maximum  
26 amount of the credit for state taxes allowed by section 2604 of the  
27 Internal Revenue Code;

28 (4) "Federal return" means any tax return required by chapter 11 or  
29 13 of the Internal Revenue Code;

30 (5) "Federal tax" means (a) for a transfer, a tax under chapter 11  
31 of the Internal Revenue Code; and (b) for a generation-skipping  
32 transfer, the tax under chapter 13 of the Internal Revenue Code;

33 (6) "Generation-skipping transfer" means a "generation-skipping  
34 transfer" as defined and used in section 2611 of the Internal Revenue  
35 Code;

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

1 (8) "Nonresident" means a decedent who was domiciled outside  
2 Washington at his death;

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

8 (10) "Person required to file the federal return" means any person  
9 required to file a return required by chapter 11 or 13 of the Internal  
10 Revenue Code, such as the personal representative of an estate; or a  
11 transferor, trustee, or beneficiary of a generation-skipping transfer;  
12 or a qualified heir with respect to qualified real property, as defined  
13 and used in section 2032A(c) of the Internal Revenue Code;

14 (11) "Property" means (a) for a transfer, property included in the  
15 gross estate; and (b) for a generation-skipping transfer, all real and  
16 personal property subject to the federal tax;

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

19 (13) "Transfer" means "transfer" as used in section 2001 of the  
20 Internal Revenue Code, or a disposition or cessation of qualified use  
21 as defined and used in section 2032A(c) of the Internal Revenue Code;

22 (14) "Trust" means "trust" under Washington law and any arrangement  
23 described in section 2652 of the Internal Revenue Code; and

24 (15) "Internal Revenue Code" means, for the purposes of this  
25 chapter and RCW 83.110.010, the United States Internal Revenue Code of  
26 1986, as amended or renumbered as of January 1, (~~(2001)~~) 2002.

27 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act apply  
28 retroactively to January 1, 2002.

--- END ---