CERTIFICATION OF ENROLLMENT

HOUSE BILL 2224

Chapter 97, Laws of 2012

62nd Legislature
2012 Regular Session

WASHINGTON ESTATE TAX APPORTIONMENT

EFFECTIVE DATE: 06/07/12

Passed by the House February 9, 2012
Yeas 93  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 1, 2012
Yeas 45  Nays 3

BRAD OWEN
President of the Senate

Approved March 29, 2012, 1:22 p.m.

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is HOUSE BILL 2224 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARTHA BAKER
Chief Clerk

FILED
March 29, 2012

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
1 AN ACT Relating to Washington estate tax apportionment; and
2 amending RCW 83.110A.020.

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

4 Sec. 1. RCW 83.110A.020 and 2005 c 332 s 3 are each amended to
5 read as follows:
6 (1) Except as otherwise provided in subsection (3) of this section, the
7 following rules apply:
8 (a) To the extent that a provision of a decedent's will provides for
9 the apportionment of an estate tax, the tax must be apportioned
10 accordingly.
11 (b) Any portion of an estate tax not apportioned pursuant to (a) of
12 this subsection must be apportioned in accordance with any provision of
13 a revocable trust of which the decedent was the settlor which provides
14 for the apportionment of an estate tax. If conflicting apportionment
15 provisions appear in two or more revocable trust instruments, the
16 provision in the most recently dated instrument prevails. For purposes
17 of this subsection (1)(b):
18 (i) A trust is revocable if it was revocable immediately after the
trust instrument was executed, even if the trust subsequently becomes
irrevocable; and

(ii) The date of an amendment to a revocable trust instrument is
the date of the amended instrument only if the amendment contains an
apportionment provision.

(c) If any portion of an estate tax is not apportioned pursuant to
(a) or (b) of this subsection, and a provision in any other dispositive
instrument provides that any interest in the property disposed of by
the instrument is or is not to be applied to the payment of the estate
tax attributable to the interest disposed of by the instrument, the
 provision controls the apportionment of the tax to that interest.

(2) Subject to subsection (3) of this section, and unless the
decedent provides to the contrary, the following rules apply:

(a) If an apportionment provision provides that a person receiving
an interest in property under an instrument is to be exonerated from
the responsibility to pay an estate tax that would otherwise be
apportioned to the interest:

(i) The tax attributable to the exonerated interest must be
apportioned among the other persons receiving interests passing under
the instrument; or

(ii) If the values of the other interests are less than the tax
attributable to the exonerated interest, the deficiency must be
apportioned ratably among the other persons receiving interests in the
apportionable estate that are not exonerated from apportionment of the
tax.

(b) If an apportionment provision provides that an estate tax is to
be apportioned to an interest in property a portion of which qualifies
for a marital or charitable deduction, the estate tax must first be
apportioned ratably among the holders of the portion that does not
qualify for a marital or charitable deduction and then apportioned
ratably among the holders of the deductible portion to the extent that
the value of the nondeductible portion is insufficient.

(c) Except as otherwise provided in (d) of this subsection, if an
apportionment provision provides that an estate tax be apportioned to
property in which one or more time-limited interests exist, other than
interests in specified property under RCW 83.110A.060, the tax must be
apportioned to the principal of that property, regardless of the
deductibility of some of the interests in that property.
(d) If an apportionment provision provides that an estate tax is to be apportioned to the holders of interests in property in which one or more time-limited interests exist and a charity has an interest that otherwise qualifies for an estate tax charitable deduction, the tax must first be apportioned, to the extent feasible, to interests in property that have not been distributed to the persons entitled to receive the interests. No tax shall be paid from a charitable remainder annuity trust or a charitable remainder unitrust described in section 664 of the internal revenue code and created during the decedent's life.

(e) Persons receiving tangible personal property as defined in RCW 11.12.260 by specific gifts pursuant to the provisions of a will or revocable trust or by right of survivorship, are exonerated from apportionment of estate tax up to an aggregate value of property permitted to pass by affidavit for small estates pursuant to RCW 11.62.010(2)(c).

(f) Persons receiving specific pecuniary gifts pursuant to the provisions of a will or revocable trust are exonerated from apportionment of estate tax up to an aggregate amount of money equal to one-half of the value of property permitted to pass by affidavit for small estates pursuant to RCW 11.62.010(2)(c).

(g) If persons receive an aggregate value of tangible personal property or the amount of money in excess of the ceiling allowed to be exonerated for apportionment for estate taxes for that type of property, the portion of each gift to be exonerated is the maximum amount of money or value of tangible personal property that is allowed to be exonerated multiplied by the proportion of money received by each person over the amount of money received by all persons, or the value of tangible personal property received by each person over the value of all tangible personal property received by all persons.

(3) A provision that apportions an estate tax is ineffective to the extent that it increases the tax apportioned to a person having an interest in the gross estate over which the decedent had no power to transfer immediately before the decedent executed the instrument in which the apportionment direction was made. For purposes of this section, a testamentary power of appointment is a power to transfer the
1 property that is subject to the power.

Passed by the House February 9, 2012.
Passed by the Senate March 1, 2012.
Approved by the Governor March 29, 2012.
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