
SENATE BILL 6140

State of Washington 56th Legislature 2000 Regular Session

By Senators Johnson, Heavey and Gardner

Read first time 01/10/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to references in instruments to section 2033A of
2 the internal revenue code; amending RCW 11.02.005; and creating a new
3 section.

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

5 **Sec. 1.** RCW 11.02.005 and 1999 c 358 s 20 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 on January 1, 1999.

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

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

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

15 NEW SECTION. Sec. 2. Section 1 of this act applies to decedents
16 dying after December 31, 1997.

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