

HOUSE BILL REPORT

HB 1867

As Passed House:

January 31, 2024

Title: An act relating to eliminating the estate tax filing requirement for certain estates involving a qualifying familial residence.

Brief Description: Eliminating the estate tax filing requirement for certain estates involving a qualifying familial residence.

Sponsors: Representatives Walen, Chapman and Santos.

Brief History:

Committee Activity:

Finance: 1/9/24, 1/18/24 [DP].

Floor Activity:

Passed House: 1/31/24, 97-0.

Brief Summary of Bill

- Provides an exemption from the estate tax return filing requirement for certain estates with a qualifying familial residence.

HOUSE COMMITTEE ON FINANCE

Majority Report: Do pass. Signed by 13 members: Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard, Chopp, Ramel, Santos, Springer, Thai, Walen, Wilcox and Wylie.

Staff: Tracey Taylor (786-7152).

Background:

Washington Estate Tax.

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.

Washington does not have an inheritance tax. However, 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.

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 estate tax 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 filing.

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 as part of the gross estate.

Deductions and Adjustments to the Taxable Estate.

Deductions are made from the total gross estate, including funeral expenses, debts of the decedent, and charitable gifts and bequests.

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.

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.

Exclusion Amount.

The adjusted taxable estate is the value of the estate after all deductions and adjustments are

made.

The applicable exclusion amount is an amount deducted from the adjusted taxable estate prior to calculating estate tax due. The current exclusion amount is \$2.193 million. The exclusion amount was adjusted annually based on the Consumer Price Index (CPI) for the Seattle-Tacoma-Bremerton metropolitan area as calculated by the US Bureau of Labor Statistics (BLS). However, the CPI for this statistical area is no longer calculated by the US BLS, and as a result, the exclusion amount for the estate tax has not changed since 2018.

Washington Taxable Estate Rates.

For deaths occurring on or after January 1, 2014, the Washington estate tax rates are as follows on the decedent's Washington taxable estate (the remaining estate value after all allowable adjustments and deductions, including the exclusion amount):

If the Washington taxable estate is at least...	But less than...	The amount of tax equals: initial tax amount	Plus tax rate percent	Of Washington taxable estate value greater than:
\$0	\$1,000,000	\$0	10 percent	\$0
\$1,000,000	\$2,000,000	\$100,000	14 percent	\$1,000,000
\$2,000,000	\$3,000,000	\$240,000	15 percent	\$2,000,000
\$3,000,000	\$4,000,000	\$390,000	16 percent	\$3,000,000
\$4,000,000	\$6,000,000	\$550,000	18 percent	\$4,000,000
\$6,000,000	\$7,000,000	\$910,000	19 percent	\$6,000,000
\$7,000,000	\$9,000,000	\$1,100,000	19.5 percent	\$7,000,000
\$9,000,000		\$1,490,000	20 percent	\$9,000,000

Federal Estate Tax.

Under federal law, a decedent's taxable estate is determined by deducting from the value of the gross estate an amount equal to the value of any interest in property that passes from the decedent to the surviving spouse.

Estate Tax Revenues.

The proceeds of the Washington 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.

Summary of Bill:

Beginning with decedents dying on or after January 1, 2025, a Washington estate tax return is not required to be filed if:

1. the decedent's estate is not required to file a return to claim a specific election;
2. the decedent was survived by a spouse and the decedent's interest in the qualifying family residence passed from the decedent to the spouse; and
3. the value of the decedent's gross estate after deducting the value of the decedent's interest in the qualifying residence is less than the applicable exclusion amount.

A "qualifying family residence" is defined as the principal place of residence of the marital community or domestic partnership at the decedent's date of death. A "residence" is defined as a single family dwelling unit, whether such unit is separate or part of a multiunit dwelling.

A residence is considered to be the principal place of residence if it has been occupied for more than 6 of the 12 months immediately preceding the decedent's date of death. There is an exception to this occupation requirement.

If during the 6 month period immediately preceding the decedent's date of death, the decedent, the decedent's spouse or domestic partner, or both parties, were confined to a hospital, nursing home, assisted living facility, adult family home, or home of a relative for the purposes of long-term care, the principal place of residence could still include the family residence.

The family residence must be temporarily unoccupied; occupied by the decedent's spouse, domestic partner, or a person financially dependent on the decedent; or rented for the purposes of paying for the costs of care of the decedent or decedent's spouse or domestic partner in a nursing home, hospital, assisted living facility, or adult family home.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) As property values increase across the state, the value of a family home could require an estate to file an estate tax return even when no estate tax is due. When the decedent's share of a family home passes to the surviving spouse or surviving domestic partner, the value of that home may require an executor to file an estate tax return. This bill provides that these unnecessary "no tax due" returns need not be filed. The certified public accountants and the Department of Revenue have worked with the sponsor on the development of this legislation.

(Opposed) None.

Persons Testifying: Representative Amy Walen, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.