

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5813

69th Legislature
2025 Regular Session

Passed by the Senate April 24, 2025
Yeas 27 Nays 21

President of the Senate

Passed by the House April 23, 2025
Yeas 53 Nays 45

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5813** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5813

AS AMENDED BY THE HOUSE

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By Senate Ways & Means (originally sponsored by Senators C. Wilson, Stanford, Alvarado, Frame, Nobles, Pedersen, and Valdez)

READ FIRST TIME 04/19/25.

1 AN ACT Relating to increasing funding to the education legacy
2 trust account for public education, child care, early learning, and
3 higher education by creating a more progressive rate structure for
4 the capital gains tax and estate tax; amending RCW 82.87.040,
5 83.100.040, 83.100.048, and 83.100.046; reenacting and amending RCW
6 83.100.020; creating new sections; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that it is the
9 paramount duty of the state to amply provide every child in the state
10 with an education, creating the opportunity for the child to succeed
11 in school and thrive in life. The legislature further finds that high
12 quality early learning and child care is critical to a child's
13 success in school and life, as it supports the development of the
14 child's social-emotional, physical, cognitive, and language skills.
15 The legislature further finds that the state's higher education
16 system ensures Washington residents have the opportunity to succeed
17 in a competitive global economy.

18 (2) The legislature further finds that in 2024, when given the
19 opportunity to retain investments in the education legacy trust
20 account for high quality early learning and child care, 64.11 percent

1 of Washington voters in 32 of its 39 counties voted to uphold the
2 excise tax on sales of long-term capital assets for this purpose.

3 (3) Therefore, the legislature will fund ongoing support of
4 public K-12 education, early learning and child care, and higher
5 education, by dedicating revenues from this act to the education
6 legacy trust account. The legislature further recognizes that a tax
7 system that is fair, balanced, and works for everyone is essential to
8 help all Washingtonians grow and thrive. Washington's tax system
9 remains the second most regressive in the nation as it asks those
10 with the least to pay the most as a percentage of their income. Low-
11 income Washingtonians pay at least three times more in state and
12 local taxes as a percentage of their income than the state's highest-
13 income households.

14 (4) To help increase funding to the education legacy trust
15 account, the legislature intends to levy an additional excise tax on
16 the sale or exchange of long-term capital assets, which equals 2.90
17 percent multiplied by the portion of an individual's Washington
18 capital gains exceeding \$1,000,000, and by creating a more
19 progressive rate structure for the estate tax by increasing the top
20 tier rates up to 35 percent. Further, the legislature intends to
21 increase the exclusion amount to \$3,000,000 for the estate tax. The
22 legislature recognizes that levying these taxes with a more
23 progressive rate structure, and increasing the exclusion amount for
24 the estate tax, will have the additional effect of making material
25 progress toward rebalancing the state's tax code.

26 **PART I**

27 **INCREASING THE CAPITAL GAINS TAX RATE ON ANNUAL LONG-TERM CAPITAL**
28 **GAINS IN EXCESS OF \$1,000,000**

29 **Sec. 101.** RCW 82.87.040 and 2021 c 196 s 5 are each amended to
30 read as follows:

31 (1) (a) Beginning January 1, 2022, an excise tax is imposed on the
32 sale or exchange of long-term capital assets. Only individuals are
33 subject to payment of the tax, which equals seven percent multiplied
34 by an individual's Washington capital gains.

35 (b) Beginning January 1, 2025, an additional excise tax is
36 imposed on the sale or exchange of long-term capital assets, which
37 equals 2.90 percent multiplied by the portion of an individual's
38 Washington capital gains exceeding \$1,000,000.

1 (2) The tax levied in subsection (1) of this section is necessary
2 for the support of the state government and its existing public
3 institutions.

4 (3) If an individual's Washington capital gains are less than
5 zero for a taxable year, no tax is due under this section and no such
6 amount is allowed as a carryover for use in the calculation of that
7 individual's adjusted capital gain, as defined in RCW 82.87.020(1),
8 for any taxable year. To the extent that a loss carryforward is
9 included in the calculation of an individual's federal net long-term
10 capital gain and that loss carryforward is directly attributable to
11 losses from sales or exchanges allocated to this state under RCW
12 82.87.100, the loss carryforward is included in the calculation of
13 that individual's adjusted capital gain for the purposes of this
14 chapter. An individual may not include any losses carried back for
15 federal income tax purposes in the calculation of that individual's
16 adjusted capital gain for any taxable year.

17 (4)(a) The tax imposed in this section applies to the sale or
18 exchange of long-term capital assets owned by the taxpayer, whether
19 the taxpayer was the legal or beneficial owner of such assets at the
20 time of the sale or exchange. The tax applies when the Washington
21 capital gains are recognized by the taxpayer in accordance with this
22 chapter.

23 (b) For purposes of this chapter:

24 (i) An individual is considered to be a beneficial owner of long-
25 term capital assets held by an entity that is a pass-through or
26 disregarded entity for federal tax purposes, such as a partnership,
27 limited liability company, S corporation, or grantor trust, to the
28 extent of the individual's ownership interest in the entity as
29 reported for federal income tax purposes.

30 (ii) A nongrantor trust is deemed to be a grantor trust if the
31 trust does not qualify as a grantor trust for federal tax purposes,
32 and the grantor's transfer of assets to the trust is treated as an
33 incomplete gift under Title 26 U.S.C. Sec. 2511 of the internal
34 revenue code and its accompanying regulations. A grantor of such
35 trust is considered the beneficial owner of the capital assets of the
36 trust for purposes of the tax imposed in this section and must
37 include any long-term capital gain or loss from the sale or exchange
38 of a capital asset by the trust in the calculation of that
39 individual's adjusted capital gain, if such gain or loss is allocated
40 to this state under RCW 82.87.100.

PART II
MODIFYING THE ESTATE TAX

Sec. 201. RCW 83.100.020 and 2013 2nd sp.s. c 2 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) The applicable exclusion amount for the decedent's estate is the applicable exclusion amount in effect as of the date of the decedent's death. "Applicable exclusion amount" means:

(i) ~~((One million five hundred thousand dollars))~~ \$1,500,000 for decedents dying before January 1, 2006;

(ii) ~~((Two million dollars))~~ \$2,000,000 for estates of decedents dying on or after January 1, 2006, and before January 1, 2014;
~~((and))~~

(iii) \$2,012,000 for estates of decedents dying on or after January 1, 2014, and before January 1, 2015;

(iv) \$2,054,000 for estates of decedents dying on or after January 1, 2015, and before January 1, 2016;

(v) \$2,079,000 for estates of decedents dying on or after January 1, 2016, but before January 1, 2017;

(vi) \$2,129,000 for estates of decedents dying on or after January 1, 2017, but before January 1, 2018;

(vii) \$2,193,000 for estates of decedents dying on or after July 1, 2018, but before July 1, 2025;

(viii) \$3,000,000 for estates of decedents dying on or after July 1, 2025, but before January 1, 2026; and

(ix) For estates of decedents dying in calendar year ~~((2014))~~ 2026 and each calendar year thereafter, the amount in (a) ~~((+iii))~~ (viii) of this subsection must be adjusted annually, except as otherwise provided in this subsection (1)(a) ~~((+iii))~~ (ix). The annual adjustment is determined by multiplying ~~((two million dollars))~~ \$3,000,000 by the sum of one ~~((plus))~~ and the percentage by which the most recent October consumer price index exceeds the consumer price index for October ~~((2012))~~ 2024, and rounding the result to the nearest ~~((one thousand dollars))~~ \$1,000. No adjustment is made for a calendar year if the adjustment would result in the same or a lesser applicable exclusion amount than the applicable exclusion amount for the immediately preceding calendar year. ~~((The applicable exclusion amount under this subsection (1)(a)(iii) for the~~

1 ~~decedent's estate is the applicable exclusion amount in effect as of~~
2 ~~the date of the decedent's death.)~~)

3 (b) For purposes of this subsection (1), "consumer price index"
4 means the consumer price index for all urban consumers, all items,
5 for the Seattle(~~-Tacoma-Bremerton~~) metropolitan area as calculated
6 by the United States bureau of labor statistics. For the purposes of
7 this subsection (1)(b), "Seattle metropolitan area" means the
8 geographic area sample that includes Seattle and surrounding areas.

9 (2) "Decedent" means a deceased individual.

10 (3) "Department" means the department of revenue, the director of
11 that department, or any employee of the department exercising
12 authority lawfully delegated to him or her by the director.

13 (4) "Federal return" means any tax return required by chapter 11
14 of the internal revenue code.

15 (5) "Federal tax" means a tax under chapter 11 of the internal
16 revenue code.

17 (6) "Federal taxable estate" means the taxable estate as
18 determined under chapter 11 of the internal revenue code without
19 regard to: (a) The termination of the federal estate tax under
20 section 2210 of the internal revenue code or any other provision of
21 law, and (b) the deduction for state estate, inheritance, legacy, or
22 succession taxes allowable under section 2058 of the internal revenue
23 code.

24 (7) "Gross estate" means "gross estate" as defined and used in
25 section 2031 of the internal revenue code.

26 (8) "Internal revenue code" means the United States internal
27 revenue code of 1986, as amended or renumbered as of January 1, 2005.

28 (9) "Person" means any individual, estate, trust, receiver,
29 cooperative association, club, corporation, company, firm,
30 partnership, joint venture, syndicate, or other entity and, to the
31 extent permitted by law, any federal, state, or other governmental
32 unit or subdivision or agency, department, or instrumentality
33 thereof.

34 (10) "Person required to file the federal return" means any
35 person required to file a return required by chapter 11 of the
36 internal revenue code, such as the personal representative of an
37 estate.

38 (11) "Property" means property included in the gross estate.

39 (12) "Resident" means a decedent who was domiciled in Washington
40 at time of death.

1 (13) "Taxpayer" means a person upon whom tax is imposed under
2 this chapter, including an estate or a person liable for tax under
3 RCW 83.100.120.

4 (14) "Transfer" means "transfer" as used in section 2001 of the
5 internal revenue code and includes any shifting upon death of the
6 economic benefit in property or any power or legal privilege
7 incidental to the ownership or enjoyment of property. However,
8 "transfer" does not include a qualified heir disposing of an interest
9 in property qualifying for a deduction under RCW 83.100.046 or
10 ceasing to use the property for farming purposes.

11 (15) "Washington taxable estate" means the federal taxable estate
12 and includes, but is not limited to, the value of any property
13 included in the gross estate under section 2044 of the internal
14 revenue code, regardless of whether the decedent's interest in such
15 property was acquired before May 17, 2005, (a) plus amounts required
16 to be added to the Washington taxable estate under RCW 83.100.047,
17 (b) less: (i) The applicable exclusion amount under subsection (1) of
18 this section; (ii) the amount of any deduction allowed under RCW
19 83.100.046; (iii) amounts allowed to be deducted from the Washington
20 taxable estate under RCW 83.100.047; and (iv) the amount of any
21 deduction allowed under RCW 83.100.048.

22 **Sec. 202.** RCW 83.100.040 and 2013 2nd sp.s. c 2 s 4 are each
23 amended to read as follows:

24 (1) A tax in an amount computed as provided in this section is
25 imposed on every transfer of property located in Washington. For the
26 purposes of this section, any intangible property owned by a resident
27 is located in Washington.

28 (2) (a) (~~Except~~) (i) For estates of decedents dying before July
29 1, 2025, except as provided in (b) of this subsection, the amount of
30 tax is the amount provided in the following table:

If Washington Taxable		The amount of Tax Equals		Of Washington Taxable Estate Value Greater than
Estate is at least	But Less Than	Initial Tax Amount	Plus Tax Rate %	
\$0	\$1,000,000	\$0	10.00%	\$0
\$1,000,000	\$2,000,000	\$100,000	14.00%	\$1,000,000
\$2,000,000	\$3,000,000	\$240,000	15.00%	\$2,000,000

1	\$3,000,000	\$4,000,000	\$390,000	16.00%	\$3,000,000
2	\$4,000,000	\$6,000,000	\$550,000	18.00%	\$4,000,000
3	\$6,000,000	\$7,000,000	\$910,000	19.00%	\$6,000,000
4	\$7,000,000	\$9,000,000	\$1,100,000	19.50%	\$7,000,000
5	\$9,000,000		\$1,490,000	20.00%	\$9,000,000

6 (ii) For estates of decedents dying on or after July 1, 2025,
7 except as provided in (b) of this subsection, the amount of tax is
8 the amount provided in the following table:

9					<u>Of Washington</u>
10					<u>Taxable Estate Value</u>
11	<u>If Washington Taxable</u>	<u>The amount of Tax Equals</u>		<u>Greater than</u>	
12	<u>Estate is at least</u>	<u>But Less Than</u>	<u>Initial Tax Amount</u>	<u>Plus Tax Rate %</u>	
13	<u>\$0</u>	<u>\$1,000,000</u>	<u>\$0</u>	<u>10.00%</u>	<u>\$0</u>
14	<u>\$1,000,000</u>	<u>\$2,000,000</u>	<u>\$100,000</u>	<u>15.00%</u>	<u>\$1,000,000</u>
15	<u>\$2,000,000</u>	<u>\$3,000,000</u>	<u>\$250,000</u>	<u>17.00%</u>	<u>\$2,000,000</u>
16	<u>\$3,000,000</u>	<u>\$4,000,000</u>	<u>\$420,000</u>	<u>19.00%</u>	<u>\$3,000,000</u>
17	<u>\$4,000,000</u>	<u>\$6,000,000</u>	<u>\$610,000</u>	<u>23.00%</u>	<u>\$4,000,000</u>
18	<u>\$6,000,000</u>	<u>\$7,000,000</u>	<u>\$1,070,000</u>	<u>26.00%</u>	<u>\$6,000,000</u>
19	<u>\$7,000,000</u>	<u>\$9,000,000</u>	<u>\$1,330,000</u>	<u>30.00%</u>	<u>\$7,000,000</u>
20	<u>\$9,000,000</u>		<u>\$1,930,000</u>	<u>35.00%</u>	<u>\$9,000,000</u>

21 (b) If any property in the decedent's estate is located outside
22 of Washington, the amount of tax is the amount determined in (a) of
23 this subsection multiplied by a fraction. The numerator of the
24 fraction is the value of the property located in Washington. The
25 denominator of the fraction is the value of the decedent's gross
26 estate. Property qualifying for a deduction under RCW 83.100.046 must
27 be excluded from the numerator and denominator of the fraction.

28 (3) The tax imposed under this section is a stand-alone estate
29 tax that incorporates only those provisions of the internal revenue
30 code as amended or renumbered as of January 1, 2005, that do not
31 conflict with the provisions of this chapter. The tax imposed under
32 this chapter is independent of any federal estate tax obligation and
33 is not affected by termination of the federal estate tax.

1 **Sec. 203.** RCW 83.100.048 and 2013 2nd sp.s. c 2 s 3 are each
2 amended to read as follows:

3 (1) For the purposes of determining the tax due under this
4 chapter, a deduction is allowed for the value of the decedent's
5 qualified family-owned business interests, not to exceed (~~two~~
6 ~~million five hundred thousand dollars~~) the applicable deduction
7 amount, if:

8 (a) The value of the decedent's qualified family-owned business
9 interests exceed (~~fifty~~) 50 percent of the decedent's Washington
10 taxable estate determined without regard to the deduction for the
11 applicable exclusion amount;

12 (b) During the eight-year period ending on the date of the
13 decedent's death, there have been periods aggregating five years or
14 more during which:

15 (i) Such interests were owned by the decedent or a member of the
16 decedent's family;

17 (ii) There was material participation, within the meaning of
18 section 2032A(e)(6) of the internal revenue code, by the decedent or
19 a member of the decedent's family in the operation of the trade or
20 business to which such interests relate;

21 (c) The qualified family-owned business interests are acquired by
22 any qualified heir from, or passed to any qualified heir from, the
23 decedent, within the meaning of RCW 83.100.046(2), and the decedent
24 was at the time of his or her death a citizen or resident of the
25 United States; and

26 (d) The value of the decedent's qualified family-owned business
27 interests is not more than (~~six million dollars~~) \$6,000,000.

28 (2)(a) Only amounts included in the decedent's federal taxable
29 estate may be deducted under this subsection.

30 (b) Amounts deductible under RCW 83.100.046 may not be deducted
31 under this section.

32 (3)(a) There is imposed an additional estate tax on a qualified
33 heir if, within three years of the decedent's death and before the
34 date of the qualified heir's death:

35 (i) The material participation requirements described in section
36 2032A(c)(6)(b)(ii) of the internal revenue code are not met with
37 respect to the qualified family-owned business interest which was
38 acquired or passed from the decedent;

39 (ii) The qualified heir disposes of any portion of a qualified
40 family-owned business interest, other than by a disposition to a

1 member of the qualified heir's family or a person with an ownership
2 interest in the qualified family-owned business or through a
3 qualified conservation contribution under section 170(h) of the
4 internal revenue code;

5 (iii) The qualified heir loses United States citizenship within
6 the meaning of section 877 of the internal revenue code or with
7 respect to whom section 877(e)(1) applies, and such heir does not
8 comply with the requirements of section 877(g) of the internal
9 revenue code; or

10 (iv) The principal place of business of a trade or business of
11 the qualified family-owned business interest ceases to be located in
12 the United States.

13 (b) The amount of the additional estate tax imposed under this
14 subsection is equal to the amount of tax savings under this section
15 with respect to the qualified family-owned business interest acquired
16 or passed from the decedent.

17 (c) Interest applies to the tax due under this subsection for the
18 period beginning on the date that the estate tax liability was due
19 under this chapter and ending on the date the additional estate tax
20 due under this subsection is paid. Interest under this subsection
21 must be computed as provided in RCW 83.100.070(2).

22 (d) The tax imposed by this subsection is due the day that is six
23 months after any taxable event described in (a) of this subsection
24 occurred and must be reported on a return as provided by the
25 department.

26 (e) The qualified heir is personally liable for the additional
27 tax imposed by this subsection unless he or she has furnished a bond
28 in favor of the department for such amount and for such time as the
29 department determines necessary to secure the payment of amounts due
30 under this subsection. The qualified heir, on furnishing a bond
31 satisfactory to the department, is discharged from personal liability
32 for any additional tax and interest under this subsection and is
33 entitled to a receipt or writing showing such discharge.

34 (f) Amounts due under this subsection attributable to any
35 qualified family-owned business interest are secured by a lien in
36 favor of the state on the property in respect to which such interest
37 relates. The lien under this subsection (3)(f) arises at the time the
38 Washington return is filed on which a deduction under this section is
39 taken and continues in effect until: (i) The tax liability under this
40 subsection has been satisfied or has become unenforceable by reason

1 of lapse of time; or (ii) the department is satisfied that no further
2 tax liability will arise under this subsection.

3 (g) Security acceptable to the department may be substituted for
4 the lien imposed by (f) of this subsection.

5 (h) For purposes of the assessment or correction of an assessment
6 for additional taxes and interest imposed under this subsection, the
7 limitations period in RCW 83.100.095 begins to run on the due date of
8 the return required under (d) of this subsection.

9 (i) For purposes of this subsection, a qualified heir may not be
10 treated as disposing of an interest described in section
11 2057(e)(1)(A) of the internal revenue code by reason of ceasing to be
12 engaged in a trade or business so long as the property to which such
13 interest relates is used in a trade or business by any member of the
14 qualified heir's family.

15 (4)(a) The department may require a taxpayer claiming a deduction
16 under this section to provide the department with the names and
17 contact information of all qualified heirs.

18 (b) The department may also require any qualified heir to submit
19 to the department on an ongoing basis such information as the
20 department determines necessary or useful in determining whether the
21 qualified heir is subject to the additional tax imposed in subsection
22 (3) of this section. The department may not require such information
23 more frequently than twice per year. The department may impose a
24 penalty on a qualified heir who fails to provide the information
25 requested within (~~thirty~~) 30 days of the date the department's
26 written request for the information was sent to the qualified heir.
27 The amount of the penalty under this subsection is (~~five hundred~~
28 ~~dollars~~) \$500 and may be collected in the same manner as the tax
29 imposed under subsection (3) of this section.

30 (5) For purposes of this section, references to section 2057 of
31 the internal revenue code refer to section 2057 of the internal
32 revenue code, as existing on December 31, 2003.

33 (6) For purposes of this section, the following definitions
34 apply:

35 (a) "Applicable deduction amount" means:

36 (i) \$2,500,000 for estates of decedents dying on or after July 1,
37 2014, but before July 1, 2025;

38 (ii) \$3,000,000 for estates of decedents dying on or after July
39 1, 2025, but before July 1, 2026; and

1 (iii) For estates of decedents dying in calendar year 2026 and
2 each calendar year thereafter, the amount in (a)(ii) of this
3 subsection must be adjusted annually, except as otherwise provided in
4 this subsection (6)(a)(iii). The annual adjustment is determined by
5 multiplying \$3,000,000 by the sum of one and the percentage by which
6 the most recent October consumer price index exceeds the consumer
7 price index for October 2024, and rounding the result to the nearest
8 \$1,000. No adjustment is made for a calendar year if the adjustment
9 would result in the same or a lesser applicable deduction amount than
10 the applicable deduction amount for the immediately preceding
11 calendar year.

12 (b) "Consumer price index" has the same meaning as in RCW
13 83.100.020.

14 (c) "Member of the decedent's family" and "member of the
15 qualified heir's family" have the same meaning as "member of the
16 family" in RCW 83.100.046(~~(10)~~).

17 (~~(b)~~) (d) "Qualified family-owned business interest" has the
18 same meaning as provided in section 2057(e) of the internal revenue
19 code of 1986.

20 (~~(e)~~) (e) "Qualified heir" has the same meaning as provided in
21 section 2057(i) of the internal revenue code of 1986.

22 (7) This section applies to the estates of decedents dying on or
23 after January 1, 2014.

24 **Sec. 204.** RCW 83.100.046 and 2010 c 106 s 236 are each amended
25 to read as follows:

26 (1) For the purposes of determining the Washington taxable
27 estate, a deduction is allowed from the federal taxable estate for:

28 (a) The value of qualified real property reduced by any amounts
29 allowable as a deduction in respect of the qualified real property
30 under 26 U.S.C. Sec. 2053(a)(4) of the federal internal revenue code,
31 if the decedent was at the time of his or her death a citizen or
32 resident of the United States.

33 (b) The value of any tangible personal property used by the
34 decedent (~~(or)~~), a member of the decedent's family, or any qualified
35 nonfamilial heir for a qualified use on the date of the decedent's
36 death, reduced by any amounts allowable as a deduction in respect of
37 the tangible personal property under 26 U.S.C. Sec. 2053(a)(4) of the
38 federal internal revenue code, if all of the requirements of
39 subsection (10)(~~(f)~~) (h)(i)(A) of this section are met and the

1 decedent was at the time of his or her death a citizen or resident of
2 the United States.

3 (c) The value of real property that is not deductible under (a)
4 of this subsection solely by reason of subsection (10)(~~(f)~~) (h)
5 (i)(B) of this section, reduced by any amounts allowable as a
6 deduction in respect of the real property under 26 U.S.C. Sec.
7 2053(a)(4) of the federal internal revenue code, if the requirements
8 of subsection (10)(~~(f)~~) (h)(i)(C) of this section are met with
9 respect to the property and the decedent was at the time of his or
10 her death a citizen or resident of the United States.

11 (2) Property will be considered to have been acquired from or to
12 have passed from the decedent if:

13 (a) The property is so considered under 26 U.S.C. Sec. 1014(b) of
14 the federal internal revenue code;

15 (b) The property is acquired by any person from the estate; or

16 (c) The property is acquired by any person from a trust, to the
17 extent the property is includible in the gross estate of the
18 decedent.

19 (3) If the decedent and the decedent's surviving spouse at any
20 time held qualified real property as community property, the interest
21 of the surviving spouse in the property must be taken into account
22 under this section to the extent necessary to provide a result under
23 this section with respect to the property which is consistent with
24 the result which would have obtained under this section if the
25 property had not been community property.

26 (4) In the case of any qualified woodland, the value of trees
27 growing on the woodland may be deducted if otherwise qualified under
28 this section.

29 (5) If property is qualified real property with respect to a
30 decedent, hereinafter in this subsection referred to as the "first
31 decedent," and the property was acquired from or passed from the
32 first decedent to the surviving spouse of the first decedent, active
33 management of the farm by the surviving spouse must be treated as
34 material participation by the surviving spouse in the operation of
35 the farm.

36 (6) Property owned indirectly by the decedent may qualify for a
37 deduction under this section if owned through an interest in a
38 corporation, partnership, or trust as the terms corporation,
39 partnership, or trust are used in 26 U.S.C. Sec. 2032A(g) of the
40 federal internal revenue code. In order to qualify for a deduction

1 under this subsection, the interest, in addition to meeting the other
2 tests for qualification under this section, must qualify under 26
3 U.S.C. Sec. 6166(b)(1) of the federal internal revenue code as an
4 interest in a closely held business on the date of the decedent's
5 death and for sufficient other time, combined with periods of direct
6 ownership, to equal at least five years of the eight-year period
7 preceding the death.

8 (7)(a) If, on the date of the decedent's death, the requirements
9 of subsection (10)(~~(f)~~) (h)(i)(C)(II) of this section with respect
10 to the decedent for any property are not met, and the decedent (i)
11 was receiving old age benefits under Title II of the social security
12 act for a continuous period ending on such date, or (ii) was disabled
13 for a continuous period ending on this date, then subsection
14 (10)(~~(f)~~) (h)(i)(C)(II) of this section must be applied with
15 respect to the property by substituting "the date on which the longer
16 of such continuous periods began" for "the date of the decedent's
17 death" in subsection (10)(~~(f)~~) (h)(i)(C) of this section.

18 (b) For the purposes of (a) of this subsection, an individual is
19 disabled if the individual has a mental or physical impairment which
20 renders that individual unable to materially participate in the
21 operation of the farm.

22 (8) Property may be deducted under this section whether or not
23 special valuation is elected under 26 U.S.C. Sec. 2032A of the
24 federal internal revenue code on the federal return. For the purposes
25 of determining the deduction under this section, the value of
26 property is its value as used to determine the value of the gross
27 estate.

28 (9)(a) In the case of any qualified replacement property, any
29 period during which there was ownership, qualified use, or material
30 participation with respect to the replaced property by the decedent
31 or any member of the decedent's family must be treated as a period
32 during which there was ownership, use, or material participation, as
33 the case may be, with respect to the qualified replacement property.

34 (b) Subsection (9)(a) of this section does not apply to the
35 extent that the fair market value of the qualified replacement
36 property, as of the date of its acquisition, exceeds the fair market
37 value of the replaced property, as of the date of its disposition.

38 (c) For the purposes of this subsection (9), the following
39 definitions apply:

40 (i)(A) "Qualified replacement property" means any real property:

1 (I) Which is acquired in an exchange which qualifies under 26
2 U.S.C. Sec. 1031 of the federal internal revenue code; or

3 (II) The acquisition of which results in the nonrecognition of
4 gain under 26 U.S.C. Sec. 1033 of the federal internal revenue code.

5 (B) The term "qualified replacement property" only includes
6 property which is used for the same qualified use as the replaced
7 property was being used before the exchange.

8 (ii) "Replaced property" means the property was:

9 (A) Transferred in the exchange which qualifies under 26 U.S.C.
10 Sec. 1031 of the federal internal revenue code; or

11 (B) Compulsorily or involuntarily converted within the meaning of
12 26 U.S.C. Sec. 1033 of the federal internal revenue code.

13 (10) For the purposes of this section, the following definitions
14 apply:

15 (a) "Active management" means the making of the management
16 decisions of a farm, other than the daily operating decisions.

17 (b) "Employee of a farm" means a person hired by the decedent, or
18 a member of the decedent's family, to work on the farm and who
19 receives a set wage, salary, or benefits. The person must be an
20 active employee of the farm on the date of the death of the decedent.
21 "Employee of a farm" does not include a self-employed person,
22 independent contractor, or tenant farmer.

23 (c) "Farm" includes stock, dairy, poultry, fruit, furbearing
24 animal, and truck farms; plantations; ranches; nurseries; ranges;
25 greenhouses or other similar structures used primarily for the
26 raising of agricultural or horticultural commodities; and orchards
27 and woodlands.

28 ((-e)) (d) "Farming purposes" means:

29 (i) Cultivating the soil or raising or harvesting any
30 agricultural or horticultural commodity, including the raising,
31 shearing, feeding, caring for, training, and management of animals on
32 a farm;

33 (ii) Handling, drying, packing, grading, or storing on a farm any
34 agricultural or horticultural commodity in its unmanufactured state,
35 but only if the owner, tenant, or operator of the farm regularly
36 produces more than one-half of the commodity so treated; and

37 (iii) (A) The planting, cultivating, caring for, or cutting of
38 trees; or

39 (B) The preparation, other than milling, of trees for market.

1 ~~((d))~~ (e)(i) "Member of the family" means, with respect to any
2 individual, only:

3 (A) An ancestor of the individual;

4 (B) The spouse or state registered domestic partner of the
5 individual;

6 (C) A lineal descendant of the individual, of the individual's
7 spouse or state registered domestic partner, or of a parent of the
8 individual; or

9 (D) The spouse or state registered domestic partner of any lineal
10 descendant described in ~~((d))~~ (e)(i)(C) of this subsection.

11 (ii) For the purposes of this subsection (10)~~((d))~~ (e), a
12 legally adopted child of an individual must be treated as the child
13 of such individual by blood.

14 ~~((e))~~ (f) "Qualified heir" means, with respect to any property,
15 a member of the decedent's family who acquired property, or to whom
16 property passed, from the decedent.

17 ~~((f))~~ (g) "Qualified nonfamilial heir" means an employee of a
18 farm who materially participated in the operation of the farm and who
19 acquired property, or to whom property passed, from the decedent. For
20 the purposes of this subsection (10)(g), material participation must
21 be determined in a manner similar to the manner used for purposes of
22 26 U.S.C. Sec. 1402(a)(1) of the federal internal revenue code.

23 (h)(i) "Qualified real property" means real property which was
24 acquired from or passed from the decedent to a qualified heir of the
25 decedent and which, on the date of the decedent's death, was being
26 used for a qualified use by the decedent or a member of the
27 decedent's family, but only if:

28 (A) Fifty percent or more of the adjusted value of the gross
29 estate consists of the adjusted value of real or personal property
30 which:

31 (I) On the date of the decedent's death, was being used for a
32 qualified use by the decedent or a member of the decedent's family;
33 and

34 (II) Was acquired from or passed from the decedent to a qualified
35 heir of the decedent;

36 (B) Twenty-five percent or more of the adjusted value of the
37 gross estate consists of the adjusted value of real property which
38 meets the requirements of ~~((f))~~ (h)(i)(A)(II) and ~~((f))~~ (h)(i)(C)
39 of this subsection; and

1 (C) During the eight-year period ending on the date of the
2 decedent's death there have been periods aggregating five years or
3 more during which:

4 (I) The real property was owned by the decedent or a member of
5 the decedent's family and used for a qualified use by the decedent or
6 a member of the decedent's family; and

7 (II) There was material participation by the decedent or a member
8 of the decedent's family in the operation of the farm. For the
9 purposes of this subsection (~~((f))~~) (10)(h)(i)(C)(II), material
10 participation must be determined in a manner similar to the manner
11 used for purposes of 26 U.S.C. Sec. 1402(a)(1) of the federal
12 internal revenue code.

13 (ii) For the purposes of this subsection, the term "adjusted
14 value" means:

15 (A) In the case of the gross estate, the value of the gross
16 estate, determined without regard to any special valuation under 26
17 U.S.C. Sec. 2032A of the federal internal revenue code, reduced by
18 any amounts allowable as a deduction under 26 U.S.C. Sec. 2053(a)(4)
19 of the federal internal revenue code; or

20 (B) In the case of any real or personal property, the value of
21 the property for purposes of chapter 11 of the federal internal
22 revenue code, determined without regard to any special valuation
23 under 26 U.S.C. Sec. 2032A of the federal internal revenue code,
24 reduced by any amounts allowable as a deduction in respect of such
25 property under 26 U.S.C. Sec. 2053(a)(4) of the federal internal
26 revenue code.

27 (~~((g))~~) (i) "Qualified use" means the property is used as a farm
28 for farming purposes. In the case of real property which meets the
29 requirements of (~~((f))~~) (h)(i)(C) of this subsection, residential
30 buildings and related improvements on the real property occupied on a
31 regular basis by the owner or lessee of the real property or by
32 persons employed by the owner or lessee for the purpose of operating
33 or maintaining the real property, and roads, buildings, and other
34 structures and improvements functionally related to the qualified use
35 must be treated as real property devoted to the qualified use. For
36 tangible personal property eligible for a deduction under subsection
37 (1)(b) of this section, "qualified use" means the property is used
38 primarily for farming purposes on a farm.

39 (~~((h))~~) (j) "Qualified woodland" means any real property which:

40 (i) Is used in timber operations; and

1 (ii) Is an identifiable area of land such as an acre or other
2 area for which records are normally maintained in conducting timber
3 operations.

4 (~~(i)~~) (k) "Timber operations" means:

5 (i) The planting, cultivating, caring for, or cutting of trees;
6 or

7 (ii) The preparation, other than milling, of trees for market.

8 **PART III**
9 **MISCELLANEOUS**

10 NEW SECTION. **Sec. 301.** Section 101 of this act applies to taxes
11 imposed in calendar year 2025 for collection in calendar year 2026.

12 NEW SECTION. **Sec. 302.** Sections 201 through 204 of this act
13 apply to estates of decedents dying on or after July 1, 2025.

14 NEW SECTION. **Sec. 303.** This act does not affect any existing
15 right acquired or liability or obligation incurred under the sections
16 amended or repealed in this act or under any rule or order adopted
17 under those sections, nor does it affect any proceeding instituted
18 under those sections.

19 NEW SECTION. **Sec. 304.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 305.** This act is necessary for the support of
24 the state government and its existing public institutions, and takes
25 effect immediately.

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