CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5813

Chapter 421, Laws of 2025

69th Legislature
2025 Regular Session

CAPITAL GAINS TAX AND ESTATE TAX—RATES

EFFECTIVE DATE: May 20, 2025

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

DENNY HECK

President of the Senate

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

LAURIE JINKINS

Speaker of the House of Representatives

Approved May 20, 2025 3:31 PM

BOB FERGUSON

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.

SARAH BANNISTER

Secretary

FILED

May 21, 2025

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.

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

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

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

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

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

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

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

PART I

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

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

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

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

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

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

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

(b) For purposes of this chapter:

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

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

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

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

(2) "Decedent" means a deceased individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2)(a) ((~~Except~~)) (i) For estates of decedents dying before July 1, 2025, except as provided in (b) of this subsection, the amount of 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

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

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

If Washington Taxable Estate is at least	But Less Than	The amount of Tax Equals Initial Tax Amount	Plus Tax Rate %	Of Washington Taxable Estate Value Greater than
$0	$1,000,000	$0	10.00%	$0
$1,000,000	$2,000,000	$100,000	15.00%	$1,000,000
$2,000,000	$3,000,000	$250,000	17.00%	$2,000,000
$3,000,000	$4,000,000	$420,000	19.00%	$3,000,000
$4,000,000	$6,000,000	$610,000	23.00%	$4,000,000
$6,000,000	$7,000,000	$1,070,000	26.00%	$6,000,000
$7,000,000	$9,000,000	$1,330,000	30.00%	$7,000,000
$9,000,000		$1,930,000	35.00%	$9,000,000

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) "Applicable deduction amount" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

((~~(c)~~)) (d) "Farming purposes" means:

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

(ii) 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 the commodity so treated; and

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

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

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

(A) An ancestor of the individual;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Is used in timber operations; and

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

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

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

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

PART III
MISCELLANEOUS

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

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

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

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

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

Passed by the Senate April 24, 2025.
Passed by the House April 23, 2025.
Approved by the Governor May 20, 2025.
Filed in Office of Secretary of State May 21, 2025.

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