

"In order to make sure that the provisions contained in section 9 of Senate Bill No. 288 shall prevail, it is necessary to veto section 5 of this bill.

"For reasons indicated, section 5 is vetoed, and the remainder of the bill is approved."

ALBERT D. ROSELLINI,
Governor.

CHAPTER 292.

[H. B. 556.]

INHERITANCE TAXES.

AN ACT relating to inheritance taxes; amending section 83.04-.010, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.04.010; amending section 83.04.030, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.04.030; amending section 83.04.040, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.04.040; amending section 83.16.080, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.16.080; amending section 83.24.010, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.24.010; amending section 83.32.020, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.32.020; amending section 83.40.010, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.40.010; and amending section 83.44.110, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.44.110.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 83.04.010, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.04.010 are amended, divided, and recodified as set forth in sections 2 through 8 of this act.

RCW 83.04.010
amended,
divided,
recodified.

SEC. 2. (83.04.010) All property within the jurisdiction of this state, and any interest therein, whether belonging to the inhabitants of this state or not, and whether tangible or intangible, which shall pass

RCW 83.04.010.
Inheritance
taxes.
Property sub-
ject to tax.

(1) by will or by the statutes of inheritance of this or any other state or

(2) by deed, grant, sale, contract or gift made in contemplation of the death of the grantor, or donor, or

(3) by deed, grant or sale, contract or gift made or intended to take effect in possession or in enjoyment after death of the grantor, or donor, to any person in trust or otherwise, or

(4) by a transfer in trust or otherwise, under which the grantor or donor has retained for his life or for any period not ascertainable without reference to his death, or for any period which does not in fact end before his death, the possession or enjoyment of any part of the property, or the right to all or any part of the income from the property, or the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom shall, for the use of the state, be subject to a tax as provided for in chapter 83.08 measured by the full value of the entire property after deduction of the amounts allowable under RCW 83.04.013.

RCW 83.04.013.
Deductions
allowable.

SEC. 3. (83.04.013) All debts owing by the decedent at the time of his death, the local and state taxes due from the estate prior to his death, and a reasonable sum for funeral expenses, monument or crypt, court costs, including cost of appraisement made for the purpose of assessing the inheritance tax, the fees of executors, administrators or trustees, reasonable attorney's fees, and family allowance not to exceed one thousand dollars, and no other sum, shall be allowable as deductions from the gross value of the entire property, but said debts shall not be deducted unless the same are allowed or established within the time provided by law.

RCW 83.04.015.
Personal
liability.

SEC. 4. (83.04.015) All administrators, executors, and trustees, and any grantee under a conveyance, and any donee under a gift, made during the grantor's or donor's life, shall be respectively liable for all taxes to be paid by them, with interest as hereinafter provided until the same shall have been paid.

SEC. 5. (83.04.020) Whenever property, real or personal, other than real property held by the entirety, is held in the joint name of two or more persons, or deposited in banks or other institutions or depositories in the joint names of two or more persons and payable to either or the survivor, upon the death of one of such persons the right of the surviving joint tenants, person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of the inheritance tax provisions of this title in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased joint tenant or joint depositor and had been devised or bequeathed to the surviving joint tenant or tenants, person or persons by such deceased joint tenant or joint depositor by will, excepting therefrom such parts thereof as may be shown to have originally belonged to such surviving joint tenant, joint depositor or person, and never to have been acquired from the decedent for less than a fair consideration in money or money's worth, and if said property shall have been acquired from decedent for less than such fair consideration, there shall be excepted from the value of said property a portion equal to the amount of the consideration so furnished.

RCW 83.04.020.
Joint property
and deposits.

SEC. 6. (83.04.023) Unless the tax is sooner paid in full, it shall be a lien upon the gross estate of the decedent for ten years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. If the tax commission is satisfied that the tax liability of an estate has been fully discharged or provided for, it may, under regulations prescribed by it, issue its certificate, releasing any or all property of such

RCW 83.04.023.
Lien of tax.

estate from the lien herein imposed. The limitation period shall in each case be extended for a period of time equal to the period of pendency of litigation of questions affecting the determination of the amount of tax due, provided a lis pendens has been filed with the county auditor.

Any part of the gross estate as is sold, pursuant to an order of the court for the payment of charges against the estate and the expenses of its administration, shall be divested of such lien and such lien shall be transferred to the proceeds. A mortgage on property pursuant to an order of court for payment of charges against the estate and expenses of administration shall constitute a lien upon said property prior and superior to the inheritance tax lien which inheritance tax lien shall attach to the proceeds.

RCW 83.04.025.
Transfers to
take effect
after death.

SEC. 7. (83.04.025) Except in the case of a bona fide sale for an adequate and full consideration in money or money's worth, if the decedent makes a transfer, by trust or otherwise, of any property in contemplation of or intended to take effect in possession or enjoyment at or after his death, or makes a transfer, by trust or otherwise, under which he has retained for his life or for any period not ascertainable without reference to his death or for any period which does not in fact end before his death

(1) the possession or enjoyment of, or the right to the income from, the property, or

(2) the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom, and the tax in respect thereto is not paid when due, then the transferee, or trustee shall be personally liable therefor and such property, to the extent of the decedent's interest therein at the time of the transfer shall be subject to a lien equal to the amount of the tax. Any part of such property sold

by such transferee or trustee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for an adequate and full consideration in money or money's worth.

SEC. 8. (83.04.027) If insurance passes under a contract executed by the decedent in favor of a specific beneficiary, and if the tax in respect thereto is not paid when due, then the beneficiary shall be personally liable therefor, and such property, to the extent of the beneficiary's interest under such contract of insurance shall be subject to a lien equal to the amount of the tax.

RCW 83.04.027.
Transfer of
insurance.

SEC. 9. Section 83.04.030, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.04.030 are each amended to read as follows:

RCW 83.04.030
amended.

Except as to the limitations and exemptions prescribed for each class by chapter 83.08 and except as to real property located outside the state passing in fee from the decedent owner, the tax imposed under chapter 83.08 shall be assessed against and be collected from property of every kind, which, at the death of the decedent owner is subject to, or thereafter, for the purpose of distribution, is brought into this state and becomes subject to the jurisdiction of the courts of this state for distribution purposes, or which was owned by any decedent domiciled within the state at the time of the death of such decedent, even though the property of said decedent so domiciled was situated outside of the state.

Property out-
side state.

SEC. 10. Section 83.04.040, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.04.040 are each amended to read as follows:

RCW 83.04.040
amended.

Nothing in the inheritance tax provisions of this title shall be construed as imposing a tax upon any

Intangibles of
nonresident.

transfer, as defined in this title, of intangibles, however used or held, whether in trust or otherwise, by any person, or by reason of the death of any person who at the time of his death was domiciled in a territory or state of the United States other than the state of Washington.

RCW 83.16.080 amended.

SEC. 11. Section 83.16.080, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.16.080 are each amended to read as follows:

Insurance exempt.

Insurance payable upon the death of any person shall be deemed a part of the estate for the purpose of computing the inheritance tax and shall be taxable to the person, partnership, or corporation entitled thereto. Such insurance shall be taxable irrespective of the fact that the premiums of the policy have been paid by some person, partnership, or corporation other than the insured, or paid out of the income accruing from principal provided by the assured for such payment, whether such principal was donated in trust or otherwise: *Provided, however,* That there is exempt from the total amount of insurance receivable by all beneficiaries other than the executor, administrator or representative of the estate, regardless of the number of policies, the sum of forty thousand dollars and no more.

Where more than one beneficiary is entitled to the benefit of the provisions of this section exempting forty thousand dollars of the proceeds of insurance policies payable upon death, the benefit of such exemption shall be apportioned among such beneficiaries ratably and proportionately: *Provided,* That where there is fraternal benefit society insurance payable upon the death of the decedent and other insurance payable upon the death of the decedent, the forty thousand dollars exemption shall first be taken from the fraternal benefit society insurance and if the same does not equal forty thousand

dollars, then the balance of the forty thousand shall be prorated among other policies.

The inheritance tax upon the proceeds of any insurance policy shall be a lien upon the proceeds of such policy in the hands or possession of the estate of the deceased insured or in the hands or possession or any other beneficiary under such policy to whom such proceeds may have been paid: *Provided*, That when proceeds of insurance payable upon death, or receivable by a beneficiary other than the executor or representative, the executor or representative shall recover from such beneficiary the tax due upon such proceeds of such policy or policies. The supervisor shall have power to release such lien with respect to all or any part of such proceeds if he be satisfied that the collection of the tax will not thereby be jeopardized.

Nothing in the inheritance tax provisions of this title shall prevent the payment by any insurance company, association or society of the proceeds of any policy upon the death of a decedent to the person entitled thereto, except where prior to such payment the supervisor has notified the company that the state is claiming a lien thereon payment shall be deferred until the tax has been paid.

SEC. 12. Section 83.24.010, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.24.010 are each amended to read as follows:

RCW 83.24.010
amended.

When any person dies leaving property within the jurisdiction of the state of Washington, which shall pass by the statutes of inheritance of this or any other state, or by deed, grant, sale or gift made in contemplation of the death of the grantor or donor, or by deed, grant, sale or gift made or intended to take effect in possession or in enjoyment after the death of the grantor or donor, to any person in trust or otherwise, and there has been no application for letters of administration of the estate of

Determination
of tax without
administration
—Procedure.

such deceased person, or when administration of any estate has been completed without an adjudication of the inheritance tax, the liability of such property for the payment of an inheritance tax may be determined without administration in the manner hereinafter provided.

Any person interested in such property may file an affidavit with the inheritance tax division of the tax commission and request a determination of the questions arising under the inheritance tax provisions of this title. Such affidavit shall contain the name and date of death of decedent, the description and estimated value of all property involved, the names and places of residence of all persons interested in the same, and such other facts as are necessary for a determination of such questions.

Upon the receipt of such affidavit, and after such investigation as is necessary to determine the fair market value of all of the property becoming subject to the inheritance tax laws, the tax commission through its inheritance tax division shall determine the amount of inheritance tax due, if any.

Where the tax commission, through its inheritance tax division, has determined that no tax is due, or that the amount of tax as determined has been fully paid, it may issue its release and receipt, but such release shall be only as to the assets of the estate shown and disclosed by such affidavit and supplementary exhibits filed in such proceedings.

In any such case, the supervisor of the inheritance tax division may compromise such tax and issue a satisfaction therefor, without probate proceedings, where the necessary facts are furnished and filed by affidavit, but such release shall be only as to the assets of the estate shown and disclosed by such proceedings.

SEC. 13. Any person who may feel aggrieved by the determination of the tax commission as provided

for in RCW 83.24.010 may file a petition with the superior court of the county wherein the decedent resided, which petition shall contain the name and date of death of decedent, the description and estimated value of all property involved, the names and places of residence of all persons interested in the same, and such other facts as are necessary to give the court jurisdiction. The court shall thereupon set a day for hearing said petition and a copy thereof, together with a notice of the time and place of such hearing, shall be served by the petitioner or his attorney upon the supervisor of the inheritance tax division and on each person interested in said property at least twenty days before the date of hearing, if served personally, and if served by publication the service shall be the same as the service of summons by publication in civil action. The court shall hear said matter upon the relation of the parties, the testimony of witnesses and evidence produced in open court, and, if it shall be found that the property is not subject to any tax, the court shall make and enter an order determining that fact, but, if it shall appear that the whole or any part of said property is subject to a tax, the same shall be appraised and the tax levied and collected as in other cases. An adjudication by the superior court, as herein provided, shall be conclusive as to the lien of said tax, subject to the right of appeal to the supreme court allowed by the laws of the state.

Appeal from determination made under RCW 83.24.010—Procedure.

SEC. 14. Section 83.32.020, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.32.020 are each divided and reenacted to read as set forth in sections 14 through 16 of this act.

RCW 83.32.020 divided, reenacted.

SEC. 15. (83.32.020) The said supervisor or agent at the time and place in said citation named, or at such time and place to which he may adjourn said hearing, shall proceed to examine said person or persons, and such witnesses as he may subpoena

RCW 83.32.020. Procedure to fix tax on estate. Examination by supervisor or agent—Subpoenas.

before him and for the purpose of said hearing, and for the purpose of ascertaining any facts concerning the taxability of said transfer or any taxes due on account of such transfer, said supervisor or agent shall have the powers of a superior court to issue subpoenas compelling the attendance of witnesses before him and to administer oaths and take the evidence of such witnesses under oath concerning such property and the value thereof, and concerning such transfer.

RCW 83.32.030.
Findings filed
in court.

SEC. 16. (83.32.030) Said supervisor or agent shall enter his findings and conclusions in relation to said transfer and said tax, fix and determine the amount of inheritance tax, if any, due the state of Washington, and file his findings in which shall be set forth the amount of inheritance tax due the state of Washington, with the clerk of the superior court of such county.

RCW 83.32.040.
Subsequent
proceedings.

SEC. 17. (83.32.040) The procedure subsequent to such filing shall conform with the procedure outlined in RCW 83.28.040 and shall have the same effect as provided in RCW 83.28.050 and the same shall be a final determination of the tax, subject to such exception as is found in RCW 83.28.060 and 83.28.070, and subject to such procedure as therein outlined.

RCW 83.40.010
divided,
reenacted.

SEC. 18. Section 83.40.010, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.40.010 are each divided and reenacted to read as set forth in sections 19 through 21 of this act.

RCW 83.40.010.
Adjustments
with federal
tax.
Absorption of
eighty percent
federal estate
credit.

SEC. 19. (83.40.010) Where the tax imposed by the inheritance tax laws of the state of Washington is of a lesser amount than the maximum credit of eighty percent of the federal estate tax allowed by the federal estate tax act, then the tax provided for by the said inheritance tax laws of the state of Washington shall be increased so that the amount of tax due the state of Washington shall be the maximum amount of the credit allowed under said fed-

eral estate tax act: *Provided*, That the said additional tax shall be paid out of the same funds as any ordinary charge against the estate.

Where no tax is imposed by the inheritance tax laws of the state of Washington because of the exemptions thereunder and a tax is due the United States under the federal estate tax act, then a tax shall be due the state of Washington equal to maximum amount of the credit allowed under said federal estate act.

Should the amount of tax imposed by the inheritance tax laws of the state of Washington increased by this section, be afterwards found to be more than the maximum credit allowed under the federal estate tax act, then any excess over and above the said maximum credit shall be refunded as provided by law.

SEC. 20. (83.40.020) The executor or administrator of every decedent whose estate may be subject to the federal estate tax or to the inheritance tax laws of the state of Washington, shall file in the office of the supervisor of the inheritance tax division within twelve months after the death of such decedent, one copy of the federal estate tax return and inventory provided for in the federal estate tax act, and in like manner, one copy of all supplemental or amended returns and inventories filed with the federal government.

RCW 83.40.020.
Copy of federal return and inventory to be filed.

SEC. 21. (83.40.030) Said executor or administrator shall also file in the office of the supervisor of the inheritance tax division a copy of the corrected inventory and appraisal of the estate and the total amount of federal estate tax thereon, as finally determined by the federal government.

RCW 83.40.030.
Copy of corrected federal return and inventory to be filed.

SEC. 22. Section 83.44.110, chapter 15, Laws of 1961 (House Bill No. 6), and RCW 83.44.110 are each amended to read as follows:

RCW 83.44.110 amended.

No decree of distribution or discharge of fiduciary from liability until tax paid.

An executor, administrator or trustee shall not be discharged from liability for such inheritance tax, nor shall a decree of distribution be entered, nor said estate, nor any part of said estate, be distributed until a receipt showing that the inheritance tax is paid, or written waiver executed by the supervisor showing that the estate is not subject to inheritance tax, or written acknowledgement by the supervisor that provision for payment of the tax has been made to his satisfaction, is filed with the clerk of the court, or the court having jurisdiction over such estate shall have determined as herein provided that such estate is not liable to pay an inheritance tax.

Passed the House March 9, 1961.

Passed the Senate March 9, 1961.

Approved by the Governor March 21, 1961.