Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Finance Committee

HB 1728

Brief Description: Adding a nonfamilial heir to the estate tax deduction.

Sponsors: Representatives Orcutt, Morgan, Manjarrez, Mendoza, Dufault, Jacobsen, Barnard, Thai and Eslick.

Brief Summary of Bill

- Adds "qualified nonfamilial heir" to the estate tax deduction for farms.

Hearing Date: 2/21/25

Staff: Tracey Taylor (786-7152).

Background:

Washington State Estate Tax.
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 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.

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.

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.

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

The value of farms and timberlands may also be deducted from the taxable value of an estate so long as certain requirements are met:

- At the time of death, the decedent must have been a citizen or resident of the United States (US).
- The farm property must pass or be acquired by a qualified heir from the decedent.
- The farm must have been used for a farming purpose at the time of the decedent's death.
- The farm property must make up at least 50 percent of the total estate's adjusted gross value.

This deduction applies to land, farm structures, and farming equipment used for a farming purpose. A farming purpose can be:

- cultivating the soil;
- raising or harvesting any agricultural or horticultural commodity;
- handling, drying, packing, grading, or storing on a farm, any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of such commodity; or
- planting, cultivating, caring for, or cutting of trees, or preparation, other than milling, of trees for the market.

In order for real property to qualify for the farm deduction during the 8-year period ending on the date of the decedent's death, there must be 5 years or more in which the decedent or a member of the decedent's family owned the real property, and the property was used for a qualified use. In addition, there must be material participation by the decedent or a member of the decedent's family. Material participation is a factual determination and is based on US Internal Revenue Service Code Section 1402(a)(1).

A member of the decedent's family is an ancestor of the decedent, a spouse or registered domestic partner, a lineal descendent of the individual or the individual's spouse or registered domestic partner, a parent of an individual, a spouse of any lineal descendent, or a legally adopted child of an individual.

A tenant farmer may qualify for the farm deduction if the requirements are met. Farm property in a closely held partnership, corporation, or trust can qualify.

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.

Tax Preference Performance Statement.
Tax preferences confer reduced tax liability upon a designated class of taxpayers. These include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. There are over 700 tax preferences. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement (TPPS) that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee (JLARC) can use to evaluate the effectiveness of the preference. All new tax preferences automatically expire after 10 years unless an alternative expiration date is provided.

Summary of Bill:

A "qualified nonfamilial heir" may be eligible for the estate tax deduction for a farm. A "qualified nonfamilial heir" means an employee of the farm who materially participated in farming operations on the farm and who acquired the property, or to whom, the property passed from the decedent.

This act applies to the estates of decedents dying on or after August 1, 2025.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on August 1, 2025.