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## Finance Committee

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### HB 1465

**Brief Description:** Making the estate tax more progressive by exempting small estates, reducing estate taxes on medium estates, increasing the estate tax on larger estates, and addressing equity in homeownership and homelessness.

**Sponsors:** Representatives Orwall, Ramel, Ryu, Wylie, Frame, Ormsby, Valdez, Pollet, Thai, Chopp, Macri and Harris-Talley.

#### Brief Summary of Bill

- Makes changes to the Washington estate tax, including increasing the exclusion amount, changing deductions, and making changes to the rates and rate structure.
- Creates the Equity in Housing Account to be funded by 10 percent of the estate tax revenues.

**Hearing Date:** 2/9/21

**Staff:** Tracey O'Brien (786-7152).

#### Background:

##### Washington State Estate Tax.

Washington does not have an inheritance tax. Washington does have an estate tax. In general terms, an inheritance tax is a tax on the beneficiaries of an estate whereas an estate tax is a tax on the decedent's estate. If you are a person living in Washington who inherits property or money, you do not owe Washington taxes on your inheritance. The estate tax is a tax on the right to transfer property at the time of death. A person residing in Washington or a non-resident who owns property in Washington may owe an estate tax depending on the value of their estate.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

The executor for a decedent's estate is required to file an estate tax return if the gross estate meets the filing threshold for the date of death. The current threshold amount is \$2.193 million. If the total gross estate is below the filing threshold, no estate tax return needs to be filed. If the total gross estate is above the filing threshold, an estate tax return must be filed even if no tax would be due. If a Washington return is required to be filed and a federal estate tax return is filed, a copy of the federal return must be included with the Washington estate tax filing.

The applicable exclusion amount is an amount deducted prior to calculating estate tax due. The current exclusion amount is \$2.193 million. All assets owned by the decedent on the date of death should be included in the estate. All assets, even if located in another state, should be reported on the estate tax return.

For the estate of a married decedent, all of the community property and all of the decedent's separate property are reported on the estate tax return. The community property assets are then reduced by 50 percent to reflect the decedent's share of the property. Even if the entire estate will pass to the surviving spouse and no taxes may be due, an estate tax return must be filed if the decedent's half of the community property plus the decedent's separate property meets the filing threshold.

Deductions to Taxable Estate.

The value of a qualified family-owned business interest (QFOBI) may be deducted from the taxable value of an estate so long as certain requirements are met. The QFOBI deduction is limited to the lesser value of the QFOBI or \$2.5 million. An heir to the QFOBI must continue the trade or business for three years from the date of death. Failure to meet this requirement for the QFOBI will result in additional tax due.

The value of farms and timberlands may also be deducted from the taxable value of an estate so long as certain requirements are met. This deduction applies to land, farm structure and farming equipment. It is an unlimited deduction and an heir to the farm does not have to continue farming in order for the estate to take the deduction.

Washington Taxable Estate Tax Rates.

For deaths occurring on or after January 1, 2014, the Washington estate tax is as follows on the decedent's Washington taxable estate (the remaining amount after all allowable deduction, including the exclusion amount):

<b>If the Washington taxable estate is at least...</b>	<b>But less than...</b>	<b>The amount of tax equals: initial tax amount</b>	<b>Plus tax rate percent</b>	<b>Of Washington taxable estate value greater than:</b>
\$0	\$1,000,000	\$0	10%	\$0
\$1,000,000	\$2,000,000	\$100,000	14%	\$1,000,000
\$2,000,000	\$3,000,000	\$240,000	15%	\$2,000,000
\$3,000,000	\$4,000,000	\$390,000	16%	\$3,000,000

\$4,000,000	\$6,000,000	\$550,000	18%	\$4,000,000
\$6,000,000	\$7,000,000	\$910,000	19%	\$6,000,000
\$7,000,000	\$9,000,000	\$1,100,000	19.5%	\$7,000,000
\$9,000,000		\$1,490,000	20%	\$9,000,000

Estate Tax Revenues.

The proceeds of the estate tax are deposited into the Education Legacy Trust Account (ELTA). The ELTA may be used only for the support of the common schools, and for expanding access to higher education through funding for new enrollments and financial aid, and other educational improvement efforts.

Foreclosure Fairness Account.

Foreclosure Fairness Account is a nonappropriated account in the custody of the State Treasurer. Only the director of the Department of Commerce or the director's designee may authorize expenditure from the account. The department must use \$400,000 to fund the counselor referral. Biennial expenditures from the remaining funds in the account must be used as follows:

- 69 percent for providing housing counseling activities to benefit borrowers;
- 8 percent to the Attorney General's Office to be used by the Consumer Protection Division to enforce the Foreclosure Fairness Act;
- 6 percent to the Office of Civil Legal Aid to contract with qualified legal aid programs to provide legal representation of homeowner in matters relating to foreclosure; and
- 17 percent to the Department of Commerce to implement and operate the Foreclosure Fairness Act.

**Summary of Bill:**

For estate of decedents dying on or after August 1, 2021, changes are made to the estate tax. The exclusion amount is increased to \$2.5 million and the language providing for annual adjustment is updated to reflect the change in the Consumer Price Index for the Seattle metropolitan area.

The rates for estates over \$3 million through \$9 million are increased. Additional rate classes are created for estates over \$9 million.

The following table summarizes the new rates for a Washington taxable estate.

<b>If the Washington taxable estate is at least...</b>	<b>But less than...</b>	<b>The amount of tax equals: initial tax amount</b>	<b>Plus tax rate percent</b>	<b>Of Washington taxable estate value greater than:</b>
\$0	\$1,000,000	\$0	10%	\$0
\$1,000,000	\$2,000,000	\$100,000	14%	\$1,000,000
\$2,000,000	\$3,000,000	\$240,000	15%	\$2,000,000
\$3,000,000	\$4,000,000	\$400,000	18%	\$3,000,000
\$4,000,000	\$6,000,000	\$580,000	22%	\$4,000,000

\$6,000,000	\$7,000,000	\$1,020,000	24%	\$6,000,000
\$7,000,000	\$9,000,000	\$1,260,000	26%	\$7,000,000
\$9,000,000	\$12,500,000	\$1,780,000	28%	\$9,000,000
\$12,500,000	\$22,500,000	\$2,760,000	29%	\$12,500,000
\$22,500,000	\$100,000,000	\$5,660,000	30%	\$100,000,000
\$100,000,000	\$1,000,000,000	\$28,910,000	35%	\$100,000,000
\$1,000,000,000		\$343,910,000	40%	\$1,000,000,000

When calculating the Washington taxable estate, an estate must add back into the estate 25 percent of the first \$100 million deducted from the federal taxable estate for bequests, legacies, devises and other charitable deduction made pursuant to section 2055 of the Internal Revenue Code. A Washington estate must add back in 75 percent of these deductions made in excess of \$100 million.

The deduction for a QFOBI is expanded for a newspaper business. A QFOBI in a newspaper business may deduct up to \$5 million. A newspaper business is defined as a business or portion of a business consisting of a newspaper that is distributed primarily to paying customers, including subscribers and persons reselling the newspapers.

Ten percent of the funds deposited into the ELTA is to be transferred into the newly created Equity in Housing Account.

The Equity in Housing Account is an appropriated account and expenditures may only be used to address homelessness, including foreclosure prevention, rental assistance, outreach engagement services, housing services, and behavioral health, with priority for agencies, programs, and services which address current and historical racial inequities. In addition, \$6 million per biennium must be appropriated from the Equity in Housing Account to the Foreclosure Fairness Account for foreclosure prevention, with priority to agencies, programs and services that address current and historical racial inequities.

**Appropriation:** None.

**Fiscal Note:** Requested on February 1, 2021.

**Effective Date:** The bill takes effect on August 1, 2021.