

RCW 11.108.090 Generation-skipping transfer tax—Dispute resolution of federal law application. The personal representative, trustee, or any affected beneficiary under a will or trust may bring a proceeding under the trust and estate dispute resolution act in chapter 11.96A RCW, to determine whether the decedent intended that the references, presumptions, or rules of construction under RCW 11.108.080 be construed with respect to the federal law as it existed after December 31, 2009, including but not limited to the amendments made to federal law by the federal tax relief, unemployment insurance reauthorization, and job creation act of 2010, federal House Resolution No. 4853, P.L. 111-312. In making such determinations, extrinsic evidence may be considered, whether or not the governing instrument is found to be ambiguous, including but not limited to, information provided by the decedent to the decedent's attorney or personal representative. Such a proceeding must be commenced not later than two years following the death of the testator or grantor, and not thereafter. [2011 c 113 § 2; 2010 c 11 § 3.]

Finding—2011 c 113: "On December 17, 2010, the federal tax relief, unemployment insurance reauthorization, and job creation act of 2010, House Resolution No. 4853, P.L. 111-312, was enacted into law. Federal House Resolution No. 4853 amended the federal gift, estate, and generation-skipping transfer taxes by retroactively reinstating those taxes to January 1, 2010, with an increased applicable exemption amount per taxpayer of five million dollars. House Resolution No. 4853 also extended the time for making certain qualified disclaimers. In light of these changes in federal law, the legislature finds in order: To carry out the intent of decedents and grantors in the construction of wills, trusts, and other dispositive instruments; to continue the uniformity of the Washington disclaimer law with federal law; and to promote judicial economy in the administration of trusts and estates, it is necessary to amend certain time limitations and to clarify procedures to construe certain formula clauses that refer to federal estate, gift, and generation-skipping transfer tax rules applicable to estates of decedents dying after December 31, 2009, and prior to December 18, 2010." [2011 c 113 § 1.]

Retroactive application—2011 c 113: "The provisions of this act are effective retroactive to December 31, 2009, and apply to estates of decedents dying after December 31, 2009, and prior to December 18, 2010. Returns and payments for estate tax imposed under chapter 83.100 RCW will continue to be due and owing as provided in chapter 83.100 RCW and nothing in this act is intended to affect the application of that chapter to any taxpayer." [2011 c 113 § 4.]

Application—2011 c 113: "This act is remedial in nature and must be applied and construed liberally in order to carry out its intent." [2011 c 113 § 5.]

Effective date—2011 c 113: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 18, 2011]." [2011 c 113 § 7.]

Finding—Retroactive application—Application—Construction—Effective date—2010 c 11: See notes following RCW 11.108.080.